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UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K

(Mark One)

☑ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2003

or

o TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission file no. 0-16741

Comstock Resources, Inc.

(Exact name of registrant as specified in its charter)

NEVADA	**94-1667468**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification Number)*

5300 Town and Country Blvd., Suite 500, Frisco, Texas 75034

(Address of principal executive offices including zip code)

(972) 668-8800

(Registrant's telephone number and area code)

Securities registered pursuant to Section 12(b) of the Act:

Common Stock, $.50 Par Value	**New York Stock Exchange**
Preferred Stock Purchase Rights	**New York Stock Exchange**
(Title of class)	*(Name of exchange on which registered)*

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☑ No o

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K. ☑

Indicate by check mark whether the registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2). Yes ☑ No o

As of March 12, 2004, there were 34,678,862 shares of common stock outstanding.

The aggregate market value of the voting common equity held by non-affiliates of the Registrant computed by reference to the price at which the common equity was last sold as of the last business day of the Registrant's most recently completed second fiscal quarter was $449,953,613.

DOCUMENTS INCORPORATED BY REFERENCE

Proxy statement for the 2004 annual meeting of stockholders — Part III

COMSTOCK RESOURCES, INC.

ANNUAL REPORT ON FORM 10-K

For the Fiscal Year Ended December 31, 2003

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FORWARD-LOOKING STATEMENTS

This report includes "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical facts included in this report, including without limitation, statements under "Business and Properties" and "Management's Discussion and Analysis of Financial Condition and Results of Operations' regarding budgeted capital expenditures, increases in oil and natural gas production, our financial position, oil and natural gas reserve estimates, business strategy and other plans and objectives for future operations, are forward-looking statements. Although we believe that the expectations reflected in such forward-looking statements are reasonable, we can give no assurance that such expectations will prove to have been correct. There are numerous uncertainties inherent in estimating quantities of proved oil and natural gas reserves and in projecting future rates of production and timing of development expenditures, including many factors beyond our control. Reserve engineering is a subjective process of estimating underground accumulations of oil and natural gas that cannot be precisely measured. Furthermore, the accuracy of any reserve estimate is a function of the quality of available data and of engineering and geological interpretation and judgment. As a result, estimates made by different engineers often vary from one another. In addition, results of drilling, testing and production subsequent to the date of an estimate may justify revisions of such estimate and such revision, if significant, would change the schedule of any further production and development drilling. Accordingly, reserve estimates are generally different from the quantities of oil and gas that are ultimately recovered. Should one or more of these risks or uncertainties occur, or should underlying assumptions prove incorrect, our actual results and plans for 2004 and beyond could differ materially from those expressed in forward-looking statements. All subsequent written and oral forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by such factors.

DEFINITIONS

The following are abbreviations and definitions of terms commonly used in the oil and gas industry and this report. Natural gas equivalents and crude oil equivalents are determined using the ratio of six Mcf to one barrel. All references to "us," "our," "we" or "Comstock" mean the registrant, Comstock Resources, Inc. and where applicable, its consolidated subsidiaries.

"*Bbl*" means a barrel of 42 U.S. gallons of oil.

"*Bcf*" means one billion cubic feet of natural gas.

"*Bcfe*" means one billion cubic feet of natural gas equivalent.

"*Btu*" means British thermal unit, which is the quantity of heat required to raise the temperature of one pound of water from 58.5 to 59.5 degrees Fahrenheit.

"*Cash Margin per Mcfe*" means the equivalent price per Mcfe less oil and gas operating expenses per Mcfe and general and administrative expenses per Mcfe.

"*Completion*" means the installation of permanent equipment for the production of oil or gas.

"*Condensate*" means a hydrocarbon mixture that becomes liquid and separates from natural gas when the gas is produced and is similar to crude oil.

"*Development well*" means a well drilled within the proved area of an oil or gas reservoir to the depth of a stratigraphic horizon known to be productive.

"*Dry hole*" means a well found to be incapable of producing hydrocarbons in sufficient quantities such that proceeds from the sale of such production exceed production expenses and taxes.

"*Exploratory well*" means a well drilled to find and produce oil or natural gas reserves not classified as proved, to find a new productive reservoir in a field previously found to be productive of oil or natural gas in another reservoir or to extend a known reservoir.

"*Gross*" when used with respect to acres or wells, production or reserves refers to the total acres or wells in which we or another specified person has a working interest.

"*MBbls*" means one thousand barrels of oil.

"*MBbls/d*" means one thousand barrels of oil per day.

"*Mcf*" means one thousand cubic feet of natural gas.

"*Mcfe*" means thousand cubic feet of natural gas equivalent.

"*MMBbls*" means one million barrels of oil.

"*MMcf*" means one million cubic feet of natural gas.

"*MMcf/d*" means one million cubic feet of natural gas per day.

"*MMcfe/d*" means one million cubic feet of natural gas equivalent per day.

"*MMcfe*" means one million cubic feet of natural gas equivalent.

"*Net*" when used with respect to acres or wells, refers to gross acres of wells multiplied, in each case, by the percentage working interest owned by us.

"*Net production*" means production we own less royalties and production due others.

"*Oil*" means crude oil or condensate.

"*Operator*" means the individual or company responsible for the exploration, development, and production of an oil or gas well or lease.

"*Present Value of Proved Reserves*" means the present value of estimated future revenues to be generated from the production of proved reserves calculated in accordance with the Securities and Exchange Commission guidelines, net of estimated production and future development costs, using prices and costs as of the date of estimation without future escalation, without giving effect to non-property related expenses such as general and administrative expenses, debt service, future income tax expense and depreciation, depletion and amortization, and discounted using an annual discount rate of 10%.

"*Proved developed reserves*" means reserves that can be expected to be recovered through existing wells with existing equipment and operating methods. Additional oil and gas expected to be obtained through the application of fluid injection or other improved recovery techniques for supplementing the natural forces and mechanisms of primary recovery will be included as "proved developed reserves" only after testing by a pilot project or after the operation of an installed program has confirmed through production response that increased recovery will be achieved.

"*Proved reserves*" means the estimated quantities of crude oil, natural gas, and natural gas liquids which geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions, i.e., prices and costs as of the date the estimate is made. Prices include consideration of changes in existing prices provided only by contractual arrangements, but not on escalations based upon future conditions.

"*Proved undeveloped reserves*" means reserves that are expected to be recovered from new wells on undrilled acreage, or from existing wells where a relatively major expenditure is required for recompletion. Reserves on undrilled acreage shall be limited to those drilling units offsetting productive units that are reasonably certain of production when drilled. Proved reserves for other undrilled units can be claimed only where it can be demonstrated with certainty that there is continuity of production from the existing productive formation. Under no circumstances should estimates for proved undeveloped reserves be attributable to any acreage for which an application of fluid injection or other improved recovery technique is contemplated, unless such techniques have been proved effective by actual tests in the area and in the same reservoir.

"*Recompletion*" means the completion for production of an existing well bore in another formation from which the well has been previously completed.

"*Reserve life*" means the calculation derived by dividing year-end reserves by total production in that year.

"*Reserve replacement*" means the calculation derived by dividing additions to reserves from acquisitions, extensions, discoveries and revisions of previous estimates in a year by total production in that year.

"*Royalty*" means an interest in an oil and gas lease that gives the owner of the interest the right to receive a portion of the production from the leased acreage (or of the proceeds of the sale thereof), but generally does not require the owner to pay any portion of the costs of drilling or operating the wells on the leased acreage. Royalties may be either landowner's royalties, which are reserved by the owner of the leased acreage at the time the lease is granted, or overriding royalties, which are usually reserved by an owner of the leasehold in connection with a transfer to a subsequent owner.

"*3-D seismic*" means an advanced technology method of detecting accumulations of hydrocarbons identified by the collection and measurement of the intensity and timing of sound waves transmitted into the earth as they reflect back to the surface.

"*Working interest*" means an interest in an oil and gas lease that gives the owner of the interest the right to drill for and produce oil and gas on the leased acreage and requires the owner to pay a share of the costs of drilling and production operations. The share of production to which a working interest owner is entitled will always be smaller than the share of costs that the working interest owner is required to bear, with the balance of the production accruing to the owners of royalties. For example, the owner of a 100% working interest in a lease burdened only by a landowner's royalty of 12.5% would be required to pay 100% of the costs of a well but would be entitled to retain 87.5% of the production.

"*Workover*" means operations on a producing well to restore or increase production.

PART I

Items 1. and 2. ***Business and Properties***

We are an independent energy company engaged in the acquisition, development, production and exploration of oil and natural gas properties. Our oil and natural gas operations are concentrated in the Gulf of Mexico, East Texas/North Louisiana, Southeast Texas and South Texas regions. In addition, we have properties in the Illinois Basin region in Kentucky and in the Mid-Continent regions located in the Texas panhandle, Oklahoma and Kansas. Our oil and natural gas properties are estimated to have proved reserves of 616.9 Bcfe with an estimated Present Value of Proved Reserves of $1.7 billion as of December 31, 2003. Our proved oil and natural gas reserve base is 81% natural gas and 67% proved developed on a Bcfe basis as of December 31, 2003. We replaced 108% of our production of 44.0 Bcfe in 2003 through our exploration, development and acquisition activities. We were also able to reduce our long-term debt by $60.0 million from $366.0 million as of December 31, 2002 to $306.0 million as of December 31, 2003.

Our proved reserves at December 31, 2003 and our 2003 average daily production are summarized below:

	Reserves at December 31, 2003				2003 Daily Production			
	Oil	Gas	Total	% of Total	Oil	Gas	Total	% of Total
	(MMBbls)	(Bcf)	(Bcfe)		(MBbls/d)	(MMcf/d)	(MMcfe/d)	
Gulf of Mexico	14.7	127.7	216.1	35.0	3.2	21.8	40.7	33.8
East Texas/North Louisiana	0.9	169.3	174.7	28.3	0.2	29.2	30.6	25.4
Southeast Texas	2.9	109.8	127.0	20.6	0.7	28.4	32.8	27.2
South Texas	0.4	44.8	47.1	7.6	0.1	9.0	9.9	8.2
Other Regions	0.3	50.2	52.0	8.5	0.2	5.6	6.6	5.4
Total	19.2	501.8	616.9	100.0	4.4	94.0	120.6	100.0

Strengths

High Quality Properties. Our operations are focused in four geographically concentrated areas, the Gulf of Mexico, East Texas/North Louisiana, Southeast Texas and South Texas regions, which account for approximately 35%, 28%, 21% and 8% of our proved reserves, respectively. We have high price realizations relative to benchmark prices for natural gas and crude oil production. We also have favorable operating costs which results in us having high cash margins. Finally, our properties have an average reserve life of approximately 14 years and have extensive development and exploration potential.

Successful Exploration and Development Program. In 2003, we spent $46.8 million on the exploitation and development of our oil and natural gas properties for development drilling, recompletions, workovers, abandonment and production facilities. Overall, we drilled 35 development wells, 22.0 net to us, with a 89% success rate. We also had a successful exploratory drilling program in 2003, spending a total of $34.8 million to drill 18 wells, 7.4 net to us, with a 78% success rate. We spent an additional $5.1 million in acquiring new acreage and seismic data in 2003 to support our exploration program.

Successful Acquisitions. We have had significant growth over the years as a result of acquisitions. Since 1991, we have added 725.9 Bcfe of proved oil and natural gas reserves from 30 acquisitions at an average cost of $0.83 per Mcfe. Our application of strict economic and reserve risk criteria have enabled us to successfully evaluate and integrate acquisitions.

Efficient Operator. We operate 61% of our proved oil and natural gas reserve base as of December 31, 2003. This allows us to control operating costs, the timing and plans for future development, the level of drilling and lifting costs and the marketing of production. As an operator, we receive reimbursements for overhead from other working interest owners, which reduces our general and administrative expenses.

High Price Realizations. The majority of our wells are located in areas which can access attractive natural gas and crude oil markets. In addition, our natural gas production has a relatively high Btu content of approximately 1.07 Btu. Our crude oil production has a favorable API gravity of approximately 40 degrees.

Due to these factors, we have relatively high price realizations compared to benchmark prices. In 2003, our average natural gas price was $5.41 per Mcf, which represented a $0.02 premium to the 2003 NYMEX average monthly settlement price. Also in 2003, our average crude oil price was $30.70 per barrel, which represented a $1.69 barrel premium to the average monthly West Texas Intermediate crude oil price for 2003 posted by Koch Industries, Inc.

High Cash Margins. As a result of our quality properties, higher price realizations and efficient operations, we have higher cash margins than most of our competitors. Consequently, our oil and natural gas reserves have a higher value per Mcfe than reserves that generate lower cash margins.

Business Strategy

Exploit Existing Reserves. We seek to maximize the value of our oil and natural gas properties by increasing production and recoverable reserves through active workover, recompletion and exploitation activities. We utilize advanced industry technology, including 3-D seismic data, improved logging tools, and formation stimulation techniques. During 2003, we spent approximately $28.3 million to drill 35 development wells, 22.0 net to us, of which 31 wells, 19.2 net to us, were successful, representing a success rate of 89 %. In addition, we spent approximately $18.5 million for new production facilities, leasehold costs and for recompletion, abandonment and workover activities. For 2004, we have budgeted $37.0 million for development drilling and for recompletion, abandonment and workover activities.

Pursue Exploration Opportunities. We conduct exploration activities to grow our reserve base and to replace our production each year. In 2003, we spent approximately $34.8 million to drill 18 exploratory wells, 7.4 net to us, of which 14 wells, 5.3 net to us, were successful, representing a success rate of 78%. We also spent $5.1 million in acquiring new acreage and seismic data in 2003 to support our exploration program. We have budgeted $73.0 million in 2004 for exploration activities which will be focused primarily in the Gulf of Mexico, Southeast Texas and South Texas regions.

Maintain Low Cost Structure. We seek to increase cash flow by carefully controlling operating costs and general and administrative expenses. Our average oil and gas operating costs per Mcfe were $1.04 in 2003 and our general and administrative expenses per Mcfe averaged only $0.16 in 2003.

Acquire High Quality Properties at Attractive Costs. We have a successful track record of increasing our oil and natural gas reserves through opportunistic acquisitions. Since 1991, we have added 725.9 Bcfe of proved oil and natural gas reserves from 30 acquisitions at a total cost of $603.1 million, or $0.83 per Mcfe. The acquisitions were acquired at an average of 60% of their Present Value of Proved Reserves in the year the acquisitions were completed. We apply strict economic and reserve risk criteria in evaluating acquisitions. We target properties in our core operating areas with established production and low operating costs that also have potential opportunities to increase production and reserves through exploration and exploitation activities.

Maintain Flexible Capital Expenditure Budget. The timing of most of our capital expenditures is discretionary because we have not made any significant long-term capital expenditure commitments. Consequently, we have a significant degree of flexibility to adjust the level of such expenditures according to market conditions. We anticipate spending approximately $110.0 million on development and exploration projects in 2004. We intend to primarily use operating cash flow to fund our drilling expenditures in 2004. We may also make additional property acquisitions in 2004 that would require additional sources of funding. Such sources may include borrowings under our bank credit facility or sales of our equity or debt securities.

Primary Operating Areas

Our activities are concentrated in four primary operating areas: Gulf of Mexico, East Texas/North Louisiana, Southeast Texas and South Texas. The following table summarizes the estimated proved oil and natural gas reserves for our 20 largest fields as of December 31, 2003:

	Net Oil	Net Gas	MMcfe	%	Present Value of Proved Reserves	%
	(MBbls)	(MMcf)			*(In thousands)*	
Gulf of Mexico						
Ship Shoal	8,550	53,604	104,903		$ 326,843	
South Timbalier/South Pelto	3,517	58,822	79,925		298,024	
Main Pass	1,531	1,556	10,739		27,560	
Vermilion/South Marsh Island	—	9,354	9,354		40,623	
East White Point	693	1,560	5,717		12,585	
Other	444	2,756	5,423		16,168	
	14,735	127,652	216,061	35.0	721,803	42.2
East Texas/North Louisiana						
Gilmer	232	53,734	55,125		132,524	
Beckville	110	44,357	45,014		101,395	
Logansport	37	16,885	17,105		47,469	
Waskom	196	12,181	13,356		33,234	
Blocker	36	10,215	10,431		21,911	
Longwood	84	7,016	7,521		22,424	
Box Church	3	6,064	6,079		14,686	
Lisbon	51	4,205	4,508		13,703	
Other	150	14,630	15,532		40,319	
	899	169,287	174,671	28.3	427,665	25.0
Southeast Texas						
Double A Wells	2,674	100,848	116,894		318,778	
Sugar Creek	85	8,150	8,659		18,474	
Other	120	764	1,482		4,500	
	2,879	109,762	127,035	20.6	341,752	20.0
South Texas						
J. C. Martin	—	16,148	16,148		40,999	
North Markham	178	12,506	13,573		41,065	
Lopeno	15	4,591	4,683		9,143	
Other	198	11,541	12,728		31,758	
	391	44,786	47,132	7.6	122,965	7.2
Illinois Basin						
New Albany Shale Gas	—	32,029	32,029	5.2	48,749	2.9
Mid-Continent						
Glick	8	5,079	5,128		11,039	
Other	98	10,642	11,230		27,159	
	106	15,721	16,358	2.7	38,198	2.2
Other Areas	179	2,541	3,623	0.6	7,943	0.5
Total	19,189	501,778	616,909	100.0	$1,709,075	100.0

Gulf of Mexico

Our Gulf of Mexico operating region includes properties located offshore of Louisiana and Texas, in state and federal waters of the Gulf of Mexico. We own interests in 98 producing wells, 50.1 net to us, in ten field areas, the largest of which are the Ship Shoal area (Ship Shoal Blocks 66, 67, 68, 69, 92, 93, 99, 107, 109, 110, 112, 113, 114, 117, 118, 119, 120, 135 and 146 and South Pelto Block 1), the South Timbalier/South Pelto area (South Timbalier Blocks 9, 11, 15, 16, 30, 34, 50, 52 and South Pelto Blocks 5, 15, 22 and 25) and the Main Pass Area (Main Pass Blocks 21,41,43, 55 and 58). In addition, we have 13 wells, 5.3 net to us, that have been drilled and are awaiting connection to production facilities in the Gulf of Mexico. We have 216.1 Bcfe of oil and natural gas reserves in the Gulf of Mexico region which represents 35% of our reserve base. We operate 40 of the wells that we own in this region. Production from the region averaged 21.8 MMcf of natural gas per day and 3,151 barrels of oil per day during 2003. We spent $14.2 million in this region in 2003 drilling seven development wells, 3.4 net to us, and $25.8 million drilling eleven exploratory wells, 4.0 net to us. We also spent $14.0 million for production facilities, recompletions, abandonment and workovers and $1.7 million on acquiring exploration acreage and seismic data. In 2004, we plan to spend $67.0 million for development and exploration activities in this region.

Ship Shoal. The Ship Shoal area is located in Louisiana state waters and in federal waters, offshore of Terrebonne Parish. In this area, oil and natural gas are produced from numerous Miocene sands occurring at depths from 5,800 to 13,500 feet, and in water depths from 10 to 60 feet. We own interests in 46 wells in this area, 31.2 net to us, in Ship Shoal Blocks 66, 67, 68, 69, 92, 93, 99, 107, 109, 110, 112, 113, 114, 117, 118, 119, 120, 135 and 146 and in South Pelto Block 1. We operate 32 of these wells. Our properties in the Ship Shoal area have estimated proved reserves of 104.9 Bcfe, which is 17% of our total reserves. Production from the Ship Shoal area net to our interest averaged 8.4 MMcf of natural gas per day and 2,145 barrels of oil per day during 2003. In 2003, we drilled eight wells, 3.9 net to us, at Ship Shoal.

South Timbalier/South Pelto. We own interests in 22 producing wells, 6.7 net to us, in Louisiana state waters and in federal waters in the South Timbalier/South Pelto area located offshore of Terrebonne and Lafourche Parishes in water depths ranging from 20 to 60 feet. We have estimated proved reserves totaling 79.9 Bcfe attributable to this area which is 13% of our total reserves. Production attributable to our interest averaged 11.1 MMcf of natural gas per day and 472 barrels of oil per day in 2003. These wells produce from numerous sands of Pliocene to Upper Miocene age, at depths ranging from 2,000 to 12,000 feet as well as the geopressured Miocene section at depths below 18,000 feet. We drilled six wells, 1.8 net to us, in the South Timbalier/South Pelto area in 2003.

Main Pass. Main Pass Block 21 is located in Louisiana state waters, offshore of Plaquemines Parish in water with a depth of approximately 12 feet. Our wells in this area produce from multiple Miocene sands at depths that range from 4,400 to 7,700 feet. We are the operator and own interests in six wells, 5.6 net to us, at Main Pass Block 21. We also own nonoperated interests in eight producing wells, 1.2 net to us, at Main Pass Blocks 41, 43, 55 and 58 in federal waters with an average depth of 50 feet. Proved reserves for the total Main Pass area were 10.7 Bcfe, which is 2% of our total reserves at December 31, 2003. Production attributable to our interest from the Main Pass Area was approximately 1.0 Mmcf of natural gas per day and 468 barrels of oil per day in 2003.

East Texas/North Louisiana

Approximately 28% or 174.7 Bcfe of our proved reserves are located in East Texas and North Louisiana where we own interests in 422 producing wells, 232.3 net to us, in 21 field areas. We operate 243 of these wells. The largest of our fields in this region are the Gilmer, Beckville, Logansport and Waskom fields. Production from this region averaged 29.2 MMcf of natural gas per day and 237 barrels of oil per day during 2003. Most of the reserves in this area produce from the Cretaceous aged Travis Peak/Hosston formation and the Jurassic aged Cotton Valley formation. The total thickness of these formations range from 2,000 to 4,000 feet of sand, shale and limestone sequences in the East Texas Basin and the North Louisiana Salt Basin, at depths ranging from 6,000 to 12,000 feet. In 2003, we spent $3.6 million drilling five wells, 2.4 net to us, and $1.9 million on workovers and recompletions in this region. We have budgeted approximately $7.0 million in 2004 for development activities in this region.

Gilmer. We own interests in 72 natural gas wells, 27.4 net to us, in the Gilmer field in Upshur County in East Texas. These wells produce primarily from the Cotton Valley Lime formation at a depth of approximately 11,500 to 12,000 feet. Proved reserves attributable to our interests in the Gilmer field are 55.1 Bcfe which represents 9% of our total reserve base. During 2003, production attributable to our interest from this field averaged 9.6 MMcf of natural gas per day and 110 barrels of oil per day.

Beckville. Our properties in the Beckville field, located in Panola and Rusk Counties, Texas, have proved reserves of 45.0 Bcfe which represents approximately 7% of our total reserves. We operate 72 wells in this field and own interests in thee additional wells for a total of 75 wells, 55.3 net to us. During 2003, production attributable to our interest from this field averaged 6.3 MMcf of natural gas per day and eight barrels of oil per day. The Beckville field produces from the Cotton Valley formation at depths ranging from 9,000 to 10,000 feet.

Logansport. The Logansport field produces from multiple sands in the Hosston formation at an average depth of 8,000 feet and is located in DeSoto Parish, Louisiana. Our proved reserves of 17.1 Bcfe in the Logansport field represent approximately 3% of our total reserves. We own interests in 81 wells, 40.2 net to us, and operate 50 of these wells. During 2003, net daily production attributable to our interest from this field averaged 3.1 MMcf of natural gas and twelve barrels of oil.

Waskom. The Waskom field, located in Harrison and Panola Counties in Texas, represents approximately 2% (13.4 Bcfe) of our proved reserves as of December 31, 2003. We own interests in 52 wells in this field, 26.0 net to us, and operate 28 wells in this field. During 2003, net daily production attributable to our interest averaged 0.9 MMcf of natural gas and 16 barrels of oil. The Waskom field produces from the Cotton Valley formation at depths ranging from 9,000 to 10,000 feet.

Southeast Texas

Approximately 21% or 127.0 Bcfe of our proved reserves are located in Southeast Texas, where we own interests in 88 producing wells, 50.9 net to us, and operate 61 of these wells. Net daily production rates from the area averaged 28.4 MMcf of natural gas and 738 barrels of oil during 2003. We spent $8.0 million in the Southeast Texas region in 2003 drilling three wells, 1.7 net to us, and for other development activity. In 2004, we plan to spend $20.0 million for development and exploration activities in this region. Substantially all of the reserves in this region are in the Double A Wells field area in Polk County, Texas.

Double A Wells. The Double A Wells field is our largest field area with total estimated proved reserves of 116.9 Bcfe, which is 19% of our total reserves. We own interests in and operate 59 producing wells, 29.7 net to us, in this field in Polk County, Texas. Net daily production from Double A Wells area averaged 27.3 MMcf of natural gas and 701 barrels of oil during 2003. These wells typically produce from the Woodbine formation at an average depth of 14,300 feet. In 1999, we began a redevelopment program in this field based on our interpretation of 3-D seismic data and drilled 19 successful wells from 1999 to 2001. In 2002, we found additional productive Woodbine sands to the south with two successful exploratory wells. In 2003, we drilled two additional delineation wells to further extend the discovery made in 2002. We are currently in the process of acquiring new 3-D seismic data to continue our exploration efforts.

South Texas

Approximately 8%, or 47.1 Bcfe, of our proved reserves are located in South Texas, where we own interests in 263 producing wells, 59.6 net to us. We own interests in eleven fields in the region, the largest of which are the J.C. Martin and the North Markham fields. Net daily production rates from the area averaged 9.0 MMcf of natural gas and 149 barrels of oil during 2003. We spent $13.1 million in this region in 2003 to drill 13 wells, 4.5 net to us, and for other development activity. In 2004, we plan to spend approximately $15.0 million primarily for development and exploration activity in this region.

J.C. Martin. Our largest field in South Texas is the J.C. Martin field which is located in the structurally complex and highly prolific Wilcox Lobo trend in Zapata County, Texas on the Mexico border. We own interests in 81 wells in this field, 13.0 net to us, with proved reserves of 16.1 Bcfe or 3% of our total reserves.

During 2003, net daily production attributable to our interest from this field averaged 4.3 MMcf of natural gas. This field produces primarily from Eocene Wilcox Lobo sands at depths ranging from 7,000 to 9,000 feet. The Lobo section is characterized by geopressured, multiple pay sands occurring in a highly faulted area.

North Markham. The North Markham/North Bay City field is located in Matagorda County, Texas. We own interests in and operate 19 producing wells, 19.0 net to us, in the Ohio-Sun Unit. We purchased these interests in December 2002 and are in the process of redeveloping this field. The field's estimated proved reserves of 13.6 Bcfe represent 2% of our total reserves. The field's active wells produce from more than twenty reservoirs of Oligocene Frio age at depths ranging from 6,500 to 9,000 feet. During 2003, net daily production attributable to our interests from this field averaged 67 barrels of oil per day.

Acquisition Activities

Acquisition Strategy. We have concentrated our acquisition activity in the Gulf of Mexico, East Texas/North Louisiana, Southeast Texas and South Texas regions. Using a strategy that capitalizes on our knowledge of and experience in these regions, we seek to selectively pursue acquisition opportunities where we can evaluate the assets to be acquired in detail prior to completion of the transaction. We evaluate a large number of prospective properties according to certain internal criteria, including established production and the properties' future development and exploration potential, low operating costs and the ability for us to obtain operating control.

Major Property Acquisitions. As a result of our acquisitions, we have added 725.9 Bcfe of proved oil and natural gas reserves since 1991.

Our largest acquisitions are the following:

DevX Energy Acquisition. In December 2001, we completed the acquisition of DevX Energy, Inc. ("DevX") by acquiring 100% of the common stock of DevX for $92.6 million. The total purchase price including debt and other liabilities assumed in the acquisition was $160.8 million. As a result of the acquisition of DevX, we acquired interests in 600 producing oil and natural gas wells located onshore primarily in East and South Texas, Kentucky, Oklahoma and Kansas. Major fields acquired in the acquisition include the Gilmer field in East Texas and the J.C. Martin, Ball Ranch and Lopeno fields in South Texas. We also acquired interests in the New Albany Shale Gas field in Kentucky, the Glick field in Kansas and the N.E. Moorewood field in Oklahoma in this transaction. DevX's properties had 1.2 MMBbls of oil reserves and 156.5 Bcf of natural gas reserves at the time of the acquisition.

Bois d' Arc Acquisition. In December 1997, we acquired working interests in certain producing offshore Louisiana oil and gas properties as well as interests in undeveloped offshore oil and natural gas leases for approximately $200.9 million from Bois d' Arc Resources and certain of its affiliates and working interest partners. We acquired interests in 43 wells, 29.6 net to us, and eight separate production complexes located in the Gulf of Mexico offshore of Plaquemines and Terrebonne Parishes, Louisiana. The acquisition included interests in the Louisiana state and federal offshore areas of Main Pass Block 21, Ship Shoal Blocks 66, 67, 68 and 69 and South Pelto Block 1. The net proved reserves acquired in this acquisition were estimated at 14.3 MMBbls of oil and 29.4 Bcf of natural gas.

Black Stone Acquisition. In May 1996, we acquired 100% of the capital stock of Black Stone Oil Company and interests in producing and undeveloped oil and gas properties located in Southeast Texas for $100.4 million. We acquired interests in 19 wells, 7.7 net to us, that were located in the Double A Wells field in Polk County, Texas and became the operator of most of the wells in the field. The net proved reserves acquired in this acquisition were estimated at 5.9 MMBbls of oil and 100.4 Bcf of natural gas.

Sonat Acquisition. In July 1995, we purchased interests in certain producing oil and gas properties located in East Texas and North Louisiana from Sonat Inc. for $48.1 million. We acquired interests in 319 producing wells, 188.0 net to us. The acquisition included interests in the Beckville, Logansport, Waskom, and Longwood fields. The net proved reserves acquired in this acquisition were estimated at 0.8 MMBbls of oil and 104.7 Bcf of natural gas.

Oil and Natural Gas Reserves

The following table sets forth our estimated proved oil and natural gas reserves and the Present Value of Proved Reserves as of December 31, 2003:

	Oil	Gas	Total	Present Value of Proved Reserves
	(MBbls)	(MMcf)	(MMcfe)	(000's)
Proved Developed Producing	6,180	215,680	252,757	$ 651,416
Proved Developed Non-producing	7,026	116,988	159,147	460,674
Proved Undeveloped	5,983	169,110	205,005	596,985
Total Proved	19,189	501,778	616,909	$1,709,075
Standardized Measure of Discounted Future Net Cash Flows[(1)]				$1,197,665

(1) The standardized measure of discounted future net cash flows represents the present value of future cash flows attributable to our proved oil and natural gas reserves after income tax discounted at 10%.

There are numerous uncertainties inherent in estimating oil and natural gas reserves and their values, including many factors beyond the control of the producer. The reserve data set forth above represents estimates only. Reserve engineering is a subjective process of estimating underground accumulations of oil and natural gas that cannot be measured in an exact manner. The accuracy of any reserve estimate is a function of the quality of available data and of engineering and geological interpretation and judgment. As a result, estimates of different engineers may vary. In addition, estimates of reserves are subject to revision based on the results of drilling, testing and production subsequent to the date of such estimates. Accordingly, reserve estimates are often different from the quantities of oil and gas reserves that are ultimately recovered.

In general, the volume of production from oil and natural gas properties decline as reserves are depleted. Except to the extent we acquire properties containing proved reserves or conduct successful exploration and development activities, our proved reserves will decline as reserves are produced. Our future oil and natural gas production is highly dependent upon the level of success in acquiring or finding additional reserves.

The Present Value of Proved Reserves was determined based on the market prices for oil and natural gas on December 31, 2003. The market price for our oil production on December 31, 2003, after basis adjustments, was $31.19 per barrel as compared to $30.07 per barrel on December 31, 2002. The market price received for our natural gas production on December 31, 2003, after basis adjustments, was $6.44 per Mcf as compared to $5.04 per Mcf on December 31, 2002.

Comstock did not provide estimates of total proved oil and natural gas reserves during the years ended December 31, 2001, 2002 or 2003 to any federal authority or agency, other than the SEC.

Drilling Activity Summary

During the three-year period ended December 31, 2003, we drilled development and exploratory wells as set forth in the table below.

	Year Ended December 31,					
	2001		2002		2003	
	Gross	Net	Gross	Net	Gross	Net
Development Wells:						
Oil	2	.7	—	—	—	—
Gas	29	16.3	26	10.7	31	19.2
Dry	4	1.8	1	1.0	4	2.8
	35	18.8	27	11.7	35	22.0
Exploratory Wells:						
Oil	1	.3	2	.8	1	.3
Gas	13	4.5	13	4.5	13	5.0
Dry	3	1.1	5	2.3	4	2.1
	17	5.9	20	7.6	18	7.4
Total Wells	52	24.7	47	19.3	53	29.4

Wells drilled in 2003 that are presented above exclude four pilot wells, 1.8 net to us, drilled in New Mexico to test a potential coalbed methane project. These wells are still being evaluated.

In 2004 to the date of this report, we have drilled seven development wells, 3.5 net to us, and two exploratory wells, 0.8 net to us. All of the development wells were successful. Both of the exploratory wells were dry holes. As of the date of this report, we have three development wells, 1.4 net to us, and one exploratory well, 0.2 net to us, that are in the process of drilling.

Producing Well Summary

The following table sets forth the gross and net producing oil and natural gas wells in which we owned an interest at December 31, 2003:

	Oil		Gas	
	Gross	Net	Gross	Net
Kansas	—	—	12	4.5
Kentucky	—	—	91	81.4
Louisiana	7	2.4	175	78.9
Mississippi	1	.1	1	.2
Offshore Gulf of Mexico	43	24.8	46	21.9
Oklahoma	3	.5	130	15.8
Texas	69	43.9	558	225.4
Wyoming	—	—	30	2.2
Total Wells	123	71.7	1,043	430.3

We operate 463 of the 1,166 producing wells presented in the above table. As of December 31, 2003, we owned interests in 12 gross wells containing multiple completions.

Acreage

The following table summarizes our developed and undeveloped leasehold acreage at December 31, 2003. We have excluded acreage in which our interest is limited to a royalty or overriding royalty interest.

	Developed		Undeveloped	
	Gross	Net	Gross	Net
Colorado	320	80	—	—
Kansas	6,400	4,064	—	—
Kentucky	15,725	12,624	7,402	6,954
Louisiana	74,710	55,045	6,745	1,095
Mississippi	1,360	210	—	—
New Mexico	—	—	156,005	68,642
Offshore Gulf of Mexico	113,001	56,219	141,310	55,339
Oklahoma	37,440	5,336	—	—
Texas	223,720	139,310	64,649	31,396
Wyoming	13,440	927	—	—
Total	486,116	273,815	376,111	163,426

Title to our oil and natural gas properties is subject to royalty, overriding royalty, carried and other similar interests and contractual arrangements customary in the oil and gas industry, liens incident to operating agreements and for current taxes not yet due and other minor encumbrances. All of our oil and natural gas properties are pledged as collateral under our bank credit facility. As is customary in the oil and gas industry, we are generally able to retain our ownership interest in undeveloped acreage by production of existing wells, by drilling activity which establishes commercial reserves sufficient to maintain the lease or by payment of delay rentals.

Markets and Customers

The market for oil and natural gas produced by us depends on factors beyond our control, including the extent of domestic production and imports of oil and natural gas, the proximity and capacity of natural gas pipelines and other transportation facilities, demand for oil and natural gas, the marketing of competitive fuels and the effects of state and federal regulation. The oil and gas industry also competes with other industries in supplying the energy and fuel requirements of industrial, commercial and individual consumers.

All of our oil production is sold at the well site at prices tied to the spot oil markets. Substantially all of our natural gas production is sold either on the spot natural gas market under short-term contracts at prevailing spot market prices, or under long-term contracts based on current spot market prices. Our most significant purchaser in 2003 was Shell Trading Company. Substantially all of our Gulf of Mexico and Double A Wells field oil production in 2003 was sold to Shell. Oil sales in 2003 to Shell accounted for approximately 18% of our total 2003 oil and gas sales. BP Energy Company is our most significant natural gas purchaser. Total natural gas sales in 2003 to BP Energy Company accounted for approximately 14% of our total 2003 oil and gas sales. Our natural gas sales to Houston Pipe Line Company, a subsidiary of American Electric Power Company, Inc., accounted for approximately 10% of our total 2003 oil and gas sales.

Competition

The oil and gas industry is highly competitive. Competitors include major oil companies, other independent energy companies and individual producers and operators, many of which have financial resources, personnel and facilities substantially greater than we do. We face intense competition for the acquisition of oil and natural gas properties.

Regulation

Our operations are regulated by certain federal and state agencies. In particular, oil and natural gas production and related operations are or have been subject to price controls, taxes and other laws relating to the oil and natural gas industry. We cannot predict how existing laws and regulations may be interpreted by enforcement agencies or court rulings, whether additional laws and regulations will be adopted, or the effect such changes may have on our business or financial condition.

Our sales of natural gas are not regulated and are made at market prices. However, the Federal Energy Regulatory Commission regulates interstate and certain intrastate natural gas transportation rates and service conditions, which affect the marketing of natural gas produced by us, as well as the revenues received by us for sales of such production. Since the mid-1980s, the Federal Energy Regulatory Commission has issued a series of orders, culminating in Order Nos. 636, 636-A and 636-B, that have significantly altered the marketing and transportation of natural gas. These regulations mandated a fundamental restructuring of interstate pipeline sales and transportation service, including the unbundling by interstate pipelines of the sales, transportation, storage and other components of the city-gate sales services such pipelines previously performed. One of the Federal Energy Regulatory Commission purposes in issuing these regulations was to increase competition within all phases of the natural gas industry. Generally, these regulatory orders have eliminated or substantially reduced the interstate pipelines' traditional role as wholesalers of natural gas and have substantially increased competition and volatility in natural gas markets.

Our sales of oil and natural gas liquids are not regulated and are made at market prices. The price we receive from the sale of these products is affected by the cost of transporting the products to market.

Our oil and natural gas exploration, production and related operations are subject to extensive rules and regulations promulgated by federal, state and local agencies. Failure to comply with such rules and regulations can result in substantial penalties. The regulatory burden on the oil and gas industry increases our cost of doing business and affects our profitability. Because such rules and regulations are frequently amended or reinterpreted, we are unable to predict the future cost or impact of complying with such laws.

Most of the states in which we operate require permits for drilling operations, drilling bonds and the filing of reports concerning operations and impose other requirements relating to the exploration and production of oil and gas. These states also have statutes or regulations addressing conservation matters, including provisions for the unitization or pooling of oil and natural gas properties, the establishment of maximum rates of production from oil and gas wells and the regulation of spacing, plugging and abandonment of such wells. The statutes and regulations of certain states limit the rate at which oil and gas can be produced from our properties.

We are required to comply with various federal and state regulations regarding plugging and abandonment of oil and natural gas wells. Our financial statements include a reserve for the estimated costs of plugging and abandoning our wells.

Environmental Regulation. Various federal, state and local laws and regulations governing the discharge of materials into the environment, or otherwise relating to the protection of the environment, health and safety, affect our operations and costs. These laws and regulations sometimes require governmental authorization before conducting certain activities, limit or prohibit other activities because of protected areas or species, create the possibility of substantial liabilities for pollution related to our operations or properties and provide penalties for noncompliance. In particular, our drilling and production operations, our activities in connection with storage and transportation of crude oil and other liquid hydrocarbons and our use of facilities for treating, processing or otherwise handling hydrocarbons and related exploration and production wastes are subject to stringent environmental regulation. As with the industry in general, compliance with existing and anticipated regulations increases our overall cost of business. While these regulations affect our capital expenditures and earnings, we believe that such regulations do not affect our competitive position in the industry because our competitors are similarly affected by environmental regulatory programs. Environmental regulations have historically been subject to frequent change and, therefore, we cannot predict with certainty the future costs or other future impacts of environmental regulations on our future operations. A discharge of

hydrocarbons or hazardous substances into the environment could subject us to substantial expense, including the cost to comply with applicable regulations that require a response to the discharge, such as containment or cleanup, claims by neighboring landowners or other third parties for personal injury, property damage or their response costs and penalties assessed, or other claims sought, by regulatory agencies for response cost or for natural resource damages.

The following are examples of some environmental laws that potentially impact us and our operations.

Water. The Oil Pollution Act was enacted in 1990 and amends provisions of the Federal Water Pollution Control Act of 1972 and other statutes as they pertain to the prevention of and response to major oil spills. The Oil Pollution Act subjects owners of facilities to strict, joint and potentially unlimited liability for removal costs and certain other consequences of an oil spill along shorelines or that enters navigable waters. In the event of an oil spill into such waters, substantial liabilities could be imposed upon us. Recent regulations developed under the Oil Pollution Act require companies that own offshore facilities, including us, to demonstrate oil spill financial responsibility for removal costs and damage caused by oil discharge. States in which we operate have also enacted similar laws. Regulations are currently being developed under the Oil Pollution Act and similar state laws that may also impose additional regulatory burdens upon us.

The Federal Water Pollution Control Act imposes restrictions and strict controls regarding the discharge of produced waters, other oil and gas wastes, any form of pollutant, and, in some instances, storm water runoff, into waters of the United States. The Federal Water Pollution Control Act provides for civil, criminal and administrative penalties for any unauthorized discharges and, along with the Oil Pollution Act, imposes substantial potential liability for the costs of removal, remediation or damages resulting from an unauthorized discharge. State laws for the control of water pollution also provide civil, criminal and administrative penalties and liabilities in the case of an unauthorized discharge into state waters. The cost of compliance with the Oil Pollution Act and the Federal Water Pollution Control Act have not historically been material to our operations, but there can be no assurance that changes in federal, state or local water pollution control programs will not materially adversely affect us in the future. Although no assurances can be given, we believe that compliance with existing permits and compliance with foreseeable new permit requirements will not have a material adverse effect on our financial condition or results of operations.

Air Emissions. The Federal Clean Air Act and comparable state programs require many industrial operations in the United States to incur capital expenditures in order to meet air emissions control standards developed by the United States Environmental Protection Agency and state environmental agencies. Although no assurances can be given, we believe that compliance with the Clean Air Act and comparable state laws will not have a material adverse effect on our financial condition or results of operations.

Solid Waste. We generate non-hazardous solid wastes that are subject to the requirements of the Federal Resource Conservation and Recovery Act and comparable state statutes. The EPA and the states in which we operate are considering the adoption of stricter disposal standards for the type of non-hazardous wastes generated by us. The Resource Conservation and Recovery Act also governs the generation, management, and disposal of hazardous wastes. At present, we are not required to comply with a substantial portion of the requirements under this law because our operations generate minimal quantities of hazardous wastes. However, it is possible that additional wastes, which could include wastes currently generated during our operations, could in the future be designated as “hazardous wastes.” Hazardous wastes are subject to more rigorous and costly disposal and management requirements than are non-hazardous wastes. Such changes in the regulations may result in additional capital expenditures or operating expenses by us.

Superfund. The Comprehensive Environmental Response, Compensation, and Liability Act also known as “Superfund”, imposes liability, without regard to fault or the legality of the original act, on certain classes of persons in connection with the release of a “hazardous substance” into the environment. These persons include the current owner or operator of any site where a release historically occurred and companies that disposed or arranged for the disposal of the hazardous substances found at the site. Superfund also authorizes the EPA and, in some instances, third parties to act in response to threats to the public health or the environment and to seek to recover from the responsible classes of persons the costs they incur. In the course of our ordinary operations, we may have managed substances that may fall within Superfund’s definition of a

"hazardous substance". Therefore, we may be jointly and severally liable under the Superfund for all or part of the costs required to clean up sites where we disposed of or arranged for the disposal of these substances. This potential liability extends to properties that we previously owned or operated, as well as to properties owned and operated by others at which disposal of our hazardous substances occurred.

We currently own or lease numerous properties that for many years have been used for the exploration and production of oil and gas. Although we believe we have utilized operating and disposal practices that were standard in the industry at the time, hydrocarbons or other wastes may have been disposed of or released by us on or under the properties owned or leased by us. In addition, many of these properties have been previously owned or operated by third parties who may have disposed of or released hydrocarbons or other wastes at these properties. Under Superfund and analogous state laws, we could be subject to certain liabilities and obligations, such as being required to remove or remediate previously disposed wastes, including wastes disposed of or released by prior owners or operators, to clean up contaminated property, including contaminated groundwater, or to perform remedial plugging operations to prevent future contamination.

Office and Operations Facilities

Our executive offices are located at 5300 Town and Country Blvd., Suite 500 in Frisco, Texas 75034 and our telephone number is (972) 668-8800.

We make available free of charge on our website our annual report on Form 10-K, our quarterly reports on Form 10-Q, our current reports on Form 8-K, and amendments to these reports, as soon as reasonably practicable after we file such material with, or furnish it to, the SEC. The Internet address of our website is *www.comstockresources.com,* and such website contains additional information about us; however, such information does not constitute part of this Annual Report on Form 10-K.

We lease office space in Frisco, Texas covering 20,046 square feet at a monthly rate of $34,706, which increases to $39,717 beginning June 2004. The lease expires on May 31, 2006. In addition to our leased office space in Frisco, Texas, we lease 2,329 square feet of office space in Houston, Texas at a monthly rate of $3,299. This lease expires on March 31, 2007. We also own production offices and pipe yard facilities near Marshall and Livingston, Texas, Logansport, Louisiana and Guston, Kentucky.

Employees

As of December 31, 2003, we had 68 employees and utilized contract employees for certain of our field operations. We consider our employee relations to be satisfactory.

Directors, Executive Officers and Other Management

The following table sets forth certain information concerning our executive officers and directors.

Name	Age	Position with Company
M. Jay Allison	48	President, Chief Executive Officer and Chairman of the Board of Directors
Roland O. Burns	43	Senior Vice President, Chief Financial Officer, Secretary, Treasurer and Director
Mack D. Good	53	Vice President of Operations
Stephen E. Neukom	54	Vice President of Marketing
Richard G. Powers	49	Vice President of Land
Daniel K. Presley	43	Vice President of Accounting and Controller
Michael W. Taylor	50	Vice President of Corporate Development
David K. Lockett	49	Director
Cecil E. Martin, Jr.	62	Director
David W. Sledge	47	Director

Executive Officers.

M. Jay Allison has been one of our directors since 1987, and our President and Chief Executive Officer since 1988. Mr. Allison was elected chairman of the board of directors in 1997. From 1987 to 1988, Mr. Allison served as our vice president and secretary. From 1981 to 1987, he was a practicing oil and gas attorney with the firm of Lynch, Chappell & Alsup in Midland, Texas. In 1983, Mr. Allison co-founded a private independent oil and gas company, Midwood Petroleum, Inc., which was active in the acquisition and development of oil and gas properties from 1983 to 1987. He received B.B.A., M.S. and J.D. degrees from Baylor University in 1978, 1980 and 1981, respectively. Mr. Allison currently serves on the Board of Regents for Baylor University.

Roland O. Burns has been our senior vice president since 1994, chief financial officer and treasurer since 1990 and our secretary since 1991. Mr. Burns was elected one of our directors in June 1999. From 1982 to 1990, Mr. Burns was employed by the public accounting firm, Arthur Andersen LLP. During his tenure with Arthur Andersen LLP, Mr. Burns worked primarily in the firm's oil and gas audit practice. Mr. Burns received B.A. and M.A. degrees from the University of Mississippi in 1982 and is a Certified Public Accountant.

Mack D. Good was appointed our vice president of operations in March 1999. From August 1997 until his promotion, Mr. Good served as our district engineer for the East Texas/North Louisiana region. From 1983 until July 1997, Mr. Good was with Enserch Exploration, Inc. serving in various operations management and engineering positions. Mr. Good received a B.S. of Biology/Chemistry from Oklahoma State University in 1975 and a B.S. of Petroleum Engineering from the University of Tulsa in 1983. He is a Registered Professional Engineer in the State of Texas.

Stephen E. Neukom has been our vice president of marketing since December 1997 and has served as our manager of crude oil and natural gas marketing since December 1996. From October 1994 to 1996, Mr. Neukom served as vice president of Comstock Natural Gas, Inc., our former wholly owned gas marketing subsidiary. Prior to joining us, Mr. Neukom was senior vice president of Victoria Gas Corporation from 1987 to 1994. Mr. Neukom received a B.B.A. degree from the University of Texas in 1972.

Richard G. Powers joined us as Land Manager in October 1994 and has been our vice president of land since December 1997. Mr. Powers has over 20 years of experience as a petroleum landman. Prior to joining us, Mr. Powers was employed for 10 years as land manager for Bridge Oil (U.S.A.), Inc. and its predecessor Pinoak Petroleum, Inc. Mr. Powers received a B.B.A. degree in 1976 from Texas Christian University.

Daniel K. Presley has been our vice president of accounting since December 1997 and has been with us since December 1989, serving as controller since 1991. Prior to joining us, Mr. Presley had six years of experience with several independent oil and gas companies including AmBrit Energy, Inc. Prior thereto, Mr. Presley spent two and one-half years with B.D.O. Seidman, a public accounting firm. Mr. Presley has a B.B.A. from Texas A & M University.

Michael W. Taylor has been our vice president of corporate development since December 1997 and has served us in various capacities since September 1994. Mr. Taylor has 28 years of experience in the oil and gas business. For 15 years prior to joining us, he had been an independent oil and gas producer and petroleum consultant. Before that time, he worked in various engineering and executive capacities for a major oil company, a small independent producer and an international oil and gas consulting company. Mr. Taylor is a Registered Professional Engineer in the State of Texas and he received a B.S. degree in Petroleum Engineering from Texas A & M University in 1974.

Outside Directors.

David K. Lockett was appointed to our board of directors in 2001. Mr. Lockett is currently a vice president of Dell Computer Corp. and heads up Dell's Small and Medium Business group. Mr. Lockett has been employed by Dell Computer Corp. for the last ten years and has spent the past twenty five years in the technology industry. Mr. Lockett received a B.B.A. degree from Texas A&M University in 1976.

Cecil E. Martin, Jr. has been one of our directors since 1988. Mr. Martin has been an independent commercial real estate developer since 1991. From 1973 to 1991, he served as Chairman of a public accounting firm in Richmond, Virginia. Mr. Martin holds a B.B.A. degree from Old Dominion University and is a Certified Public Accountant.

David W. Sledge was elected to our board of directors in 1996. Since 1996, he has been investing in oil and gas exploration activities. Mr. Sledge served as President of Gene Sledge Drilling Corporation, a privately held contract drilling company based in Midland, Texas until its sale in October 1996. Mr. Sledge served Gene Sledge Drilling Corporation in various capacities from 1979 to 1996. Mr. Sledge is a past director of the International Association of Drilling Contractors and is a past chairman of the Permian Basin chapter of this association. He received a B.B.A. degree from Baylor University in 1979.

Item 3. ***Legal Proceedings***

We are not a party to any legal proceedings which management believes will have a material adverse effect on our consolidated results of operations or financial condition.

Item 4. ***Submission of Matters to a Vote of Security Holders***

No matters were submitted to a vote of our security holders during the fourth quarter of 2003.

PART II

Item 5. ***Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities***

Our common stock is listed for trading on the New York Stock Exchange under the symbol "CRK." The following table sets forth, on a per share basis for the periods indicated, the high and low sales prices by calendar quarter for the periods indicated as reported by the New York Stock Exchange.

	High	Low
2002 —		
First Quarter	$ 7.95	$ 5.70
Second Quarter	9.47	6.65
Third Quarter	8.10	5.50
Fourth Quarter	9.74	6.61
2003 —		
First Quarter	$10.65	$ 8.95
Second Quarter	14.50	9.40
Third Quarter	15.20	12.10
Fourth Quarter	19.94	13.30

As of March 12, 2004, we had 34,678,862 shares of common stock outstanding, which were held by 414 holders of record and approximately 9,300 beneficial owners who maintain their shares in "street name" accounts.

We have never paid cash dividends on our common stock. We presently intend to retain any earnings for the operation and expansion of our business and we do not anticipate paying cash dividends in the foreseeable future. Any future determination as to the payment of dividends will depend upon the results of our operations, capital requirements, our financial condition and such other factors as our board of directors may deem relevant. In addition, we are limited under our bank credit facility and by the terms of the indenture for our senior notes from paying or declaring cash dividends.

The following table summarizes securities issuable and authorized by the stockholders under certain equity compensation plans:

	Number of Securities to be Issued Upon Exercise of Outstanding Options	Weighted Average Exercise Price of Outstanding Options	Number of Securities Authorized for Future Issuance Under Equity Compensation Plans
Equity compensation plans approved by stockholders	3,549,250	$8.83	318,082(1)

(1) Plus 1% of the outstanding shares of common stock each year beginning on January 1, 2004.

Item 6. ***Selected Financial Data***

The historical financial data presented in the table below as of and for each of the years in the five-year period ended December 31, 2003 are derived from our consolidated financial statements. The financial results are not necessarily indicative of our future operations or future financial results. The data presented below should be read in conjunction with our consolidated financial statements and the notes thereto and "Management's Discussion and Analysis of Financial Condition and Results of Operations."

Statement of Operations Data:

	Year Ended December 31,				
	1999	2000	2001	2002	2003
	(In thousands, except per share data)				
Oil and gas sales	$ 88,833	$168,084	$166,118	$142,085	$235,102
Operating expenses:					
Oil and gas operating(1)	23,117	29,277	31,855	33,499	45,746
Exploration	2,248	3,505	6,611	5,479	4,410
Depreciation, depletion and amortization	43,970	43,264	47,429	53,155	61,169
Impairment	—	—	1,400	—	4,255
General and administrative, net	2,399	3,537	4,351	5,113	7,006
Total operating expenses	71,734	79,583	91,646	97,246	122,586
Income from operations	17,099	88,501	74,472	44,839	112,516
Other income (expenses):					
Interest income	134	230	196	62	73
Interest expense	(24,192)	(25,819)	(22,098)	(31,252)	(29,860)
Gain (loss) from derivatives	—	—	243	(2,326)	(3)
Other income	1,907	122	272	8,027	223
	(22,151)	(25,467)	(21,387)	(25,489)	(29,567)
Income (loss) from continuing operations before income taxes expense	(5,052)	63,034	53,085	19,350	82,949
Income tax benefit (expense)	1,769	(22,061)	(18,579)	(6,773)	(29,682)
Net income (loss) from continuing operations	(3,283)	40,973	34,506	12,577	53,267
Discontinued operations including loss on disposal, net of income taxes	197	227	396	(1,072)	—
Cumulative effect of change in accounting principle	—	—	—	—	675
Net income (loss)	(3,086)	41,200	34,902	11,505	53,942
Preferred stock dividends	(1,853)	(2,471)	(1,604)	(1,604)	(573)
Net income (loss) attributable to common stock	$ (4,939)	$ 38,729	$ 33,298	$ 9,901	$ 53,369
Basic net income (loss) per share:					
From continuing operations	$ (0.21)	$ 1.46	$ 1.13	$ 0.38	$ 1.65
Discontinued operations	0.01	0.01	0.02	(0.04)	—
Cumulative effect of change in accounting principle	—	—	—	—	0.02
	$ (0.20)	$ 1.47	$ 1.15	$ 0.34	$ 1.67
Diluted net income (loss) per share:					
From continuing operations		$ 1.20	$ 1.00	$ 0.37	$ 1.51
Discontinued operations		—	0.01	(0.03)	—
Cumulative effect of change in accounting principle		—	—	—	0.02
		$ 1.20	$ 1.01	$ 0.34	$ 1.53
Weighted average shares outstanding:					
Basic	24,601	26,290	29,030	28,764	31,964
Diluted		34,219	34,552	33,901	35,275

(1) Includes lease operating costs and production and ad valorem taxes.

	As of December 31,				
	1999	2000	2001	2002	2003
			(In thousands)		
Balance Sheet Data:					
Cash and cash equivalents	$ 7,648	$ 7,105	$ 6,122	$ 1,682	$ 5,343
Property and equipment, net	394,497	434,065	636,274	664,208	698,686
Total assets	433,956	489,082	680,769	711,053	760,956
Total debt	254,131	234,101	372,464	366,272	306,623
Redeemable convertible preferred stock	30,000	17,573	17,573	17,573	—
Stockholders' equity	106,512	161,735	195,668	208,427	289,656

Item 7. ***Management's Discussion and Analysis of Financial Condition and Results of Operations***

Results of Operations

Our operating data for the last three years is summarized below:

	Year Ended December 31,		
	2001	2002	2003
Net Production Data:			
Oil (MBbls)	1,510	1,303	1,615
Natural gas (MMcf)	27,859	33,171	34,320
Natural gas equivalent (MMcfe)	36,918	40,986	44,009
Average Sales Price:			
Oil (MBbls)	$ 25.46	$ 24.95	$ 30.70
Natural gas (MMcf)	4.58	3.30	5.41
Average equivalent price (per Mcfe)	4.50	3.47	5.34
Expenses ($ per Mcfe):			
Oil and gas operating[(1)]	$ 0.86	$ 0.82	$ 1.04
General and administrative	0.12	0.12	0.16
Depreciation, depletion and amortization[(2)]	1.28	1.29	1.37
Cash Margin ($ per Mcfe)[(3)]	$ 3.52	$ 2.53	$ 4.14

(1) Includes lease operating costs and production and ad valorem taxes.

(2) Represents depreciation, depletion and amortization of oil and gas properties only.

(3) Represents average equivalent price per Mcfe less oil and gas operating expenses per Mcfe and general and administrative expenses per Mcfe. Cash margin per Mcfe is presented because management believes it to be useful to investors in analyzing our operations.

Year Ended December 31, 2003 Compared to Year Ended December 31, 2002

Our oil and gas sales increased $93.0 million or 65% in 2003 to $235.1 million from $142.1 million in 2002. The increase in sales was mostly due to higher natural gas and crude oil prices and increased oil and natural gas production in 2003. Our average natural gas price increased by 64% and our average oil price increased by 23%. On an equivalent unit basis, our average price received for our production in 2003 was $5.34 per Mcfe, which was 54% higher than our average price in 2002 of $3.47 per Mcfe. The higher prices were accompanied by a 7% increase in our production. Our natural gas production increased by 3% while our oil production increased by 24%. The production increases are primarily related to new production resulting from wells drilled in our 2002 and 2003 drilling programs.

Our oil and gas operating expenses, including production taxes, increased $12.2 million (37%) to $45.7 million in 2003 from $33.5 million in 2002. Oil and gas operating expenses per equivalent Mcf produced increased $0.22 (27%) to $1.04 in 2003 from $0.82 in 2002. The increase in operating expenses is primarily

related to the 7% increase in production and higher production and ad valorem taxes resulting from the significantly higher oil and gas prices in 2003.

In 2003, we had $4.4 million in exploration expense, which primarily related to the write-off of exploratory dry holes, impairment of certain of our exploratory leasehold and the acquisition of seismic data. Exploration expense for 2002 was $5.5 million, which related to the write-off of exploratory dry holes.

Our depreciation, depletion and amortization increased $8.0 million (15%) to $61.2 million in 2003 from $53.2 million in 2002. The increase is attributable to our higher production in 2003. Our depreciation, depletion and amortization per equivalent Mcf produced also increased to $1.37 in 2003 from $1.29 in 2002.

In 2003, we had a $4.3 million impairment of our oil and gas properties which primarily relates to some minor valued fields where an impairment was indicated based on estimated future cash flows attributable to the fields' estimated proved oil and natural gas reserves.

General and administrative expenses, which are reported net of overhead reimbursements, of $7.0 million for 2003 were 37% higher than general and administrative expenses of $5.1 million for 2002. The increase was due primarily to the opening of an offshore operations office in Houston, Texas as well as an increase in the number of employees and higher compensation paid to our employees in 2003.

Interest expense decreased $1.4 million (4%) to $29.9 million for 2003 from $31.3 million in 2002. The decrease was due to a reduction in the average borrowings outstanding under our credit facility of $119.7 million during 2003 as compared to an average of $172.0 million outstanding in 2002. The average interest rate on the outstanding borrowings under the credit facility also decreased to 3.0% in 2003 as compared to 3.6% in 2002.

Our other income in 2003 was $0.2 million as compared to $8.0 million in 2002. Included in other income in 2002 was $7.7 million related to refunds of severance taxes paid in prior years.

For 2003, we reported net income of $53.4 million, after deducting preferred stock dividends of $0.6 million. These results compared to net income from continuing operations in 2002 of $11.0 million, after deducting preferred stock dividends of $1.6 million. Our income from continuing operations per share for 2003 was $1.53 on diluted weighted average shares outstanding of 35.3 million as compared to net income from continuing operations per share of $0.37 for 2002 on diluted weighted average shares outstanding of 33.9 million.

Net income for 2003 included $0.7 million in income ($0.02 per share) related to the cumulative effect of a change in our accounting for future abandonment cost for our oil and gas properties.

In 2002, we sold certain marginal oil and gas properties. The operating results of these properties in 2002 including the loss on disposal of $1.1 million ($0.04 per share) have been reflected as discontinued operations.

Year Ended December 31, 2002 Compared to Year Ended December 31, 2001

Our oil and gas sales decreased $24.0 million or 14% in 2002 to $142.1 million from $166.1 million in 2001. The decrease in sales is mostly due to the lower natural gas prices in 2002. Our average natural gas price decreased by 28% and our average oil price decreased by 2%. On an equivalent unit basis, our average price received for our production in 2002 was $3.47 per Mcfe, which was 23% lower than our average price in 2001 of $4.50 per Mcfe. Our average natural gas price in 2002 was $0.04 higher as a result of gains from hedging activities. Without the hedging gains, our natural gas price would have averaged $3.26 in 2002. The lower prices were partially offset by an 11% increase in production. Our natural gas production was up 19% while our oil production fell by 14%. The natural gas production increase is related to our acquisition of DevX Energy, Inc. which we completed in December 2001. The oil production decrease was due to normal depletion of our oil properties.

Our oil and gas operating expenses, which includes production taxes, increased $1.6 million or 5%, to $33.5 million in 2002 from $31.9 million in 2001. The increase is due to the higher production level in 2002. Our oil and gas operating expenses per equivalent Mcf produced decreased by $0.04 to $0.82 in 2002 from

$0.86 for 2001. The decrease in per unit lifting costs is primarily related to lower production taxes resulting from the lower oil and natural gas prices in 2002.

In 2002, we had $5.5 million in exploration expense, which primarily related to the write-off of exploratory dry holes. Exploration expense for 2001 was $6.6 million which related to the write-off of dry holes and the expensing of $2.4 million in advances made by us to our joint venture partner for seismic data acquisition.

Our depreciation, depletion and amortization increased $5.7 million (12%) to $53.2 million in 2002 from $47.4 million in 2001. The increase is attributable to our higher production level in 2002. Our depreciation, depletion and amortization per equivalent Mcf produced increased to $1.29 in 2002 from $1.28 in 2001.

Our general and administrative expenses, which are reported net of overhead reimbursements that we receive, increased $762,000 or 18%, to $5.1 million in 2002 from $4.4 million in 2001. The increase was primarily due to an increase in the number of employees and higher compensation paid to our employees in 2002.

Our interest expense increased $9.2 million or 41% to $31.3 million in 2002 from $22.1 million for 2001. The increase is due to the higher debt level we had as a result of the acquisition of DevX Energy, Inc. in December 2001. In addition, in March 2002 we issued an additional $75.0 million of our 11 1/4% Senior Notes which refinanced amounts that were borrowed under our bank credit facility. In 2002, we averaged $172.0 million outstanding under our bank credit facility at a weighted average interest of 3.6%. In 2001, our average outstanding balance was $65.2 million under the bank credit facility with a weighted average interest rate of 5.6%.

Our other income in 2002 increased to $8.0 million from $272,000 in 2001. Included in other income in 2002 was $7.7 million related to refunds of severance taxes paid in prior years.

For 2002, we reported net income from continuing operations of $11.0 million, after deducting preferred stock dividends of $1.6 million. These results compared to net income in 2001 of $32.9 million, after deducting preferred stock dividends of $1.6 million. Our income from continuing operations per share for 2002 was $0.37 on diluted weighted average shares outstanding of 33.9 million as compared to net income from continuing operations per share of $1.00 for 2001 on diluted weighted average shares outstanding of 34.6 million.

In 2002, we sold certain marginal oil and gas properties. The operating results of these properties in 2002 including the loss on disposal of $1.1 million ($0.04 per share) have been reflected as discontinued operations.

Liquidity and Capital Resources

Funding for our activities has historically been provided by our operating cash flow, debt or equity financings or asset dispositions. In 2003, our net cash flow provided by operating activities totaled $153.8 million. Our other primary funding source in 2003 was borrowings of $23.4 million.

Our primary needs for capital, in addition to funding our ongoing operations, relate to the acquisition, development and exploration of our oil and gas properties and the repayment of our debt. In 2003, we incurred capital expenditures of $92.9 million for development, exploration and acquisition activities. We also repaid $83.1 million of our debt.

Our annual capital expenditure activity is summarized in the following table:

	Year Ended December 31,		
	2001	2002	2003
		(In thousands)	
Acquisitions of proved oil and gas properties	$160,794	$11,435	$ 4,805
Acquisitions of unproved oil and gas properties	7,113	4,268	4,447
Developmental leasehold costs	974	98	481
Workovers and recompletions	5,563	7,414	12,836
Offshore production facilities	907	4,867	5,227
Development drilling	43,646	22,893	28,254
Exploratory drilling	33,382	31,074	34,829
Other	172	1,332	2,051
Total	$252,551	$83,381	$92,930

The timing of most of our capital expenditures is discretionary because we have no material long-term capital expenditure commitments. Consequently, we have a significant degree of flexibility to adjust the level of our capital expenditures as circumstances warrant. We spent $91.6 million, $70.6 million and $86.1 million on development and exploration activities in 2001, 2002 and 2003, respectively. We have budgeted approximately $110.0 million for development and exploration projects in 2004. We expect to use internally generated cash flow to fund development and exploration activity. Our operating cash flow is highly dependent on oil and natural gas prices, especially natural gas prices.

We spent $160.8 million, $11.4 million and $4.8 million on acquisition activities in 2001, 2002 and 2003, respectively. We do not have a specific acquisition budget for 2004 since the timing and size of acquisitions are not predictable. We intend to use borrowings under our bank credit facility, or other debt or equity financings to the extent available, to finance significant acquisitions. The availability and attractiveness of these sources of financing will depend upon a number of factors, some of which will relate to our financial condition and performance and some of which will be beyond our control, such as prevailing interest rates, oil and natural gas prices and other market conditions.

The following table summarizes our aggregate liabilities and commitments by year of maturity:

	2004	2005	2006	2007	Total
			(In thousands)		
Bank credit facility	$ —	$86,000	$ —	$ —	$ 86,000
11 1/4% Senior notes	—	—	—	220,000	220,000
Other debt	623	—	—	—	623
Operating leases	491	516	238	10	1,255
	$1,114	$86,516	$238	$220,010	$307,878

At December 31, 2003, we had a $350.0 million revolving credit facility with Toronto Dominion (Texas), Inc. as administrative agent. The bank credit facility was a three year revolving credit line with a borrowing base of $260.0 million at December 31, 2003. Indebtedness under the bank credit facility was secured by substantially all of our assets. All of our subsidiaries were guarantors of this indebtedness. Interest charged on the revolving credit line was based on the utilization of the borrowing base, at our option at either (i) LIBOR plus 1.5% to 2.375% or (ii) the corporate base rate (generally the federal funds rate plus 0.5%) plus 0.5% to 1.375%. The credit facility would have matured on January 2, 2005 and contained covenants that, among other things, restricted our ability to pay cash dividends, limited the amount of our consolidated debt and limited our ability to make certain loans and investments. Financial covenants included the maintenance of a current ratio, maintenance of tangible net worth and maintenance of an interest coverage ratio.

At December 31, 2003, we had $220.0 million of aggregate principal amount of 11 1/4% senior notes outstanding which are due in 2007 (the “1999 Notes”). These notes are unsecured obligations of Comstock and are guaranteed by all of our subsidiaries.

Pursuant to a tender offer, we repurchased $197.7 million in principal amount of the 1999 Notes for $212.2 million plus accrued interest on February 25, 2004. We intend to redeem the remaining $22.3 million in principal amount of the 1999 Notes on May 1, 2004 when the notes are first callable at a price of 105.625 of par value. The total amount required to repurchase the remaining outstanding 1999 Notes is $23.6 million. The early extinguishment of the 1999 Notes will result in a pretax loss of $19.8 million in 2004.

In connection with the repurchase of the 1999 Notes, we sold $175.0 million of senior notes in an underwritten public offering. The new senior notes are due on March 1, 2012 and bear interest at 6 7/8% which is payable semiannually on March 1 and September 1, commencing September 1, 2004. The notes are unsecured obligations of Comstock and are currently guaranteed by all of our subsidiaries.

On February 25, 2004, we also entered into a new $400.0 million bank credit facility with Bank of Montreal, as the administrative agent. The new credit facility is a four year revolving credit commitment that matures on February 25, 2008. Borrowings under the new credit facility are limited to a borrowing base that will be set at $300.0 million upon the retirement of all of the 1999 Notes. Borrowings under the new credit facility were used to refinance amounts outstanding under our prior bank credit facility and to fund the repurchase of the 1999 Notes.

Indebtedness under the new credit facility is secured by substantially all of our assets and is guaranteed by all of our subsidiaries. The new credit facility is subject to borrowing base availability, which will be redetermined semiannually based on the banks’ estimates of the future net cash flows of our oil and natural gas properties. The borrowing base may be affected by the performance of our properties and changes in oil and natural gas prices. The determination of the borrowing base will be at the sole discretion of the administrative agent and the bank group. Borrowings under the new credit facility bear interest, based on the utilization of the of the borrowing base, at our option at either (1) LIBOR plus 1.25% to 1.75% or (2) the base rate (which is the higher of the prime rate or the federal funds rate) plus 0% to 0.5%. A commitment fee of 0.375% is payable on the unused borrowing base. The new credit facility contains covenants that, among other things, restrict the payment of cash dividends, limit the amount of consolidated debt we may incur and limit our ability to make certain loans and investments. The only financial covenants are the maintenance of a current ratio and maintenance of a minimum tangible net worth.

We believe that our cash flow from operations and available borrowings under the new bank credit facility will be sufficient to fund our operations and future growth as contemplated under our current business plan. However, if our plans or assumptions change or if our assumptions prove to be inaccurate, we may be required to seek additional capital. We cannot provide any assurance that we will be able to obtain such capital, or if such capital is available, that we will be able to obtain it on acceptable terms.

Federal Taxation

At December 31, 2003, we had federal income tax net operating loss carryforwards of approximately $45.5 million. We have established a $23.0 million valuation allowance against part of the net operating loss carryforwards acquired from DevX due to a “change in control” limitation which will prevent us from fully realizing these carryforwards. The carryforwards expire from 2017 through 2021. The value of these carryforwards depends on our ability to generate future taxable income in order to utilize these carryforwards.

Critical Accounting Policies

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires us to make estimates and use assumptions that can affect the reported amounts of assets, liabilities, revenues or expenses. We are also required to select among alternative acceptable accounting policies. There are two generally acceptable methods for accounting for oil and gas producing activities. The full cost method allows the capitalization of all costs associated with finding oil and gas reserves, including

certain general and administrative expenses. The successful efforts method allows only for the capitalization of costs associated with developing proven oil and gas properties as well as exploration costs associated with successful exploration projects. Costs related to exploration that are not successful are expensed when it is determined that commercially productive oil and gas reserves were not found. We have elected to use the successful efforts method to account for our oil and gas activities and we do not capitalize any of our general and administrative expenses.

The determination of depreciation, depletion and amortization expense as well as impairments that are recognized on our oil and gas properties are highly dependent on the estimates of the proved oil and natural gas reserves attributable to our properties. There are numerous uncertainties inherent in estimating oil and natural gas reserves and their values, including many factors beyond our control. Reserve engineering is a subjective process of estimating underground accumulations of oil and natural gas that cannot be measured in an exact manner. The accuracy of any reserve estimate is a function of the quality of available data and of engineering and geological interpretation and judgment. As a result, estimates of different engineers may vary. In addition, estimates of reserves are subject to revision based on the results of drilling, testing and production subsequent to the date of such estimate. Accordingly, reserve estimates are often different from the quantities of oil and gas reserves that are ultimately recovered. The estimates of our proved oil and gas reserves used in preparation of our financial statements were determined by an independent petroleum engineering consulting firm and were prepared in accordance with the rules promulgated by the SEC and the Financial Accounting Standards Board (the "FASB"). The determination of impairment of our oil and gas reserves is based on the oil and gas reserve estimates using projected future oil and natural gas prices that we have determined to be reasonable. The projected prices that we employ represent our long-term oil and natural gas price forecast and may be higher or lower than the December 31, 2003 market prices for crude oil and natural gas. For the impairment review of our oil and gas properties that we conducted as of December 31, 2003, we used oil and natural gas prices that were based on the current futures market. We used oil prices of $30.67, $27.44, and $26.43 per barrel for 2004, 2005 and 2006, respectively, and escalated prices by 3% each year thereafter to a maximum price of $40.00 per barrel. For natural gas, we used prices of $5.44, $5.29, and $4.99 per Mcf for 2004, 2005 and 2006, respectively, and escalated prices by 3% each year thereafter to a maximum price of $5.20 per Mcf. To the extent we had used lower prices in our impairment review, an impairment could have been indicated on certain of our oil and gas properties.

New Accounting Standards

We adopted Statement of Financial Accounting Standards No. 143 ("SFAS 143") "Accounting for Asset Retirement Obligations," on January 1, 2003. This statement requires us to record a liability in the period in which an asset retirement obligation ("ARO") is incurred, in an amount equal to the discounted estimated fair value of the obligation that is capitalized. Thereafter, each quarter, this liability is accreted up to the final retirement cost. The adoption of SFAS 143 on January 1, 2003 resulted in a cumulative effect adjustment to record (i) a $3.7 million decrease in the carrying value of our oil and gas properties, (ii) a $3.3 million decrease in accumulated depletion, depreciation and amortization, (iii) a $1.5 million decrease in reserve for future abandonment, and (iv) a gain of $675,000, net of income taxes, which was reflected as the cumulative effect of a change in accounting principle.

On January 1, 2003, we adopted the provisions of Statement of Financial Accounting Standards No. 145, "Rescission of FASB Statements No. 4, 44 and 64, Amendment of FASB Statement No. 13 and Technical Corrections" ("SFAS 145"). Prior to SFAS 145, gains or losses on the early extinguishment of debt were required to be classified in a company's statements of operations as extraordinary gains or losses, net of associated income taxes, after the determination of income or loss from continuing operations. SFAS 145 requires, except in the case of events or transactions of a highly unusual and infrequent nature, that gains or losses from the early extinguishment of debt be classified as components of a company's income or loss from continuing operations. The adoption of the provisions of SFAS 145 did not affect our financial position or reported financial results. Under our the provisions of SFAS 145, gains or losses from the early extinguishment of debt will be recognized in the Consolidated Statements of Operations as components of other income or

other expense and will be included in the determination of the income (loss) from continuing operations of those periods.

We also adopted Statement of Financial Accounting Standards No. 146, “Accounting for Costs Associated with Exit or Disposal Activities” (“SFAS 146”), in 2003. This statement establishes accounting and reporting standards that are effective for exit or disposal activities beginning after December 31, 2002 which require that a liability be recognized for an exit or disposal activity when that liability is incurred. The adoption of SFAS 146 had no effect on our financial statements.

In December 2002, the Financial Accounting Standards Board (“FASB”) issued Statement of Financial Accounting Standards No. 148, “Accounting for Stock-Based Compensation — Transition and Disclosure, an amendment of FASB Statement No. 123”. This statement amends Statement of Financial Accounting Standards No. 123, “Accounting for Stock-Based Compensation” (“SFAS 123”), to provide alternative methods of transition for a voluntary change to the fair value method of accounting for stock-based employee compensation. In addition, this statement amends the disclosure requirements of SFAS 123 to require prominent disclosures in both annual and interim financial statements. Certain of the disclosure modifications are included in the notes to our financial statements.

In January 2003, the FASB issued Interpretation No. 45, “Guarantor’s Accounting and Disclosure Requirement for Guarantees, including Indirect Guarantees of Indebtedness of Others” (“FIN 45”). FIN 45 requires an entity to recognize a liability for the obligations it has undertaken in issuing a guarantee. This liability would be recorded at the inception of a guarantee and would be measured at fair value. Certain guarantees are excluded from the measurement and disclosure provisions while certain other guarantees are excluded from the measurement provisions of the interpretation. The adoption of the statement in 2003 had no effect on our financial statements.

In January 2003, the FASB issued Interpretation No. 46, “Consolidation of Variable Interest Entities” (“FIN 46”), which was modified in December 2003. FIN 46 requires an entity to consolidate a variable interest entity if it is designated as the primary beneficiary of that entity even if the entity does not have a majority of voting interests. A variable interest entity is generally defined as an entity whose equity is unable to finance its activities or where the owners of the entity lack the risk and rewards of ownership. We are not the primary beneficiary of any variable interest entities, and accordingly, the adoption of FIN 46 is not expected to have a material effect on our financial statements when adopted.

We have been made aware of an issue that has arisen in the industry regarding the application of certain provisions of Statement of Financial Accounting Standards No. 141, “Business Combinations” (“SFAS 141”), and Statement of Financial Accounting Standards No. 142, “Goodwill and Other Intangible Assets” (“SFAS 142”), to companies in the extractive industries, including oil and gas exploration and production companies. The issue is whether the provisions of SFAS 141 and SFAS 142 require companies to classify costs associated with mineral rights, including both proved and unproved lease acquisition costs, as intangible assets on the balance sheet, apart from other capitalized oil and gas property costs. Historically, we have included oil and gas lease acquisition costs as a component of oil and gas properties. Also under consideration is whether SFAS 142 requires companies to provide additional disclosures prescribed by SFAS 142 for intangible assets for costs associated with mineral rights. In the event it is determined that costs associated with mineral rights are required to be classified as intangible assets, a substantial portion of our capitalized oil and gas property costs would be separately classified on our balance sheet as intangible assets. The reclassification of these amounts would not affect the method in which such costs are amortized or the manner in which we assess impairment of capitalized costs. As a result, net income would not be affected by the reclassification if it were to occur. As of December 31, 2003, we had $380.6 million in capitalized leasehold costs, net of accumulated depletion.

Related Party Transactions

In recent years, we have not entered into any material transactions with our officers or directors apart from the compensation they are provided for their services. We also have not entered into any business transactions with our significant stockholders or any other related parties.

Item 7A. ***Quantitative and Qualitative Disclosure About Market Risks***

Oil and Natural Gas Prices

Our financial condition, results of operations and capital resources are highly dependent upon the prevailing market prices of oil and natural gas. These commodity prices are subject to wide fluctuations and market uncertainties due to a variety of factors that are beyond our control. Factors influencing oil and natural gas prices include the level of global demand for crude oil, the foreign supply of oil and natural gas, the establishment of and compliance with production quotas by oil exporting countries, weather conditions which determine the demand for natural gas, the price and availability of alternative fuels and overall economic conditions. It is impossible to predict future oil and natural gas prices with any degree of certainty. Sustained weakness in oil and natural gas prices may adversely affect our financial condition and results of operations, and may also reduce the amount of oil and natural gas reserves that we can produce economically. Any reduction in our oil and natural gas reserves, including reductions due to price fluctuations, can have an adverse affect on our ability to obtain capital for our exploration and development activities. Similarly, any improvements in oil and natural gas prices can have a favorable impact on our financial condition, results of operations and capital resources. Based on our oil and natural gas production in 2003, a $1.00 change in the price per barrel of oil would have resulted in a change in our cash flow for such period by approximately $1.6 million and a $1.00 change in the price per Mcf of natural gas would have changed our cash flow by approximately $33.0 million.

We periodically use derivative transactions with respect to a portion of our oil and natural gas production to mitigate our exposure to price changes. During 2003, we did not hedge any of our oil and natural gas production. While the use of these derivative arrangements limits the downside risk of price declines, such use may also limit any benefits which may be derived from price increases. We use swaps, floors and collars to hedge oil and natural gas prices. Swaps are settled monthly based on differences between the prices specified in the instruments and the settlement prices of futures contracts quoted on the New York Mercantile Exchange. Generally, when the applicable settlement price is less than the price specified in the contract, we receive a settlement from the counterparty based on the difference multiplied by the volume hedge. Similarly, when the applicable settlement price exceeds the price specified in the contract, we pay the counterparty based on the difference. We generally receive a settlement from the counterparty for floors when the applicable settlement price is less than the price specified in the contract, which is based on the difference multiplied by the volumes hedged. For collars, we generally receive a settlement from the counterparty when the settlement price is below the floor and pay a settlement to the counterparty when the settlement price exceeds the cap. No settlement occurs when the settlement price falls between the floor and the cap.

Interest Rates

At December 31, 2003, we had long-term debt of $306.0 million. Of this amount, $220.0 million bears interest at a fixed rate of 11 1/4%. The fair market value of the fixed rate debt as of December 31, 2003 was $234.6 million based on the market price of 1.07% of the face amount. At December 31, 2003, we had $86.0 million outstanding under our bank credit facility, which was subject to floating market rates of interest. Borrowings under the bank credit facility bear interest at a fluctuating rate that is tied to LIBOR or the corporate base rate, at our option. Any increases in these interest rates can have an adverse impact on our results of operations and cash flow. Based on borrowings outstanding at December 31, 2003, a 100 basis point change in interest rates would change our interest expense on our variable rate debt by approximately $0.9 million. From January 1, 2003 to December 31, 2003, we had an interest rate swap in place which fixed our LIBOR rate on $25.0 million of our floating rate debt at 1.7%. As a result of this interest rate swap, we realized a loss of $108,000 in 2003. We had no interest rate derivatives outstanding at December 31, 2003.

Item 8. ***Financial Statements and Supplementary Data***

Our consolidated financial statements are included on pages F-1 to F-29 of this report.

We have prepared these financial statements in conformity with generally accepted accounting principles. We are responsible for the fairness and reliability of the financial statements and other financial data included

in this report. In the preparation of the financial statements, it is necessary for us to make informed estimates and judgments based on currently available information on the effects of certain events and transactions.

We maintain accounting and other controls which we believe provide reasonable assurances that our financial records are reliable, our assets are safeguarded, and that transactions are properly recorded in accordance with management's authorizations. However, limitations exist in any system of internal controls based upon the recognition that the cost of the system should not exceed benefits derived therefrom.

Our independent public accountants, Ernst & Young LLP, are engaged to audit our financial statements and to express an opinion thereon. Their audit is conducted in accordance with auditing standards generally accepted in the United States to enable them to report whether the financial statements present fairly, in all material respects, our financial position and results of operations in accordance with accounting principles generally accepted in the United States.

The audit committee of our board of directors is composed of three directors who are not our employees. This committee meets periodically with our independent public accountants and management. Our independent public accountants have full and free access to the audit committee to meet, with and without management being present, to discuss the results of their audits and the quality of our financial reporting.

Item 9. ***Changes in and Disagreements With Accountants On Accounting and Financial Disclosure***

On May 16, 2003, our audit committee engaged Ernst & Young LLP as our independent public accountants for fiscal 2003 and dismissed KPMG LLP. There were no disagreements with KPMG LLP on matters of accounting principles or practices, financial statement disclosure or auditing scope and procedure, which disagreements if not resolved to the satisfaction of KPMG LLP would have caused it to make reference to the subject matter of the disagreements in connection with its report.

KPMG LLP's reports on our consolidated financial statements for the past two years did not contain an adverse opinion or disclaimer of opinion, nor were they qualified or modified as to uncertainty, audit scope or accounting principles.

Item 9A. ***Controls and Procedures***

Our principal executive officer and principal financial officer have evaluated, as required by Rule 13a-15(b) promulgated under the Securities Exchange Act of 1934, our disclosure controls and procedures, as defined in Rule 13a-15(e), as of December 31, 2003. Based on that evaluation, our principal executive officer and principal financial officer concluded that the design and operation of our disclosure controls and procedures are effective in ensuring that information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms.

There has not been any change in our internal control over financial reporting, as defined in Rule 13a-15(f), that occurred during the last fiscal quarter of 2003 that has materially affected or is reasonably likely to materially affect, our internal control over financial reporting.

PART III

Item 10. ***Directors and Executive Officers of the Registrant***

The information required by this item is incorporated herein by reference to our definitive proxy statement which will be filed with the Securities and Exchange Commission within 120 days after December 31, 2003.

Item 11. ***Executive Compensation***

The information required by this item is incorporated herein by reference to our definitive proxy statement which will be filed with the Securities and Exchange Commission within 120 days after December 31, 2003.

Item 12. ***Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters***

The information required by this item is incorporated herein by reference to our definitive proxy statement which will be filed with the Securities and Exchange Commission within 120 days after December 31, 2003.

Item 13. ***Certain Relationships and Related Transactions***

The information required by this item is incorporated herein by reference to our definitive proxy statement which will be filed with the Securities and Exchange Commission within 120 days after December 31, 2003.

Item 14. ***Principal Accountant Fees and Services***

The information required by this item is incorporated herein by reference to our definitive proxy statement which will be filed with the Securities and Exchange Commission within 120 days after December 31, 2003.

PART IV

Item 15. ***Exhibits, Financial Statement Schedules and Reports On Form 8-K***

(a) *Financial Statements:*

1. The following consolidated financial statements are included on Pages F-1 to F-29 of this report.

2. All financial statement schedules are omitted because they are not applicable, or are immaterial or the required information is presented in the consolidated financial statements or the related notes.

(b) *Reports on Form 8-K:*

Form 8-K and 8-K/ A Reports filed subsequent to September 30, 2003 are as follows:

Filing Date	Item	Description
November 5, 2003	7 & 12	Operating results for the three months and nine months ended September 30, 2003.
November 7, 2003	7 & 12	Operating results for the three months and nine months ended September 30, 2003.
January 28, 2004	7 & 12	Oil and gas reserves for the fiscal year ended December 31, 2003.
February 5, 2004	7 & 12	Drilling results for the fiscal year ended December 31, 2003 and capital expenditure budget for 2004.
February 17, 2004	7 & 12	Operating results for the three months and year ended December 31, 2003.
February 24, 2004	5 & 7	Tender offer for 11 1/4% Senior Notes due 2007 and sale of 6 7/8% Senior Notes due 2002.

(c) *Exhibits:*

The exhibits to this report required to be filed pursuant to Item 15(c) are listed below.

Exhibit No.	Description
1.1	Underwriting Agreement, dated as of February 18, 2004 between Comstock and Banc of America Securities LLC and Harris Nesbitt Corp., acting as representatives of the several underwriters, for the sale of $175,000,000 of Comstock's 6 7/8% Senior Notes due 2012 (incorporated by reference to Exhibit 99.2 to our Current Report on Form 8-K dated February 19, 2004).
3.1(a)	Restated Articles of Incorporation (incorporated by reference to Exhibit 3.1 to our Annual Report on Form 10-K for the year ended December 31, 1995).
3.1(b)	Certificate of Amendment to the Restated Articles of Incorporation dated July 1, 1997 (incorporated by reference to Exhibit 3.1 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 1997).
3.2	Bylaws (incorporated by reference to Exhibit 3.2 to our Registration Statement on Form S-3, dated October 25, 1996).

Exhibit No.	Description
4.1	Rights Agreement dated as of December 14, 2000, by and between Comstock and American Stock Transfer and Trust Company, as Rights Agent (incorporated herein by reference to Exhibit 1 to our Registration Statement on Form 8-A dated January 11, 2001).
4.2	Certificate of Designation, Preferences and Rights of Series B Junior Participating Preferred Stock (incorporated by reference to Exhibit 2 to our Registration Statement on Form 8-A dated January 11, 2001).
4.3	Indenture dated April 29, 1999 between Comstock and U.S. Trust Company of Texas, N.A., Trustee for the 11 1/4% Senior Notes due 2007 (incorporated by reference to Exhibit 10.5 to our Current Report on Form 8-K dated April 29, 1999).
4.4	First Supplemental Indenture, dated March 7, 2002, by and between Comstock and U.S. Trust Company of Texas, N.A., Trustee for the 11 1/4% Senior Notes due 2007 (incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K dated March 12, 2002).
4.5*	Second Supplemental Indenture, dated February 25, 2004, by and between Comstock and The Bank of New York Trust Company, N. A. (formerly U.S. Trust Company of Texas, N.A.), Trustee for the 11 1/4% Senior Notes due 2007.
4.6*	Indenture dated February 25, 2004, between Comstock, the guarantors and The Bank of New York Trust Company, N. A., Trustee for debt securities to be issued by Comstock Resources, Inc.
4.7*	First Supplemental Indenture, dated February 25, 2004, between Comstock, the guarantors and The Bank of New York Trust Company, N.A., Trustee for the 6 7/8% Senior Notes due 2012.
10.1	Credit Agreement, dated as of December 17, 2001, by and among Comstock, as borrower, each lender from time to time party thereto, Toronto Dominion (Texas), Inc., as administrative agent, and Toronto-Dominion Bank, as Issuing Bank (incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K dated December 21, 2001).
10.2	Amendment No. 1 dated December 26, 2001 to the Credit Agreement, dated as of December 17, 2001, by and among Comstock, as borrower, each lender from time to time party thereto, Toronto Dominion (Texas), Inc., as administrative agent, and Toronto-Dominion Bank, as Issuing Bank (incorporated by reference to Exhibit 10.2 to our Annual Report on Form 10-K for the year ended December 31, 2001).
10.3	Amendment No. 2 dated February 4, 2002 to the Credit Agreement, dated as of December 17, 2001, by and among Comstock, as borrower, each lender from time to time party thereto, Toronto Dominion (Texas), Inc., as administrative agent, and Toronto-Dominion Bank, as Issuing Bank (incorporated by reference to Exhibit 10.3 to our Annual Report on Form 10-K for the year ended December 31, 2001).
10.4	Amendment No. 3 dated April 15, 2002 to the Credit Agreement, dated as of December 17, 2001, by and among Comstock, as borrower, each lender from time to time party thereto, Toronto Dominion (Texas), Inc., as administrative agent, and Toronto-Dominion Bank, as Issuing Bank (incorporated by reference to Exhibit 10.1 to our Quarterly Report for the quarter ended March 31, 2002).
10.5	Amendment No. 4 dated May 13, 2003 to the Credit Agreement, dated as of December 17, 2001, by and among Comstock, as borrower, each lender from time to time party thereto, Toronto Dominion (Texas), Inc., as administrative agent, and Toronto-Dominion Bank, as Issuing Bank (incorporated by reference to Exhibit 10.5 to our Quarterly Report for the quarter ended March 31, 2003).
10.6*	Amendment No. 5 dated January 30, 2004 to the Credit Agreement, dated as of December 17, 2001, by and among Comstock, as borrower, each lender from time to time party thereto, Toronto Dominion (Texas), Inc., as administrative agent, and Toronto-Dominion Bank, as Issuing Bank.

Exhibit No.	Description
10.7*	Amended and Restated Credit Agreement, dated as of February 25, 2004 among Comstock, as the borrower, the lenders from time to time party thereto, Bank of Montreal, as administrative agent and issuing bank, Bank of America, N.A., as syndication agent, and Comerica Bank, Fortis Capital Corp., and Union Bank of California, N.A. as co-documentation agents.
10.8#	Employment Agreement dated June 1, 2002, by and between Comstock and M. Jay Allison (incorporated by reference to Exhibit 10.1 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2002).
10.9#	Employment Agreement dated June 1, 2002, by and between Comstock and Roland O. Burns (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2002).
10.10#	Comstock Resources, Inc. 1999 Long-term Incentive Plan (incorporated by reference to Exhibit 10.1 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 1999).
10.11#	Form of Nonqualified Stock Option Agreement between Comstock and certain officers and directors of Comstock (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q for the year ended June 30, 1999).
10.12#	Form of Restricted Stock Agreement between Comstock and certain officers of Comstock (incorporated by reference to Exhibit 10.3 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 1999).
10.13	Exploration Agreement dated July 31, 2001 by and between Comstock and Bois'd Arc Offshore Ltd. (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2001).
10.14	Warrant Agreement dated July 31, 2001 by and between Comstock and Gary W. Blackie and Wayne L. Laufer (incorporated by reference to Exhibit 10.1 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2001).
10.15	Supplement to the 2001 Exploration Agreement dated December 20, 2002 by and between Comstock and Bois'd Arc Offshore Ltd (incorporated by reference to Exhibit 10.14 to our Annual Report on Form 10-K for the year ended December 31, 2002.)
10.16	Office Lease Agreement dated August 12, 1997 between Comstock and Briar Center LLC (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q for the quarter ended September 30, 1997).
10.17	Dealer Manager Agreement, dated as of February 10, 2004 between Comstock and Bank of America Securities LLC and Harris Nesbitt Corp. in connection with the tender offer for Comstock's 11 1/4% Senior Notes due 2007 (incorporated by reference to Exhibit 99.1 to our Current Report on Form 8-K dated February 19, 2004).
21*	Subsidiaries of the Company.
23.1*	Consent of KPMG LLP.
23.2*	Consent of Ernst & Young LLP.
31.1*	Chief Executive Officer certification under Section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Chief Financial Officer certification under Section 302 of the Sarbanes-Oxley Act of 2002.
32.1*	Chief Executive Officer certification under Section 906 of the Sarbanes-Oxley Act of 2002.
32.2*	Chief Financial Officer certification under Section 906 of the Sarbanes-Oxley Act of 2002.

* Filed herewith.

\# Management contract or compensatory plan document.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

COMSTOCK RESOURCES, INC.

By: /s/ M. JAY ALLISON

M. Jay Allison
President and Chief Executive Officer
(Principal Executive Officer)

Date: March 12, 2004

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

/s/ M. JAY ALLISON M. Jay Allison	*President, Chief Executive Officer and Chairman of the Board of Directors (Principal Executive Officer)*	March 12, 2004
/s/ ROLAND O. BURNS Roland O. Burns	*Senior Vice President, Chief Financial Officer, Secretary, Treasurer and Director (Principal Financial and Accounting Officer)*	March 12, 2004
/s/ DAVID K. LOCKETT David K. Lockett	*Director*	March 12, 2004
/s/ CECIL E. MARTIN, JR. Cecil E. Martin, Jr.	*Director*	March 12, 2004
/s/ DAVID W. SLEDGE David W. Sledge	*Director*	March 12, 2004

CONSOLIDATED FINANCIAL STATEMENTS OF

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

INDEX

REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS

The Board of Directors and Stockholders

Comstock Resources, Inc.

We have audited the accompanying consolidated balance sheet of Comstock Resources, Inc. and subsidiaries as of December 31, 2003, and the related consolidated statements of operations, stockholders' equity and comprehensive income, and cash flows for year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Comstock Resources, Inc. and subsidiaries at December 31, 2003, and the consolidated results of their operations and their cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States.

As discussed in Note 1 to the consolidated financial statements, on January 1, 2003, the Company adopted Statement of Financial Accounting Standards No. 143, *Accounting for Asset Retirement Obligations.*

ERNST & YOUNG LLP

Dallas, Texas

February 26, 2004

REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS

To the Board of Directors of Comstock Resources, Inc.:

We have audited the accompanying consolidated balance sheet of Comstock Resources, Inc. and subsidiaries as of December 31, 2002 and the related consolidated statements of operations, stockholders' equity and comprehensive income, and cash flows for each of the years in the two year period ended December 31, 2002. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Comstock Resources, Inc. and subsidiaries as of December 31, 2002, and the results of their operations and their cash flows for each of the years in the two year period ended December 31, 2002, in conformity with accounting principles generally accepted in the United States of America.

As explained in Note 1 of the financial statements, effective January 1, 2001, the Company changed its method of accounting for derivative instruments.

KPMG LLP

Dallas, Texas

March 19, 2003

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

As of December 31, 2002 and 2003

	December 31,	
	2002	2003
	(In thousands)	
ASSETS		
Cash and Cash Equivalents	$ 1,682	$ 5,343
Accounts Receivable:		
Oil and gas sales	30,135	36,468
Joint interest operations	5,407	9,524
Other Current Assets	2,678	4,802
Total current assets	39,902	56,137
Property and Equipment:		
Unevaluated oil and gas properties	14,880	18,075
Oil and gas properties, successful efforts method	961,562	1,052,564
Other	2,570	4,047
Accumulated depreciation, depletion and amortization	(314,804)	(376,000)
Net property and equipment	664,208	698,686
Derivatives	3	—
Other Assets	6,940	6,133
	$ 711,053	$ 760,956
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Portion of Long-Term Debt	$ 270	$ 623
Accounts Payable and Accrued Expenses	49,470	63,874
Derivatives	57	—
Total current liabilities	49,797	64,497
Long-Term Debt, less current portion	366,002	306,000
Deferred Income Taxes Payable	52,577	81,629
Reserve for Future Abandonment Costs	16,677	19,174
Redeemable Convertible Preferred Stock — $10.00 par, liquidation value of $17,573,000, 5,000,000 shares authorized, 1,757,310 shares issued and outstanding at December 31, 2002	17,573	—
Stockholders' Equity:		
Common stock — $0.50 par, 50,000,000 shares authorized, 28,919,561 and 34,308,861 shares issued and outstanding at December 31, 2002 and 2003, respectively	14,460	17,154
Additional paid-in capital	133,828	166,242
Retained earnings	61,663	115,032
Deferred compensation-restricted stock grants	(1,487)	(8,772)
Accumulated other comprehensive loss	(37)	—
Total stockholders' equity	208,427	289,656
Commitments and Contingencies		
	$ 711,053	$ 760,956

The accompanying notes are an integral part of these statements.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS

For the Years Ended December 31, 2001, 2002 and 2003

	2001	2002	2003
		(In thousands, except per share amounts)	
Oil and gas sales	$166,118	$142,085	$235,102
Operating expenses:			
Oil and gas operating	31,855	33,499	45,746
Exploration	6,611	5,479	4,410
Depreciation, depletion and amortization	47,429	53,155	61,169
Impairment	1,400	—	4,255
General and administrative, net	4,351	5,113	7,006
Total operating expenses	91,646	97,246	122,586
Income from operations	74,472	44,839	112,516
Other income (expenses):			
Interest income	196	62	73
Interest expense	(22,098)	(31,252)	(29,860)
Gain (loss) from derivatives	243	(2,326)	(3)
Other income	272	8,027	223
	(21,387)	(25,489)	(29,567)
Income from continuing operations before income tax expense	53,085	19,350	82,949
Income tax expense	(18,579)	(6,773)	(29,682)
Net income from continuing operations	34,506	12,577	53,267
Discontinued operations including loss on disposal, net of income taxes	396	(1,072)	—
Cumulative effect of change in accounting principle, net of income taxes	—	—	675
Net income	34,902	11,505	53,942
Preferred stock dividends	(1,604)	(1,604)	(573)
Net income attributable to common stock	$ 33,298	$ 9,901	$ 53,369
Basic net income per share:			
From continuing operations	$ 1.13	$ 0.38	$ 1.65
Discontinued operations	0.02	(0.04)	—
Cumulative effect of change in accounting principle	—	—	0.02
	$ 1.15	$ 0.34	$ 1.67
Diluted net income per share:			
From continuing operations	$ 1.00	$ 0.37	$ 1.51
Discontinued operations	0.01	(0.03)	—
Cumulative effect of change in accounting principle	—	—	0.02
	$ 1.01	$ 0.34	$ 1.53
Weighted average shares outstanding:			
Basic	29,030	28,764	31,964
Diluted	34,552	33,901	35,275

The accompanying notes are an integral part of these statements.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

AND COMPREHENSIVE INCOME
For the Years Ended December 31, 2001, 2002 and 2003

	Common Stock	Additional Paid-In Capital	Retained Earnings	Deferred Compensation Restricted Stock Grants	Accumulated Other Comprehensive Income	Total
			(In thousands)			
Balance at December 31, 2000	$14,419	$129,896	$ 18,464	$(1,044)	$ —	$161,735
Issuance of common stock, net of deferred income taxes	283	3,538	—	—	—	3,821
Value of stock options issued for exploration prospects, net of deferred income taxes	—	1,968	—	—	—	1,968
Restricted stock grants, net of amortization	28	333	—	(143)	—	218
Repurchases of common stock	(454)	(4,779)	—	—	—	(5,233)
Preferred stock dividends	—	—	(1,604)	—	—	(1,604)
Net income	—	—	34,902	—	—	34,902
Unrealized hedge losses, net of income taxes	—	—	—	—	(139)	(139)
Comprehensive income	—	—	—	—	—	34,763
Balance at December 31, 2001	14,276	130,956	51,762	(1,187)	(139)	195,668
Issuance of common stock, net of deferred income taxes	156	1,547	—	—	—	1,703
Value of stock options issued for exploration prospects, net of deferred income taxes	—	836	—	—	—	836
Restricted stock grants, net of amortization	28	489	—	(300)	—	217
Preferred stock dividends	—	—	(1,604)	—	—	(1,604)
Net income	—	—	11,505	—	—	11,505
Unrealized hedge gains, net of income taxes	—	—	—	—	102	102
Comprehensive income	—	—	—	—	—	11,607
Balance at December 31, 2002	14,460	133,828	61,663	(1,487)	(37)	208,427
Issuance of common stock, net of deferred income taxes	287	4,697	—	—	—	4,984
Conversion of preferred stock	2,197	15,376	—	—	—	17,573
Value of stock options issued for exploration prospects, net of deferred income taxes	—	4,907	—	—	—	4,907
Restricted stock grants, net of amortization	210	7,434	—	(7,285)	—	359
Preferred stock dividends	—	—	(573)	—	—	(573)
Net income	—	—	53,942	—	—	53,942
Unrealized hedge gains, net of income taxes	—	—	—	—	37	37
Comprehensive income	—	—	—	—	—	53,979
Balance at December 31, 2003	$17,154	$166,242	$115,032	$(8,772)	$ —	$289,656

The accompanying notes are an integral part of these statements.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

For the Years Ended December 31, 2001, 2002 and 2003

	2001	2002	2003
		(In thousands)	
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income	$ 34,902	$ 11,505	$ 53,942
Adjustments to reconcile net income to net cash provided by operating activities, net of acquisition effects:			
Cumulative effect of change in accounting principle, net of income taxes	—	—	(675)
Compensation paid in common stock	244	218	359
Depreciation, depletion and amortization	47,429	53,155	61,169
Debt issuance costs amortization	1,361	1,250	1,200
Impairment of oil and gas properties	1,400	—	4,255
Deferred income taxes	17,799	6,773	27,982
Dry hole costs and leasehold impairments	4,215	5,139	3,723
Gain on sales of property	(12)	—	—
Unrealized gain on derivatives	(254)	(119)	—
Non-cash effect of discontinued operations, net	614	1,395	—
Working capital provided by operations	107,698	79,316	151,955
Decrease (increase) in accounts receivable	18,371	(10,810)	(10,450)
Decrease (increase) in other current assets	(1,229)	4,740	(2,124)
Increase (decrease) in accounts payable and accrued expenses	(16,204)	11,191	14,404
Net cash provided by operating activities	108,636	84,437	153,785
CASH FLOWS FROM INVESTING ACTIVITIES:			
Proceeds from sales of properties	45	3,478	—
Capital expenditures and acquisitions	(188,192)	(83,381)	(92,930)
Net cash used for investing activities	(188,147)	(79,903)	(92,930)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Borrowings	261,730	31,736	23,402
Proceeds from senior notes offering	—	75,000	—
Debt issuance costs	—	(2,267)	—
Principal payments on debt	(178,355)	(112,928)	(83,051)
Proceeds from common stock issuances	1,989	1,089	3,028
Repurchases of common stock	(5,232)	—	—
Dividends paid on preferred stock	(1,604)	(1,604)	(573)
Net cash provided by (used for) financing activities	78,528	(8,974)	(57,194)
Net increase (decrease) in cash and cash equivalents	(983)	(4,440)	3,661
Cash and cash equivalents, beginning of year	7,105	6,122	1,682
Cash and cash equivalents, end of year	$ 6,122	$ 1,682	$ 5,343

The accompanying notes are an integral part of these statements.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(1) Summary of Significant Accounting Policies

Accounting policies used by Comstock Resources, Inc. ("Comstock" or the "Company") reflect oil and natural gas industry practices and conform to accounting principles generally accepted in the United States of America.

Basis of Presentation and Principles of Consolidation

Comstock is engaged in oil and natural gas exploration, development and production, and the acquisition of producing oil and natural gas properties. The consolidated financial statements include the accounts of Comstock and its wholly owned subsidiaries. All significant intercompany accounts and transactions have been eliminated in consolidation.

Reclassifications

Certain reclassifications have been made to prior periods' financial statements to conform to the current presentation.

Use of Estimates in the Preparation of Financial Statements

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual amounts could differ from those estimates. Changes in the future estimated oil and natural gas reserves or the estimated future cash flows attributable to the reserves that are utilized for impairment analysis could have a significant impact on the future results of operations.

Concentration of Credit Risk and Accounts Receivable

Financial instruments that potentially subject Comstock to a concentration of credit risk consist principally of cash and cash equivalents, accounts receivable and derivative financial instruments, Comstock places its cash with high credit quality financial institutions and its derivative financial instruments with financial institutions and other firms that management believes have high credit rating. For a discussion of the credit risks associated with Comstock's hedging activities, see Note 11. Substantially all of Comstock's accounts receivable are due from either purchasers of oil and gas or participants in oil and gas wells for which Comstock serves as the operator. Generally, operators of oil and gas wells have the right to offset future revenues against unpaid charges related to operated wells. Oil and gas sales are generally unsecured. Comstock's credit losses consistently have been within management's expectations.

Fair Value of Financial Instruments

The following table presents the carrying amounts and estimated fair value of the Company's financial instruments as of December 31, 2002 and 2003:

	2002		2003	
	Carrying Value	Fair Value	Carrying Value	Fair Value
	(In thousands)			
Long term debt, including current portion	$366,272	$379,472	$306,623	$321,198

The fair market value of the fixed rate debt was based on the market price as of December 31, 2002 and 2003.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Derivatives are presented at their estimated fair value. The carrying amounts of cash and cash equivalents, accounts receivable, other current assets, and accounts payable and accrued expenses approximate fair value due to the short maturity of these instruments.

Other Current Assets

Other current assets at December 31, 2002 and 2003 consist of the following:

	As of December 31,	
	2002	2003
	(In thousands)	
Prepaid expenses	$1,109	$4,279
Insurance claims receivable	1,125	—
Inventory	444	523
	$2,678	$4,802

Property and Equipment

Comstock follows the successful efforts method of accounting for its oil and natural gas properties. Acquisition costs for proved oil and natural gas properties, costs of drilling and equipping productive wells, and costs of unsuccessful development wells are capitalized and amortized on an equivalent unit-of-production basis over the life of the remaining related oil and gas reserves. Equivalent units are determined by converting oil to natural gas at the ratio of six barrels of oil for one thousand cubic feet of natural gas. Cost centers for amortization purposes are determined on a field area basis. The estimated future costs of dismantlement, restoration and abandonment are included on the balance sheet in the reserve for future abandonment and accrued as part of depreciation, depletion and amortization expense. Costs incurred to acquire oil and gas leasehold are capitalized. Unproved oil and gas properties are periodically assessed and any impairment in value is charged to exploration expense. The costs of unproved properties which are determined to be productive are transferred to proved oil and gas properties and amortized on an equivalent unit-of-production basis. Exploratory expenses, including geological and geophysical expenses and delay rentals for unevaluated oil and gas properties, are charged to expense as incurred. Exploratory drilling costs are initially capitalized as unproved property but charged to expense if and when the well is determined not to have found proved oil and gas reserves.

In accordance with the Statement of Financial Accounting Standards No. 144, “Accounting for the Impairment or Disposal of Long-Lived Assets” (“SFAS 144”), Comstock assesses the need for an impairment of the costs capitalized of its oil and gas properties on a property or cost center basis. If an impairment is indicated based on undiscounted expected future cash flows, then an impairment is recognized to the extent that net capitalized costs exceed discounted expected future cash flows based on escalated prices and including risk adjusted probable reserves, where appropriate. In 2001 and 2003, Comstock had a $1.4 million and $4.3 million, respectively, impairment of its oil and gas properties which primarily related to some minor valued fields where an impairment was indicated based on estimated future cash flows attributable to the fields’ estimated proved oil and natural gas reserves.

Other property and equipment consists primarily of fractional interests in aircraft, work boats, gas gathering systems, computer equipment and furniture and fixtures which are depreciated over estimated useful lives ranging from 5 to 31 1/2 years on a straight-line basis.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Other Assets

Other assets primarily consist of deferred costs associated with issuance of Comstock's 11 1/4% senior notes. These costs are amortized over the eight year life of the senior notes on a straight-line basis which approximates the amortization that would be calculated using an effective interest rate method.

Stock Options

Comstock applies the intrinsic value-based method of accounting prescribed by Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees" ("APB 25"), and related interpretations, in accounting for its incentive plan stock options. As such, compensation expense would be recorded on the date of grant only if the current market price of the underlying stock exceeded the exercise price. Statement of Financial Accounting Standards 123, "Accounting for Stock-Based Compensation" ("SFAS 123"), established accounting and disclosure requirements using a fair value-based method of accounting for stock-based employee compensation plans. As allowed by SFAS 123, Comstock has elected to continue to apply the intrinsic value-based method of accounting described above, and has adopted the disclosure requirements of SFAS 123.

The following table illustrates the effect on net income if the fair value based method had been applied to all outstanding stock options in each period.

	Year Ended December 31,		
	2001	2002	2003
		(In thousands, except per share amounts)	
Net income, as reported	$33,298	$ 9,901	$53,369
Add stock-based employee compensation expense included in reported net income, net of income taxes	159	142	233
Deduct total stock-based employee compensation expense determined under fair value based method for all rewards, net of income taxes	(1,845)	(1,066)	(1,942)
Pro forma net income	$31,612	$ 8,977	$51,660
Basic earnings per share:			
As Reported	$ 1.15	$ 0.34	$ 1.67
Pro Forma	$ 1.09	$ 0.31	$ 1.62
Diluted earnings per share:			
As Reported	$ 1.01	$ 0.34	$ 1.53
Pro Forma	$ 0.96	$ 0.31	$ 1.48

The fair value of each option grant is estimated on the date of grant using the Black-Scholes option pricing model with the following weighted average assumptions used for grants in 2001, 2002 and 2003, respectively: average risk-free interest rates of 4.9, 3.8 and 3.0%; average expected lives of 7.4, 5.9 and 5.9 years; average expected volatility factors of 67.2, 68.9 and 32.8; and 0% dividend yield for all years. The estimated weighted average fair value of options to purchase one share of common stock issued under the Company's Incentive Plans was $6.80 in 2001, $5.88 in 2002 and $6.38 in 2003.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Segment Reporting

Comstock presently operates in one business segment, the exploration and production of oil and natural gas.

Derivative Instruments and Hedging Activities

On January 1, 2001, Comstock adopted Statement of Financial Accounting Standards No. 133, "Accounting for Derivative Instruments and Hedging Activities" ("SFAS 133"), which requires that every derivative instrument (including certain derivative instruments embedded in other contracts) be recorded on the balance sheet as either an asset or liability measured at its fair value. SFAS 133 requires that changes in the derivative's fair value be recognized currently in earnings unless specific hedge accounting criteria are met. Comstock estimates fair value based on quotes obtained from the counterparties to the derivative contract. The fair value of derivative contracts that expire in less than one year are recognized as current assets or liabilities. Those that expire in more than one year are recognized as long-term assets or liabilities. Derivative financial instruments that are not accounted for as hedges are adjusted to fair value through income. If the derivative is designated as a cash flow hedge, changes in fair value are recognized in other comprehensive income until the hedged item is recognized in earnings.

Major Purchasers

In 2003, Comstock had three purchasers of its oil and natural gas production which individually accounted for 10% or more of total oil and gas sales. Such purchasers accounted for 18%, 14% and 10% of total 2003 oil and gas sales. In 2002, Comstock had two purchasers which accounted for 16% and 15% of total 2002 oil and gas sales. In 2001, Comstock had four purchasers which accounted for 24%, 19%, 16% and 12% of total 2001 oil and gas sales.

Revenue Recognition and Gas Balancing

Comstock utilizes the sales method of accounting for natural gas revenues whereby revenues are recognized based on the amount of gas sold to purchasers. The amount of gas sold may differ from the amount to which the Company is entitled based on its revenue interests in the properties. Comstock did not have any significant imbalance positions at December 31, 2001, 2002 or 2003.

General and Administrative Expenses

General and administrative expenses are reported net of reimbursements of overhead costs that are allocated to working interest owners of the oil and gas properties operated by Comstock.

Other Income

Included in other income in 2002 was $7.7 million related to refunds received in 2002 of severance taxes paid in prior years.

Income Taxes

Comstock accounts for income taxes using the asset and liability method, whereby deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of assets and liabilities and their respective tax basis, as well as the future tax consequences attributable to the future utilization of existing tax net operating loss and other types of carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences and carryforwards are expected to be

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

Comprehensive Income

Comprehensive income is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources.

Earnings Per Share

Basic and diluted earnings per share for 2001, 2002 and 2003 were determined as follows:

	Year Ended December 31,								
	2001			2002			2003		
	Income	Shares	Per Share	Income	Shares	Per Share	Income	Shares	Per Share
	(In thousands except per share data)								
Basic Earnings Per Share:									
Net Income from Continuing Operations	$34,506	29,030		$12,577	28,764		$53,267	31,964	
Less Preferred Stock Dividends	(1,604)	—		(1,604)	—		(573)	—	
Net Income from Continuing Operations Available to Common Stockholders	32,902	29,030	$1.13	10,973	28,764	$ 0.38	52,694	31,964	$1.65
Income (loss) from Discontinued Operations, net of Income Taxes	396	29,030	0.02	(1,072)	28,764	(0.04)	—	31,964	—
Cumulative Effect of Change in Accounting Principle, net of Income Taxes	—	29,030	—	—	28,764	—	675	31,964	0.02
Net Income Available to Common Stockholders	$33,298	29,030	$1.15	$ 9,901	28,764	$ 0.34	$53,369	31,964	$1.67
Diluted Earnings Per Share:									
Net Income from Continuing Operations	$34,506	29,030		$12,577	28,764		$53,267	31,964	
Effect of Dilutive Securities:									
Stock Options	—	1,129		—	744		—	1,742	
Convertible Preferred Stock	—	4,393		—	4,393		—	1,569	
Net Income from Continuing Operations Available to Common Stockholders With Assumed Conversions	34,506	34,552	$1.00	12,577	33,901	$ 0.37	53,267	35,275	$1.51
Income (loss) from Discontinued Operations, net of Income Taxes	396	34,552	0.01	(1,072)	33,901	(0.03)	—	35,275	—
Cumulative Effect of Change in Accounting Principle, net of Income Taxes	—	34,552	—	—	33,901	—	675	35,275	0.02
Net Income Available to Common Stockholders	$34,902	34,552	$1.01	$11,505	33,901	$ 0.34	$53,942	35,275	$1.53

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Stock options and warrants to purchase common stock at exercise prices in excess of the average actual stock price for the period that were anti-dilutive and that were excluded from the determination of diluted earnings per share are as follows:

	2001	2002	2003
		(In thousands except per share data)	
Stock options and warrants to purchase common stock	2,559	2,737	790
Exercise Price	$9.63 - $14.00	$8.06 - $14.00	$13.59 - $14.00

Statements of Cash Flows

For the purpose of the consolidated statements of cash flows, Comstock considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents.

The following is a summary of all significant noncash investing and financing activities and cash payments made for interest and income taxes:

	Year Ended December 31,		
	2001	2002	2003
		(In thousands)	
Noncash activities —			
Common stock issued for director compensation	$ 26	$ —	$ —
Conversion of preferred stock	—	—	17,573
Value of vested stock options under exploration venture	3,028	1,286	7,549
Cash payments —			
Interest payments	$20,837	$28,987	$29,115
Income tax payments	243	—	—

New Accounting Standards

Comstock adopted Statement of Financial Accounting Standards No. 143 (“SFAS 143”) “Accounting for Asset Retirement Obligations,” on January 1, 2003. This statement requires Comstock to record a liability in the period in which an asset retirement obligation (“ARO”) is incurred, in an amount equal to the discounted estimated fair value of the obligation that is capitalized. Thereafter, each quarter, this liability is accreted up to the final retirement cost.

The adoption of SFAS 143 on January 1, 2003 resulted in a cumulative effect adjustment to record (i) a $3.7 million decrease in the carrying value of oil and gas properties, (ii) a $3.3 million decrease in accumulated depletion, depreciation and amortization, (iii) a $1.5 million decrease in reserve for future abandonment, and (iv) a gain of $675,000, net of income taxes, which was reflected as the cumulative effect of a change in accounting principle.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The following pro forma data summarizes the Company's net income and net income per share for the years ended December 31, 2001, 2002 and 2003 as if the Company had adopted the provisions of SFAS 143 on December 31, 2000, including aggregate pro forma asset retirement obligations on that date of $4.9 million.

	For the Year Ended December 31,		
	2001	2002	2003
		(In thousands **except per share amounts)**	
Net income, as reported	$34,902	$11,505	$53,942
Pro forma adjustments to reflect retroactive adoption of SFAS 143	7	(167)	(675)
Pro forma net income	$34,909	$11,338	$53,267
Net income per share:			
Basic – as reported	$ 1.15	$ 0.34	$ 1.67
Basic – pro forma	$ 1.15	$ 0.34	$ 1.65
Diluted – as reported	$ 1.01	$ 0.34	$ 1.53
Diluted – pro forma	$ 1.01	$ 0.33	$ 1.51

Comstock's primary asset retirement obligations relate to future plugging and abandonment expenses on its oil and gas properties and related facilities disposal. As of December 31, 2003, Comstock had $1.6 million held in an escrow account from which funds are released only for reimbursement of plugging and abandonment expenses on certain offshore oil and gas properties. This amount is included in Other Assets in the consolidated balance sheet.

The following table summarizes the changes in Comstock's total estimated liability:

	For the Year Ended December 31,		
	2001	2002	2003
		(In thousands)	
Beginning asset retirement obligations	$7,557	$ 7,794	$16,677
Cumulative effect adjustment	—	—	(1,476)
New wells placed on production and changes in estimates	237	826	(875)
Acquisition liabilities assumed	—	8,682	4,787
Liabilities settled	—	(625)	(685)
Accretion expense	—	—	746
Ending asset retirement obligations	$7,794	$16,677	$19,174

On January 1, 2003, Comstock adopted the provisions of Statement of Financial Accounting Standards No. 145, "Rescission of FASB Statements No. 4, 44 and 64, Amendment of FASB Statement No. 13 and Technical Corrections" ("SFAS 145"). Prior to SFAS 145, gains or losses on the early extinguishment of debt were required to be classified in a company's statements of operations as extraordinary gains or losses, net of associated income taxes, after the determination of income or loss from continuing operations. SFAS 145 requires, except in the case of events or transactions of a highly unusual and infrequent nature, that gains or losses from the early extinguishment of debt be classified as components of a company's income or loss from continuing operations. The adoption of the provisions of SFAS 145 did not affect Comstock"s financial position or reported financial results. Under the provisions of SFAS 145, gains or losses from the early extinguishment of debt will be recognized in the Consolidated Statements of Operations as components of

other income or other expense and will be included in the determination of the income (loss) from continuing operations of those periods.

Comstock also adopted Statement of Financial Accounting Standards No. 146, "Accounting for Costs Associated with Exit or Disposal Activities" ("SFAS 146"), in 2003. This statement establishes accounting and reporting standards that are effective for exit or disposal activities beginning after December 31, 2002 which require that a liability be recognized for an exit or disposal activity when that liability is incurred. The adoption of SFAS 146 had no effect on Comstock's financial statements.

In December 2002, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards No. 148, "Accounting for Stock-Based Compensation — Transition and Disclosure, an amendment of FASB Statement No. 123". This Statement amends Statement of Financial Accounting Standards No. 123, "Accounting for Stock-Based Compensation" ("SFAS 123"), to provide alternative methods of transition for a voluntary change to the fair value method of accounting for stock-based employee compensation. In addition, this statement amends the disclosure requirements of SFAS 123 to require prominent disclosures in both annual and interim financial statements. Certain of the disclosure modifications are included in the notes to these consolidated financial statements.

In January 2003, the FASB issued Interpretation No. 45, "Guarantor's Accounting and Disclosure Requirement for Guarantees, including Indirect Guarantees of Indebtedness of Others" ("FIN 45"). FIN 45 requires an entity to recognize a liability for the obligations it has undertaken in issuing a guarantee. This liability would be recorded at the inception of a guarantee and would be measured at fair value. Certain guarantees are excluded from the measurement and disclosure provisions while certain other guarantees are excluded from the measurement provisions of the interpretation. The adoption of the statement in 2003 had no effect on Comstock's financial statements.

In January 2003, the FASB issued Interpretation No. 46, "Consolidation of Variable Interest Entities" ("FIN 46"), which was modified in December 2003. FIN 46 requires an entity to consolidate a variable interest entity if it is designated as the primary beneficiary of that entity even if the entity does not have a majority of voting interests. A variable interest entity is generally defined as an entity whose equity is unable to finance its activities or where the owners of the entity lack the risks and rewards of ownership. Comstock is not the primary beneficiary of any variable interest entities, and accordingly, the adoption of FIN 46 is not expected to have a material effect on Comstock's financial statements when adopted.

Comstock has been made aware of an issue that has arisen in the industry regarding the application of certain provisions of Statement of Financial Accounting Standards No. 141, "Business Combinations" ("SFAS 141"), and Statement of Financial Accounting Standards No. 142, "Goodwill and Other Intangible Assets" ("SFAS 142"), to companies in the extractive industries, including oil and gas exploration and production companies. The issue is whether the provisions of SFAS 141 and SFAS 142 require companies to classify costs associated with mineral rights, including both proved and unproved lease acquisition costs, as intangible assets on the balance sheet, apart from other capitalized oil and gas property costs. Historically, Comstock has included oil and gas lease acquisition costs as a component of oil and gas properties. Also under consideration is whether SFAS 142 requires companies to provide additional disclosures prescribed by SFAS 142 for intangible assets for costs associated with mineral rights. In the event it is determined that costs associated with mineral rights are required to be classified as intangible assets, a substantial portion of Comstock's capitalized oil and gas property costs would be separately classified on our balance sheet as intangible assets. The reclassification of these amounts would not affect the method in which such costs are amortized or the manner in which Comstock assesses impairment of capitalized costs. As a result, net income would not be affected by the reclassification if it were to occur. As of December 31, 2003, Comstock had $380.6 million in capitalized leasehold costs, net of accumulated depletion.

(2) Acquisitions

In December 2002, Comstock acquired an interest in the Ship Shoal 113 Unit for $7.8 million. The acquisition included interests in 26 producing wells, 11.7 net wells, and seven production facilities in the Gulf of Mexico. In October 2003, Comstock acquired an additional interest in the Ship Shoal 113 Unit for $4.6 million.

Comstock also acquired interests in a South Texas field for $1.7 million in December 2002. The acquisition included interests in 15 producing wells, 15 net wells.

In December 2001, Comstock completed the acquisition of DevX Energy, Inc. (“DevX”) by acquiring 100% of the common stock of DevX for $92.6 million through a cash tender offer and subsequent merger into a wholly owned subsidiary. As a result of the acquisition, DevX became a wholly owned subsidiary of Comstock. DevX was an independent energy company engaged in the exploration, development and acquisition of oil and gas properties. At the time of the acquisition, DevX owned interests in 600 producing oil and gas wells located onshore primarily in East and South Texas, Kentucky, Oklahoma and Kansas. The DevX acquisition added approximately 163.4 billion cubic feet equivalent of natural gas reserves to Comstock’s reserve base (unaudited). Subsequent to the acquisition, Comstock repurchased approximately $49.8 million of DevX’s 12 1/2% senior notes which were due in 2008 for 110% of the principal amount plus accrued interest.

DevX’s operations have been included in the consolidated financial statements since December 17, 2001.

The following table summarizes the estimated fair values of the assets acquired and liabilities assumed at the date of the acquisition.

	December 17, 2001
	(In thousands)
Current assets	$ 8,317
Oil and gas properties	160,794
Derivatives	1,577
Total assets acquired	170,688
Current liabilities	8,990
Long-term debt	54,988
Deferred tax liability	7,324
Derivatives	1,873
Total liabilities assumed	73,175
Net assets acquired	$ 97,513

Set forth in the following table is certain unaudited pro forma financial information for the year ended December 31, 2001. This information has been prepared assuming the DevX acquisition was consummated on January 1, 2001 and is based on estimates and assumptions deemed appropriate by Comstock. The pro forma information is presented for illustrative purposes only. If the transactions had occurred in the past, Comstock’s operating results might have been different from those presented in the following table. The pro forma information should not be relied upon as an indication of the operating results that Comstock would have achieved if the transactions had occurred on January 1, 2001. The pro forma information also should not be used as an indication of the future results that Comstock will achieve after the acquisition. Adjustments were made to adjust the historical operating results of DevX (i) to conform DevX to the successful efforts method of accounting for oil and gas activities; (ii) to reverse the costs of the closed Dallas and Ottawa corporate

offices of DevX; and (iii) to record the pro forma interest expense based on Comstock's average interest rate under its bank credit facility.

	Year Ended December 31, 2001
	(In thousands, except per share amounts)
Oil and gas sales	$ 204,717
Total operating expenses	(113,349)
Total other income (expenses)	(24,947)
Income from continuing operations before income taxes	66,421
Provision for income taxes	(23,247)
Income from continuing operations	43,174
Discontinued operations	396
Net income	43,570
Preferred stock dividends	(1,604)
Net income from continuing operations attributable to common stock	$ 41,966
Net income from continuing operations per share:	
Basic	$ 1.42
Diluted	$ 1.24
Net income per share:	
Basic	$ 1.45
Diluted	$ 1.26

(3) Oil and Gas Producing Activities

Set forth below is certain information regarding the aggregate capitalized costs of oil and gas properties and costs incurred by Comstock for its oil and gas property acquisition, development and exploration activities:

Capitalized Costs

	As of December 31,	
	2002	2003
	(In thousands)	
Proved properties	$ 961,562	$1,052,564
Unproved properties	14,880	18,075
Accumulated depreciation, depletion and amortization	(313,608)	(374,686)
	$ 662,834	$ 695,953

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Costs Incurred

	For the Year Ended December 31,		
	2001	2002	2003
		(In thousands)	
Property acquisitions			
Proved properties	$160,794	$11,435	$ 4,805
Unproved properties	7,113	4,268	4,447
Development costs	51,090	35,272	46,798
Exploration costs	35,778	31,414	35,516
Capitalized asset retirement costs	237	8,884	3,227
	$255,012	$91,273	$94,793

Due to the tax-free nature of the merger between Comstock and DevX in December 2001, additional deferred tax liabilities of $7.3 million were allocated to proved oil and gas properties and are included in the proved property acquisition costs in 2001.

In 2001, 2002 and 2003, Comstock capitalized interest expense of $230,000, $281,000 and $422,000, respectively, on its unproved properties under development which is included in the unproved property acquisition costs in each year.

Results of Operations for Oil and Gas Producing Activities

The following table includes revenues and expenses associated directly with Comstock's oil and natural gas producing activities. The amounts presented do not include any allocation of Comstock's interest costs or general corporate overhead and, therefore, are not necessarily indicative of the contribution to net earnings of Comstock's oil and gas operations. Income tax expense has been calculated by applying statutory income tax rates to oil and gas sales after deducting costs, including depreciation, depletion and amortization and after giving effect to permanent differences.

	For the Year Ended December 31,		
	2001	2002	2003
		(In thousands)	
Oil and gas sales	$166,118	$142,085	$235,102
Operating expenses:			
Oil and gas operating	(31,855)	(33,499)	(45,746)
Exploration	(6,611)	(5,479)	(4,410)
Depreciation, depletion and amortization	(47,140)	(52,869)	(60,867)
Impairment	(1,400)	—	(4,255)
Income from continuing operations	79,112	50,238	119,824
Provision for income taxes	(27,689)	(17,583)	(41,938)
Income from continuing operations, after tax	51,423	32,655	77,886
Discontinued operations, including loss on disposal, net of income taxes	396	(1,072)	—
Results of operations of oil and gas producing activities	$ 51,819	$ 31,583	$ 77,886

(4) Long-Term Debt

Long-term debt is comprised of the following:

	As of December 31,	
	2002	2003
	(In thousands)	
Revolving Bank Credit Facility	$146,000	$ 86,000
11 1/4% Senior Notes due 2007	220,000	220,000
Other	272	623
	366,272	306,623
Less current portion	(270)	(623)
	$366,002	$306,000

At December 31, 2003, Comstock had a $350.0 million three year revolving credit commitment provided by a syndicate of banks for which Toronto Dominion (Texas), Inc. served as administrative agent. The bank credit facility was subject to borrowing base availability, which was redetermined semiannually based on the banks' estimates of the future net cash flows of Comstock's oil and natural gas properties. The borrowing base at December 31, 2003 was $260.0 million. Interest charged on the revolving credit line was based on the utilization of the borrowing base, at the option of Comstock at either (i) LIBOR plus 1.5% to 2.375% or (ii) the corporate base rate (generally the federal funds rate plus 0.5%) plus 0.5% to 1.375%. The facility would have matured on January 2, 2005. Indebtedness under the bank credit facility was secured by substantially all of Comstock's assets and Comstock's subsidiaries were guarantors of the bank credit facility. The bank credit facility contained covenants that, among other things, restricted the payment of cash dividends, limited the amount of consolidated debt and limited Comstock's ability to make certain loans and investments. Financial covenants included the maintenance of a current ratio, maintenance of tangible net worth and maintenance of an interest coverage ratio. The Company was in compliance with these covenants as of December 31, 2003.

Comstock issued $150.0 million in aggregate principal amount of 11 1/4% Senior Notes due in 2007 (the "1999 Notes") on April 29, 1999. Interest on the 1999 Notes is payable semiannually on May 1 and November 1, commencing on November 1, 1999. The 1999 Notes are unsecured obligations of Comstock and are guaranteed by all of its principal operating subsidiaries. The 1999 Notes can be redeemed beginning on May 1, 2004. Comstock repurchased $5.0 million of the 1999 Notes in July 2001. On March 7, 2002, Comstock closed the sale in a private placement of $75.0 million of additional 1999 Notes. As a result of this transaction, $220.0 million of aggregate principal amount of the 1999 Notes were outstanding at December 31, 2003.

The following table summarizes our debt as of December 31, 2003 by year of maturity:

	2004	2005	2006	2007	Total
Bank credit facility	$ —	$86,000	$ —	$ —	$ 86,000
11 1/4% Senior Notes	—	—	—	220,000	220,000
Other debt	623	—	—	—	623
	$623	$86,000	—	$220,000	$306,623

Pursuant to a tender offer, Comstock repurchased $197.7 million in principal amount of the 1999 Notes for $212.2 million plus accrued interest on February 25, 2004. Comstock intends to redeem the remaining $22.3 million in principal amount of the 1999 Notes on May 1, 2004 when the notes are first callable at a price

of 105.625 of par value. The total amount required to repurchase the remaining outstanding 1999 Notes is $23.6 million. The early extinguishment of the 1999 Notes will result in a pretax loss of $19.8 million in 2004.

In connection with the repurchase of the 1999 Notes, Comstock sold $175.0 million of senior notes in an underwritten public offering. The new senior notes are due on March 1, 2012 and bear interest at 6 7/8% which is payable semiannually on March 1 and September 1, commencing September 1, 2004. The notes are unsecured obligations of Comstock and are currently guaranteed by all of its subsidiaries.

On February 25, 2004, Comstock also entered into a new $400.0 million bank credit facility with Bank of Montreal, as the administrative agent. The new credit facility is a four year revolving credit commitment that matures on February 25, 2008. Borrowings under the new credit facility are limited to a borrowing base that will be set at $300.0 million upon the retirement of all of the 1999 Notes. Borrowings under the new credit facility were used to refinance amounts outstanding under the prior bank credit facility and to fund the repurchase of the 1999 Notes.

Indebtedness under the new credit facility is secured by substantially all of Comstock's assets and is guaranteed by all of its subsidiaries. The new credit facility is subject to borrowing base availability, which will be redetermined semiannually based on the banks' estimates of the future net cash flows of our oil and natural gas properties. The borrowing base may be affected by the performance of Comstock's properties and changes in oil and natural gas prices. The determination of the borrowing base will be at the sole discretion of the administrative agent and the bank group. Borrowings under the new credit facility will bear interest, based on the utilization of the of the borrowing base, at Comstock's option at either (1) LIBOR plus 1.25% to 1.75% or (2) the base rate (which is the higher of the prime rate or the federal funds rate) plus 0% to 0.5%. A commitment fee of 0.375% is payable on the unused borrowing base. The new credit facility contains covenants that, among other things, restrict the payment of cash dividends, limit the amount of consolidated debt that Comstock may incur and limit the Company's ability to make certain loans and investments. The only financial covenants are the maintenance of a current ratio and maintenance of a minimum tangible net worth.

(5) Commitments and Contingencies

Lease Commitments

Comstock rents office space under noncancelable leases. Rent expense for the years ended December 31, 2001, 2002 and 2003 was $526,000, $495,000 and $535,000, respectively. Minimum future payments under the leases are as follows:

	(In thousands)
2004	491
2005	516
2006	238
2007	10
	$1,255

Contingencies

From time to time, Comstock is involved in certain litigation that arises in the normal course of its operations. The Company records a loss contingency for these matters when it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. Comstock has accrued $2.0 million related to its estimate of losses to be incurred in resolving certain contingencies. After consideration of

amounts accrued, the Company does not believe the resolution of these matters will have a material effect on the Company's financial position or results of operations.

(6) Convertible Preferred Stock

On December 31, 2002, Comstock had 1,757,310 shares of convertible preferred stock (the "Series 1999 Preferred Stock") outstanding. The Series 1999 Preferred Stock accrued dividends at an annual rate of 9% which were payable quarterly in cash or Comstock had the option to issue shares of common stock. Dividends paid per share were $0.91 per share in 2001 and 2002 and $0.33 in 2003. Each share of the Series 1999 Preferred Stock was convertible, at the option of the holder, into 2.5 shares of common stock. In April and June of 2003, the holders of the Series 1999 Preferred Stock converted their preferred shares into 4,393,275 shares of common stock, resulting in no shares of the Series 1999 Preferred Stock remaining outstanding. This conversion reduced Comstock's annual preferred stock dividend requirement by $1.6 million and increased stockholders' equity by $17.6 million.

(7) Stockholders' Equity

The authorized capital stock of Comstock consists of 50 million shares of common stock, $.50 par value per share (the "Common Stock"), and 5 million shares of preferred stock, $10.00 par value per share. The preferred stock may be issued in one or more series, and the terms and rights of such stock will be determined by the Board of Directors. There were no shares of preferred stock outstanding at December 31, 2003.

Comstock's Board of Directors has designated 500,000 shares of the preferred stock as Series B Junior Participating Preferred Stock (the "Series B Junior Preferred Stock") in connection with the adoption of a shareholder rights plan. At December 31, 2003, there were no shares of Series B Junior Preferred Stock issued or outstanding. The Series B Junior Preferred Stock is entitled to receive cumulative quarterly dividends per share equal to the greater of $1.00 or 100 times the aggregate per share amount of all dividends (other than stock dividends) declared on Common Stock since the immediately preceding quarterly dividend payment date or, with respect to the first payment date, since the first issuance of Series B Junior Preferred Stock. Holders of the Series B Junior Preferred Stock are entitled to 100 votes per share (subject to adjustment to prevent dilution) on all matters submitted to a vote of the stockholders. The Series B Junior Preferred Stock is neither redeemable nor convertible. The Series B Junior Preferred Stock ranks prior to the Common Stock but junior to all other classes of preferred stock.

Under a plan adopted by the Board of Directors, non-employee directors can elect to receive shares of Common Stock valued at the then current market price in payment of annual director and consulting fees. Under this plan, Comstock issued 5,342 shares of Common Stock in 2001, in payment of fees aggregating $26,000.

Stock options were exercised to purchase 560,606 shares, 310,758 shares and 576,025 shares in 2001, 2002 and 2003, respectively. Such exercises yielded net proceeds of approximately $2.0 million, $1.1 million and $3.0 million in 2001, 2002, and 2003, respectively.

During 2001, Comstock repurchased 907,400 shares of Common Stock in open market purchases totaling $5.2 million. Such shares were retired upon repurchase.

Stock Options

On June 23, 1999, the stockholders approved the 1999 Long-term Incentive Plan for the management including officers, directors and managerial employees which replaced the 1991 Long-term Incentive Plan. The 1999 Long-term Incentive Plan together with the 1991 Long-term Incentive Plan (collectively, the "Incentive Plans") authorize the grant of non-qualified stock options and incentive stock options and the grant of restricted stock to key executives of Comstock. The options under the Incentive Plans have contractual lives

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

ranging from five to ten years and become exercisable after lapses in vesting periods ranging from zero to ten years from the grant date. As of December 31, 2003, the Incentive Plans provide for future awards of stock options or restricted stock grants of up to 318,082 shares of Common Stock plus 1% of the outstanding shares of Common Stock each year beginning on January 1, 2004.

The following table summarizes information about the Incentive Plans stock options outstanding at December 31, 2003:

Exercise Price	Number of Shares Outstanding	Weighted Average Remaining Life	Number of Shares Exercisable
		(Years)	
$ 3.44	90,000	3.8	90,000
3.88	731,250	4.5	731,250
6.42	437,750	5.1	176,000
6.69	45,000	4.5	32,500
7.40	10,000	2.6	10,000
8.70	30,000	3.4	30,000
8.88	249,250	5.5	—
9.20	273,750	5.0	1,000
11.00	1,150,000	2.0	1,150,000
11.12	33,500	4.0	21,000
12.15	30,000	4.4	30,000
12.38	328,250	2.8	328,250
18.20	140,500	6.0	1,500
	3,549,250		2,601,500

The following table summarizes stock option activity during 2001, 2002 and 2003 under the Incentive Plans:

	Number of Shares	Exercise Price	Weighted Average Exercise Price
Outstanding at December 31, 2000	4,689,850	$ 2.00 to $12.38	$ 7.45
Granted	493,250	$ 6.42 to $11.12	$ 6.80
Exercised	(580,450)	$ 2.00 to $11.94	$ 3.86
Forfeited	(213,000)	$ 6.56 to $11.12	$ 6.61
Outstanding at December 31, 2001	4,389,650	$ 2.50 to $12.38	$ 7.89
Granted	303,750	$ 8.70 to $9.20	$ 9.15
Exercised	(313,875)	$ 2.50 to $6.69	$ 3.55
Forfeited	(209,000)	$ 9.63 to $11.94	$10.52
Outstanding at December 31, 2002	4,170,525	$ 3.44 to $12.38	$ 8.18
Granted	170,500	$12.15 to $18.20	$17.14
Exercised	(576,025)	$ 3.44 to $12.38	$ 5.26
Forfeited	(215,750)	$12.38	$12.38
Outstanding at December 31, 2003	3,549,250	$ 3.44 to $18.20	$ 8.83
Exercisable at December 31, 2003	2,601,500	$ 3.44 to $18.20	$ 8.52

Restricted Stock Grants

Under the Incentive Plans, officers and managerial employees may be granted a right to receive shares of Common Stock without cost to the employee. The shares vest over a specified period with credit given for past service rendered to Comstock. Restricted stock grants for 56,250 shares were made in each of the years 2001 and 2002. Restricted stock grants in 2003 totaled 420,000 shares. The weighted average fair value per share of the restricted stock grants were $6.42, $9.20 and $18.20 in 2001, 2002 and 2003, respectively. In the aggregate, 1,143,750 restricted stock grants have been awarded under the Incentive Plans. As of December 31, 2003, 583,125 shares of such awards are vested. A provision for the restricted stock grants is made over the related vesting period. Compensation expense recognized for restricted stock grants for the years ended December 31, 2001, 2002 and 2003 was $218,000, $217,000 and $359,000 respectively.

(8) Exploration Venture

On July 31, 2001, Comstock entered into a new exploration agreement with Bois d' Arc Offshore, Ltd. and its principals (collectively, "Bois d' Arc"), which replaces an exploration agreement entered into on December 8, 1997. The 2001 Exploration Agreement established a joint exploration venture between Comstock and Bois d' Arc covering the state coastal waters of Louisiana and Texas and corresponding federal offshore waters in the Gulf of Mexico. The new venture was effective April 1, 2001 and will end on December 31, 2006. Under the joint exploration venture, Bois d' Arc generates exploration prospects in the Gulf of Mexico utilizing 3-D seismic data and their extensive geological expertise in the region. Comstock advances 100% of the funds for the acquisition of 3-D seismic data and leases as needed. Comstock recovers its advances based on Bois d' Arc's ability to sell interests in drillable prospects. Upon a sale of a successful prospect by Bois d' Arc, Comstock is reimbursed for the costs that were advanced and is entitled to a 40% non-promoted working interest in each prospect generated. Comstock capitalizes advances made for leases as unevaluated properties and expenses advances made for seismic costs as exploration costs.

Under the exploration agreement, Bois d' Arc has the opportunity to earn warrants to purchase up to 1,620,000 shares of Common Stock. Warrants to purchase 60,000 shares are earned by Bois d' Arc for each prospect which results in a successful discovery. The exercise price on the new warrants is determined based on the current market price for the Common Stock on a semiannual basis each year that the venture is in operation. The agreement requires that Comstock must fund a minimum of $5.0 million for the acquisition of seismic data over the term of the agreement or Bois d' Arc has the right to terminate the agreement.

Bois d' Arc earned warrants to purchase 360,000, 240,000 and 900,000 shares of Common Stock under the exploration agreement in 2001, 2002 and 2003, respectively. The value of the warrants based on the Black-Scholes option pricing model was $5.64 per option share or an aggregate of $2.0 million in 2001, $5.36 per option share or an aggregate of $1.3 million in 2002 and $8.36 per option share or $7.5 million in 2003. Such costs were capitalized as a cost of oil and gas properties.

Bois d' Arc had also earned warrants to purchase 600,000 shares of Common Stock at $14.00 per share under the prior exploration agreement during the period from January 1998 to April 2001. The value of these warrants based on the Black-Scholes option pricing model was $9.97 per option share. The estimated value of $6.0 million for the warrants earned under the prior exploration agreement were capitalized to oil and gas properties in 1998 through 2001.

In total, there are warrants outstanding to purchase 2.1 million shares of Common Stock which were earned under the exploration agreements. These warrants are exercisable at a weighted average exercise price of $12.09 and have a weighted average remaining life of 6.9 years.

(9) Retirement Plan

Comstock has a 401(k) Profit Sharing Plan which covers all of its employees. At its discretion, Comstock may match a certain percentage of the employees' contributions to the plan. The matching percentage is determined annually by the Board of Directors. Comstock's matching contributions to the plan were $96,000, $116,000 and $125,000 for the years ended December 31, 2001, 2002 and 2003, respectively.

(10) Income Taxes

The tax effects of significant temporary differences representing the net deferred tax liability at December 31, 2002 and 2003 were as follows:

	2002	2003
	(In thousands)	
Net deferred tax assets (liabilities):		
Property and equipment	$(88,931)	$(91,715)
Net operating loss carryforwards	43,037	15,939
Valuation allowance on net operating loss carryforwards	(8,043)	(8,043)
Other carryforwards	1,360	2,190
	$(52,577)	$(81,629)

The following is an analysis of the consolidated income tax expense:

	2001	2002	2003
		(In thousands)	
Current	$ —	$ —	$ 1,700
Deferred	18,579	6,773	27,982
	$18,579	$6,773	$29,682

There were no significant differences between income taxes computed using the statutory rate of 35% and Comstock's effective tax rate in 2001 and 2002 of 35%. In 2003, Comstock's effective tax rate was 36% which differed from the statutory rate of 35% because of state income taxes.

At December 31, 2003, Comstock had the following carryforwards available to reduce future income taxes:

Types of Carryforward	Years of Expiration Carryforward	Amounts
		(In thousands)
Net operating loss - U.S. federal	2017 - 2021	$45,541
Alternative minimum tax credits	Unlimited	1,920
Charitable contributions carryforward	2004 - 2007	771

The utilization of $39.4 million of the net operating loss carryforwards of DevX are limited to approximately $1.1 million per year pursuant to a prior change of control. Accordingly, a valuation allowance of $23.0 million, with a tax effect of $8.0 million, has been established for Comstock's estimate of DevX's net operating loss carryforwards that it will not be able to utilize. Realization of Comstock's and DevX's net operating carryforwards requires Comstock to generate taxable income within the carryforward period.

(11) Derivatives and Hedging Activities

Comstock uses swaps, floors and collars to hedge oil and natural gas prices. Swaps are settled monthly based on differences between the prices specified in the instruments and the settlement prices of futures contracts quoted on the New York Mercantile Exchange. Generally, when the applicable settlement price is less than the price specified in the contract, Comstock receives a settlement from the counterparty based on the difference multiplied by the volume hedge. Similarly, when the applicable settlement price exceeds the price specified in the contract, Comstock pays the counterparty based on the difference. Comstock generally receives a settlement from the counterparty for floors when the applicable settlement price is less than the price specified in the contract, which is based on the difference multiplied by the volumes hedged. For collars, generally Comstock receives a settlement from the counterparty when the settlement price is below the floor and pays a settlement to the counterparty when the settlement price exceeds the cap. No settlement occurs when the settlement price falls between the floor and the cap. Comstock is exposed to credit losses in the event of non-performance by the counterparties of its financial instruments. Collateral or other security to support financial instruments subject to credit risk is not required but management monitors the credit standing of the counterparties.

In 2002, Comstock hedged a portion of its natural gas production for the period April 2002 through October 2002. The Company entered into price swaps covering 50 MMBtus per day of its natural gas production at an average price of $3.46 for April 2002 to October 2002. Comstock realized a $1.3 million gain on this hedge position in 2002, which was included in oil and gas sales and increased its average natural gas price realization from $3.26 per Mcf to $3.30 per Mcf. The ineffectiveness of these hedges was determined to be insignificant. During 2003, Comstock did not hedge any of its oil or natural gas production.

Comstock assumed certain natural gas price derivative financial instruments in connection with the acquisition of DevX. These derivative financial instruments were not designated as cash flow hedges. Comstock had an unrealized gain of $243,000 on these contracts in 2001. In 2002, Comstock realized a loss of $2.3 million related to these instruments.

Comstock had no oil and natural gas price financial instruments outstanding at December 31, 2003.

Comstock periodically enters into interest rate swap agreements to hedge the impact of interest rate changes on its floating rate long-term debt. As a result of certain hedging transactions for interest rates, Comstock has realized the following losses which were included in interest expense:

	2001	2002	2003
		(In thousands)	
Realized Losses	$(199)	$(218)	$(108)

The ineffectiveness of these hedges was determined to be insignificant.

As of December 31, 2003, Comstock had no interest rate financial instruments outstanding.

(12) Discontinued Operations

In April and July 2002, Comstock sold certain marginal oil and gas properties for cash proceeds of $3.5 million plus forgiveness of certain accounts payables related to the properties. The properties sold include various interests in nonoperated properties in Nueces, Hardeman, Montague and Wharton counties in Texas. Comstock realized a loss of $1.8 million ($1.2 million, after tax) on these property sales. The results of operations of these sold properties, including the losses on disposal, have been presented as discontinued operations in the accompanying consolidated statements of operations.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Prior year results have also been reclassified to report the results of operations of the properties as discontinued operations. Results for these properties reported as discontinued operations were as follows:

	Year Ended December 31,	
	2001	2002
	(In thousands)	
Oil and gas sales	$1,571	$ 390
Operating expenses	(963)	(264)
Loss on disposal	—	(1,778)
Income (loss) before taxes	608	(1,652)
Income tax provision (benefit)	212	(580)
Income (loss) from discontinued operations	$ 396	$(1,072)

(13) Supplementary Quarterly Financial Data (Unaudited)

	First	Second	Third	Fourth	Total
	(In thousands, except per share amounts)				
2002 —					
Total oil and gas sales	$26,490	$38,004	$35,550	$42,041	$142,085
Net income (loss) from continuing operations attributable to common stock	$ (4,698)	$ 3,206	$ 2,970	$ 9,495	$ 10,973
Net income (loss) attributable to common stock	$ (5,423)	$ 2,804	$ 3,025	$ 9,777	$ 9,901
Net income (loss) from continuing operations per share:					
Basic	$ (0.16)	$ 0.11	$ 0.10	$ 0.33	$ 0.38
Diluted		$ 0.11	$ 0.10	$ 0.29	$ 0.37
Net income (loss) per share:					
Basic	$ (0.19)	$ 0.10	$ 0.10	$ 0.33	$ 0.34
Diluted		$ 0.09	$ 0.10	$ 0.29	$ 0.34

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	First	Second	Third	Fourth	Total
	(In thousands, except per share amounts)				
2003 —					
Total oil and gas sales	$68,576	$57,161	$56,866	$52,499	$235,102
Net income attributable to common stock before change in accounting principle	$20,157	$13,965	$12,920	$ 5,652	$ 52,694
Net income attributable to common stock	$20,832	$13,965	$12,920	$ 5,652	$ 53,369
Net income per share before change in accounting principle per share:					
Basic	$ 0.70	$ 0.44	$ 0.38	$ 0.17	$ 1.65
Diluted	$ 0.60	$ 0.40	$ 0.36	$ 0.16	$ 1.51
Net income per share:					
Basic	$ 0.72	$ 0.44	$ 0.38	$ 0.17	$ 1.67
Diluted	$ 0.62	$ 0.40	$ 0.36	$ 0.16	$ 1.53

(15) Oil and Gas Reserves Information (Unaudited)

Set forth below is a summary of the changes in Comstock's net quantities of crude oil and natural gas reserves for each of the three years ended December 31, 2003:

	2001		2002		2003	
	Oil	Gas	Oil	Gas	Oil	Gas
	(MBbls)	(MMcf)	(MBbls)	(MMcf)	(MBbls)	(MMcf)
Proved Reserves:						
Beginning of year	17,451	297,835	17,348	462,085	20,849	488,784
Revisions of previous estimates	(1,177)	(10,959)	(11)	(5,182)	(2,098)	(6,718)
Extensions and discoveries	1,395	46,777	2,360	39,467	961	46,614
Purchases of minerals in place	1,213	156,515	2,637	29,651	1,103	7,613
Sales of minerals in place	—	—	(182)	(4,066)	(11)	(195)
Production	(1,534)	(28,083)	(1,303)	(33,171)	(1,615)	(34,320)
End of year	17,348	462,085	20,849	488,784	19,189	501,778
Proved Developed Reserves:						
Beginning of year	12,290	200,349	12,212	315,779	13,937	319,155
End of year	12,212	315,779	13,937	319,155	13,206	332,668

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The following table sets forth the standardized measure of discounted future net cash flows relating to proved reserves at December 31, 2002 and 2003:

	2002	2003
	(In thousands)	
Cash Flows Relating to Proved Reserves:		
Future Cash Flows	$3,088,593	$3,831,134
Future Costs:		
Production	(646,018)	(748,399)
Development and Abandonment	(190,534)	(218,017)
Future Net Cash Flows Before Income Taxes	2,252,041	2,864,718
Future Income Taxes	(639,286)	(860,196)
Future Net Cash Flows	1,612,755	2,004,522
10% Discount Factor	(691,640)	(806,857)
Standardized Measure of Discounted Future Net Cash Flows	$ 921,115	$1,197,665

The following table sets forth the changes in the standardized measure of discounted future net cash flows relating to proved reserves for the years ended December 31, 2001, 2002 and 2003:

	2001	2002	2003
		(In thousands)	
Standardized Measure, Beginning of Year	$ 1,288,764	$ 447,273	$ 921,115
Net Change in Sales Price, Net of Production Costs	(1,298,306)	590,290	309,775
Development Costs Incurred During the Year Which Were Previously Estimated	26,627	35,272	41,090
Revisions of Quantity Estimates	(21,342)	(11,636)	(53,933)
Accretion of Discount	173,747	54,068	128,029
Changes in Future Development and Abandonment Costs	(6,571)	(12,052)	(6,894)
Changes in Timing and Other	(141,844)	(58,022)	(43,177)
Extensions and Discoveries	86,026	150,317	196,275
Purchases of Reserves in Place	120,147	105,206	47,229
Sales of Reserves in Place	—	(5,243)	(256)
Sales, Net of Production Costs	(135,272)	(108,586)	(189,356)
Net Changes in Income Taxes	355,297	(265,772)	(152,232)
Standardized Measure, End of Year	$ 447,273	$ 921,115	$1,197,665

The estimates of proved oil and gas reserves utilized in the preparation of the financial statements were estimated by independent petroleum consultants of Lee Keeling and Associates in accordance with guidelines established by the Securities and Exchange Commission and the Financial Accounting Standards Board, which require that reserve reports be prepared under existing economic and operating conditions with no provision for price and cost escalation except by contractual agreement. All of Comstock's reserves are located onshore in or offshore to the continental United States of America.

Future cash inflows are calculated by applying year-end prices adjusted for transportation and other charges to the year-end quantities of proved reserves, except in those instances where fixed and determinable price changes are provided by contractual arrangements in existence at year-end.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Comstock's average year-end prices used in the reserve estimates were as follows:

	2001	2002	2003
Crude Oil (Per Barrel)	$18.73	$30.07	$31.19
Natural Gas (Per Mcf)	$ 2.69	$ 5.04	$ 6.44

Future development and production costs are computed by estimating the expenditures to be incurred in developing and producing proved oil and gas reserves at the end of the year, based on year-end costs and assuming continuation of existing economic conditions. Future income tax expenses are computed by applying the appropriate statutory tax rates to the future pre-tax net cash flows relating to proved reserves, net of the tax basis of the properties involved. The future income tax expenses give effect to permanent differences and tax credits, but do not reflect the impact of future operations.

EXHIBIT 4.5

COMSTOCK RESOURCES, INC.,

SUBSIDIARY GUARANTORS

NAMED HEREIN

and

THE BANK OF NEW YORK TRUST COMPANY OF FLORIDA, N.A.

Trustee

SECOND SUPPLEMENTAL INDENTURE

Dated as of February 25, 2004

Supplementing the Indenture

Dated as of April 29, 1999

11 1/4% Senior Notes due 2007

This SECOND SUPPLEMENTAL INDENTURE, dated as of February 25, 2004, is between COMSTOCK RESOURCES, INC., a Nevada corporation (the "Company"), COMSTOCK OIL & GAS, INC., a Nevada corporation, COMSTOCK OIL & GAS - LOUISIANA, LLC, a Nevada limited liability company, COMSTOCK OFFSHORE LLC, a Nevada limited liability company, COMSTOCK OIL & GAS HOLDINGS, INC., a Nevada corporation, and THE BANK OF NEW YORK TRUST COMPANY OF FLORIDA, N.A. (as successor-in-interest to U.S. Trust Company of Texas, N.A.) as Trustee (the "Trustee"). Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Indenture (as defined below).

WHEREAS, the Company, certain Subsidiaries of the Company and the predecessor-in-interest to Trustee entered into an Indenture, dated as of April 29, 1999, as the same was amended and supplemented by that certain First Supplemental Indenture dated March 7, 2002, (collectively, the "Indenture"), providing for the issuance by the Company from time to time, and the establishment of the terms of, the Company's 11 1/4% Senior Notes due 2007;

WHEREAS, the parties hereto desire to modify and amend the Indenture to remove certain restrictive covenants therefrom; and

WHEREAS, the Holders (as defined in the Indenture) of at least a majority in aggregate principal amount of Outstanding Securities (as defined in the Indenture) have consented to the amendments contained herein as required by Section 8.2 of the Indenture;

NOW, THEREFORE, for the purposes stated herein and for and in consideration of the premises and covenants contained in the Indenture and in this Second Supplemental Indenture and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually covenanted and agreed as follows:

ARTICLE I

Section 1.1 Deletion of Covenants. Effective as of the date hereof, each of the following sections of the Indenture (each, a "Deleted Covenant"), together with all references to any such section set forth in the Indenture, are hereby deleted in their entireties:

Section 9.2	Maintenance of Office or Agency;
Section 9.4	Corporate Existence;
Section 9.5	Payment of Taxes; Maintenance of Properties; Insurance;
Section 9.6	Limitation on Conduct of Business;
Section 9.8	Provision of Financial Information;
Section 9.9	Limitation on Restricted Payments;
Section 9.10	Limitation on Guarantees by Subsidiary Guarantors;

Section 9.11	Limitation on Indebtedness and Disqualified Capital Stock;
Section 9.12	Additional Subsidiary Guarantors;
Section 9.13	Limitation on Issuances and Sales of Capital Stock by Restricted Subsidiaries;
Section 9.14	Limitation on Liens;
Section 9.16(c)	Limitation on Asset Sales;
Section 9.17	Limitation on Transactions with Affiliates;
Section 9.18	Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries; and
Section 9.19	Limitation on Sale and Leaseback Transactions.

Section 1.2 Covenant Concerning Certain Events of Default. Effective as of the date hereof, subsections (d), (e), (f), (g), (h) and (i) of Section 4.1 of the Indenture are hereby deleted in their entireties.

Section 1.3 Provision Concerning When Company May Consolidate, Etc., Only on Certain Terms. Effective as of the date hereof, Section 7.1 of the Indenture is hereby deleted in its entirety.

Section 1.4 Deletion of Definitions. Effective as of the date hereof, all definitions set forth in Article One of the Indenture which relate solely to the Deleted Covenants or to Section 7.1 of the Indenture are herby deleted in their entireties from the Indenture.

ARTICLE II

Section 2.1 Ratification of Indenture.

As supplemented by this Second Supplemental Indenture, the Indenture is in all respects ratified and confirmed, and the Indenture as supplemented by this Second Supplemental Indenture shall be read, taken and construed as one and the same instrument.

Section 2.2 Conflict with Trust Indenture Act.

If any provision hereof limits, qualifies or conflicts with another provision hereof which is required to be included in this Second Supplemental Indenture by any provision of the Trust Indenture Act, such required provisions shall control.

Section 2.3 Counterparts.

This Second Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

Section 2.4 Governing Law.

This Second Supplemental Indenture shall be governed by, and construed and enforced in accordance with, the laws of the State of New York but without giving effect to applicable principles of conflicts of law to the extent that the application of the laws of another jurisdiction would be required thereby.

ARTICLE III

Capitalized terms not otherwise defined herein shall have the meanings given in the Indenture as supplemented hereby.

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IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed, all as of the day and year first above written.

ISSUER:

COMSTOCK RESOURCES, INC.

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

SUBSIDIARY GUARANTORS:

COMSTOCK OIL & GAS, INC.

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

COMSTOCK OIL & GAS-LOUISIANA, LLC
(f/k/a Comstock Oil & Gas-Louisiana, Inc.)

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

COMSTOCK OFFSHORE, LLC

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

COMSTOCK OIL & GAS HOLDINGS, INC.

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

TRUSTEE:

THE BANK OF NEW YORK TRUST COMPANY
     OF FLORIDA, N.A.

By: /s/ PATRICK T. GIORDANO

Name: Patrick T. Giordano
Title: Vice President

EXHIBIT 4.6

COMSTOCK RESOURCES, INC.

GUARANTORS
NAMED HEREIN

AND

THE BANK OF NEW YORK TRUST COMPANY, N.A.

TRUSTEE

INDENTURE

DATED AS OF FEBRUARY 25, 2004

DEBT SECURITIES

COMSTOCK RESOURCES, INC.
RECONCILIATION AND TIE BETWEEN TRUST INDENTURE ACT OF 1939, AS AMENDED, AND INDENTURE DATED AS OF FEBRUARY 25, 2004

Trust Indenture Act Section	Indenture Section
Section 310(a)(1)	6.9
(a)(2)	6.9
(a)(3)	Not Applicable
(a)(4)	Not Applicable
(a)(5)	6.9
(b)	6.8
Section 311	6.13
Section 312(a)	7.1, 7.2(a)
(b)	7.2(b)
(c)	7.2(c)
Section 313(a)	7.3
(b)	*
(c)	*
(d)	7.3
Section 314(a)	7.4
(a)(4)	10.7
(b)	Not Applicable
(c)(1)	1.3
(c)(2)	1.3
(c)(3)	Not Applicable
(d)	Not Applicable
(e)	1.3
Section 315(a)	6.1(a)
(b)	6.2
(c)	6.1(b)
(d)	6.1(c)
(d)(1)	6.1(a)(1)
(d)(2)	6.1(c)(2)
(d)(3)	6.1(c)(3)
(e)	5.14

Section 316(a)	1.1, 1.2
(a)(1)(A)	5.2, 5.12
(a)(1)(B)	5.13
(a)(2)	Not Applicable
(b)	5.8
(c)	1.5(f)
Section 317(a)(1)	5.3
(a)(2)	5.4
(b)	10.3
Section 318(a)	1.8

NOTE: This reconciliation and tie shall not, for any purpose, be deemed to be a part of the Indenture.

*Deemed included pursuant to Section 318(c) of the Trust Indenture Act

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PARTIES

INDENTURE, dated as of February 25, 2004, among COMSTOCK RESOURCES, INC., a corporation duly organized and existing under the laws of the State of Nevada (herein called the "Company"), having an office at 5300 Town and Country Blvd., Suite 500, Frisco, Texas 75034, the GUARANTORS (as defined hereinafter) and THE BANK OF NEW YORK TRUST COMPANY, N.A., as Trustee (the "Trustee").

RECITALS OF THE COMPANY:

The Company has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its unsecured subordinated debentures, notes or other evidences of indebtedness (herein called the "Securities"), which may but are not required to be guaranteed by the Guarantors, to be issued in one or more series as in this Indenture provided. The Company directly or indirectly owns 100% of the capital stock of the Guarantors.

All things necessary to make this Indenture a valid agreement of the Company and of the Guarantor, in accordance with its terms, have been done.

This Indenture is subject to the provisions of the Trust Indenture Act that are required to be a part of this Indenture and, to the extent applicable, shall be governed by such provisions.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders of the Securities or of series thereof, as follows:

ARTICLE I.

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.1. Definitions.

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(1) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;

(2) all terms used in this Indenture that are defined in the Trust Indenture Act, defined by a Trust Indenture Act reference to another statute or defined by a Commission rule under the Trust Indenture Act have the meanings so assigned to them;

(3) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP;

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

(5) the words "Article" and "Section" refer to an Article and Section, respectively, of this Indenture; and

(6) the word "includes" and its derivatives means "includes, but is not limited to" and corresponding derivative definitions.

Certain terms, used principally in Article Six, are defined in that Article.

"Act", when used with respect to any Holder, has the meaning specified in Section 1.5.

"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 specified 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.

"Authenticating Agent" means any Person authorized by the Trustee to act on behalf of the Trustee to authenticate Securities.

"Banking Day" means, in respect of any city, any date on which commercial banks are open for business in that city.

"Bankruptcy Law" means any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law.

"Board of Directors" means either the board of directors of the Company or of a Guarantor, as applicable, or any duly authorized committee of that board to which the powers of that board have been lawfully delegated.

"Board Resolution" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company, the principal financial officer of the Company or a Guarantor, any other authorized officer of the Company or a Guarantor, or a person duly authorized by any of them, in each case as applicable, to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee. Where any provision of this Indenture refers to action to be taken pursuant to a Board Resolution (including the establishment of any series of the Securities and the forms and terms thereof), such action may be taken by any committee, officer or employee of the Company or a Guarantor, as applicable, authorized to take such action by the Board of Directors as evidenced by a Board Resolution.

"Business Day", when used with respect to any Place of Payment or other location, means, except as otherwise provided as contemplated by Section 3.1 with respect to any series of Securities, each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in that Place of Payment or other location are authorized or obligated by law, executive order or regulation to close.

"CINS" means CUSIP International Numbering System.

"Commission" means the Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or, if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

"Company" means the Person named as the "Company" in the first paragraph of this instrument until a successor or resulting corporation shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Company" shall mean such successor or resulting corporation.

"Company Request" or "Company Order" means, in the case of the Company, a written request or order signed in the name of the Company by its Chairman of the Board, its Chief Executive Officer, its President, any of its Vice Presidents or any other duly authorized officer of the Company or any person duly authorized by any of them, and delivered to the Trustee and, in the case of a Guarantor, a written request or order signed in the name of such Guarantor by its Chairman of the Board, its Chief Executive Officer, its President, any of its Vice Presidents or any other duly authorized officer of such Guarantor or any person duly authorized by any of them, and delivered to the Trustee.

"Consolidated Net Worth" means, at any date of determination, the amount of total shareholders' equity shown in most recent consolidated statement of financial position of the Company, including any preferred stock not reflected as a liability on such consolidated statement of financial position.

"Corporate Trust Office" means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered and which, at the date hereof, is located at 600 North Pearl Street, Suite 420, Dallas, Texas 75201.

"corporation" includes corporations, companies, associations, partnerships, limited partnerships, limited liability companies, joint-stock companies and trusts.

"covenant defeasance" has the meaning specified in Section 13.3.

"CUSIP" means the Committee on Uniform Securities Identification Procedures.

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

"Debt" means any obligation created or assumed by any Person for the repayment of money borrowed and any purchase money obligation created or assumed by such Person and any guarantee of the foregoing.

"Default" means, with respect to a series of Securities, any event that is, or after notice or lapse of time or both would be, an Event of Default.

"Defaulted Interest" has the meaning specified in Section 3.7.

"defeasance" has the meaning specified in Section 13.2.

"Definitive Security" means a security other than a Global Security or a temporary Security.

"Depositary" means, with respect to the Securities of any series issuable or issued in whole or in part in the form of one or more Global Securities, a clearing agency registered under the Exchange Act that is designated to act as Depositary for such Securities as contemplated by Section 3.1, until a successor Depositary shall have become such pursuant to the applicable provisions of this Indenture, and thereafter shall mean or include each Person which is a Depositary hereunder, and if at any time there is more than one such Person, shall be a collective reference to such Persons.

"Dollar" or "$" means the coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts.

"Event of Default" has the meaning specified in Section 5.1.

"Foreign Currency" means a currency used by the government of a country other than the United States of America.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession of the United States, as in effect from time to time.

"Global Security" means a Security in global form that evidences all or part of a series of Securities and is authenticated and delivered to, and registered in the name of, the Depositary for the Securities of such series or its nominee.

"Guarantee" has the meaning specified in Section 14.1.

"Guarantor" means (i) Comstock Oil & Gas, Inc., a corporation duly organized and existing under the laws of the State of Nevada, (ii) Comstock Oil & Gas-Louisiana, LLC, a limited liability company duly organized and existing under the laws of the State of Nevada, (iii)

Comstock Offshore, LLC, a limited liability company duly organized and existing under the laws of the State of Nevada, (iv) Comstock Oil & Gas Holdings, Inc., a corporation duly organized and existing under the laws of the State of Nevada and (v) any Person that becomes a successor guarantor pursuant to the applicable provisions of this Indenture.

"Guarantor Senior Debt" means, unless otherwise provided with respect to the Securities of a series as contemplated by Section 3.1, (1) all Debt of a Guarantor, whether currently outstanding or hereafter issued, unless, by the terms of the instrument creating or evidencing such Debt, it is provided that such Debt is not superior in right of payment to the Guarantee or to other Debt which is pari passu with or subordinated to the Guarantee, and (2) any modifications, refunding, deferrals, renewals or extensions of any such Debt or securities, notes or other evidence of Debt issued in exchange for such Debt; provided that in no event shall "Guarantor Senior Debt" include (a) Debt of a Guarantor owed or owing to any Subsidiary of such Guarantor or any officer, director or employee of such Guarantor or any Subsidiary of such Guarantor, (b) Debt to trade creditors or (c) any liability for taxes owed or owing by a Guarantor.

"Holder" means a Person in whose name a Security is registered in the Security Register.

"Indenture" means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, including, for all purposes of this instrument, and any such supplemental indenture, the provisions of the Trust Indenture Act that are deemed to be part of and govern this instrument and any such supplemental indenture, respectively. The term "Indenture" also shall include the terms of particular series of Securities established as contemplated by Section 3.1.

"interest", when used with respect to an Original Issue Discount Security which by its terms bears interest only after Maturity, means interest payable after Maturity.

"Interest Payment Date", when used with respect to any Security, means the Stated Maturity of an installment of interest on such Security.

"Judgment Currency" has the meaning specified in Section 1.16.

"Lien" means any mortgage, pledge, security interest, charge, lien or other encumbrance of any kind, whether or not filed, recorded or perfected under applicable law.

"mandatory sinking fund payment" has the meaning specified in Section 12.1.

"Maturity", when used with respect to any Security, means the date on which the principal of such Security or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

"Notice of Default" means a written notice of the kind specified in Section 5.1(3) or Section 5.1(4).

"Officer's Certificate" means, in the case of the Company, a certificate signed by the Chairman of the Board, the Chief Executive Officer, the President, any Vice President or any other duly authorized officer of the Company, or a person duly authorized by any of them, and delivered to the Trustee and, in the case of a Guarantor, a certificate signed by the Chairman of the Board, the Chief Executive Officer, the President, any Vice President or any other duly authorized officer of such Guarantor, or a person duly authorized by any of them, and delivered to the Trustee.

"Opinion of Counsel" means a written opinion of counsel, who may be an employee of or counsel for the Company or a Guarantor, as the case may be, and who shall be reasonably acceptable to the Trustee.

"optional sinking fund payment" has the meaning specified in Section 12.1.

"Original Issue Discount Security" means any Security which provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2.

"Outstanding", when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except:

(i) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(ii) Securities for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Securities; provided, however, that, if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;

(iii) Securities which have been paid pursuant to Section 3.6 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Company; and

(iv) Securities, except to the extent provided in Section 13.2 and 13.3, with respect to which the Company has effected defeasance or covenant defeasance as provided in Article Thirteen, which defeasance or covenant defeasance then continues in effect; provided, however, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, (A) the principal amount of an Original Issue Discount Security that shall be deemed to be Outstanding shall be the

amount of the principal thereof that would be due and payable as of the date of such determination upon acceleration of the Maturity thereof on such date pursuant to Section 5.2, (B) the principal amount of a Security denominated in one or more currencies or currency units other than U.S. dollars shall be the U.S. dollar equivalent of such currencies or currency units, determined in the manner provided as contemplated by Section 3.1 on the date of original issuance of such Security or by Section 1.15, if not otherwise so provided pursuant to Section 3.1, of the principal amount (or, in the case of an Original Issue Discount Security, the U.S. dollar equivalent (as so determined) on the date of original issuance of such Security of the amount determined as provided in Clause (A) above) of such Security, and (C) Securities owned by the Company, any Guarantor or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Securities which the Trustee knows to be so owned shall be so disregarded. Securities so owned as described in Clause (C) of the immediately preceding sentence which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Company, a Guarantor or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor.

"Paying Agent" means any Person authorized by the Company to pay the principal of and any premium or interest on any Securities on behalf of the Company.

"Periodic Offering" means an offering of Securities of a series from time to time, the specific terms of which Securities, including, without limitation, the rate or rates of interest or formula for determining the rate or rates of interest thereon, if any, the Stated Maturity or Stated Maturities thereof, the original issue date or dates thereof, the redemption provisions, if any, with respect thereto, and any other terms specified as contemplated by Section 3.1 with respect thereto, are to be determined by the Company upon the issuance of such Securities.

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

"Place of Payment", when used with respect to the Securities of any series, means, unless otherwise specifically provided for with respect to such series as contemplated by Section 3.1, the office or agency of the Company in the City of New York and such other place or places where, subject to the provisions of Section 10.2, the principal of and any premium and interest on the Securities of that series are payable as contemplated by Section 3.1.

"Predecessor Security" of any particular Security means every previous Security evidencing all or a portion of the same Debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 3.6 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

"Redemption Date", when used with respect to any Security to be redeemed, means the date fixed for such redemption by or pursuant to this Indenture.

"Redemption Price", when used with respect to any Security to be redeemed, means the price at which it is to be redeemed pursuant to this Indenture.

"Regular Record Date" for the interest payable on any Interest Payment Date on the Securities of any series means the date specified for that purpose as contemplated by Section 3.1.

"Required Currency" has the meaning specified in Section 1.16.

"Securities" has the meaning stated in the first recital of this Indenture and more particularly means any Securities authenticated and delivered under this Indenture.

"Security Register" and "Security Registrar" have the respective meanings specified in Section 3.5.

"Senior Debt" means (1) all Debt of the Company, whether currently outstanding or hereafter issued, unless, by the terms of the instrument creating or evidencing such Debt, it is provided that such Debt is not superior in right of payment to the Securities, and (2) any modifications, refunding, deferrals, renewals or extensions of any such Debt or securities, notes or other evidence of Debt issued in exchange for such Debt; provided that in no event shall "Senior Debt" include (a) Debt of the Company owed or owing to any Subsidiary of the Company or any officer, director or employee of the Company or any Subsidiary of the Company, (b) Debt to trade creditors or (c) any liability for taxes owned or owing by the Company.

"Special Record Date" for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 3.7.

"Stated Maturity", when used with respect to any Security or any installment of principal thereof or interest thereon, means the date specified in such Security as the fixed date on which the principal of such Security or such installment of principal or interest is due and payable.

"Subsidiary" means (i) a corporation more than 50% of the outstanding voting stock of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries, or by the Company and one or more other Subsidiaries or (ii) any partnership or similar business organization more than 50% of the ownership interests having ordinary voting power of which shall at the time be so owned. For the purposes of this definition, "voting stock" means capital stock or equity interests which ordinarily have voting power for the election of directors, whether at all times or only so long as no senior class of stock has such voting power by reason of any contingency.

"Trustee" means the Person named as the "Trustee" in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable

provisions of this Indenture, and thereafter "Trustee" shall mean or include each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, "Trustee" as used with respect to the Securities of any series shall mean the Trustee with respect to Securities of that series.

"Trust Indenture Act" means the Trust Indenture Act of 1939, as amended, as in force at the date as of which this instrument was executed, except as provided in Section 9.5; provided, however, that if the Trust Indenture Act of 1939 is amended after such date, "Trust Indenture Act" means, to the extent required by any such amendment, the Trust Indenture Act of 1939 as so amended.

"U.S. Person" shall have the meaning assigned to such term in Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended.

"U.S. Government Obligations" means securities which are (i) direct obligations of the United States for the payment of which its full faith and credit is pledged, or (ii) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States, the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States, each of which are not callable or redeemable at the option of the issuer thereof.

"Vice President", when used with respect to the Company, the Guarantor or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title "vice president."

Section 1.2. Incorporation by Reference of Trust Indenture Act.

Whenever this Indenture refers to a provision of the Trust Indenture Act, the provision is incorporated by reference in and made a part of this Indenture. The following Trust Indenture Act terms used in this Indenture have the following meanings:

"commission" means the Commission.

"indenture securities" means the Securities.

"indenture security holder" means a Holder.

"indenture to be qualified" means this Indenture.

"indenture trustee" or "institutional trustee" means the Trustee.

"obligor" on the indenture securities means the Company, the Guarantor (if applicable) or any other obligor on the indenture securities.

All terms used in this Indenture that are defined by the Trust Indenture Act, defined by a Trust Indenture Act reference to another statute or defined by a Commission rule under the Trust Indenture Act have the meanings so assigned to them.

Section 1.3. Compliance Certificates and Opinions.

Upon any application or request by the Company or a Guarantor to the Trustee to take any action under any provision of this Indenture, the Company or such Guarantor, as the case may be, shall furnish to the Trustee an Officer's Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished except as required under Section 314(c) of the Trust Indenture Act.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (except for certificates provided for in Section 10.5) shall include

(1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(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 each such individual, he has made such examination or investigation as is 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, in the opinion of each such individual, such condition or covenant has been complied with.

Section 1.4. Form of Documents Delivered to Trustee.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company or a Guarantor may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows or, in the exercise of reasonable care, should know that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company or the Guarantor, as the case may be, stating that the information with respect to such factual matters is in the possession of the Company or the Guarantor, as the case

may be, unless such counsel knows that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 1.5. Acts of Holders; Record Dates.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed (either physically or by means of a facsimile or an electronic transmission, provided that such electronic transmission is transmitted through the facilities of a Depositary) by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company or the Guarantors. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 315 of the Trust Indenture Act) conclusive in favor of the Trustee, the Company and, if applicable, the Guarantors, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership, principal amount and serial numbers of Securities held by any Person, and the date of commencement of such Person's holding of same, shall be proved by the Security Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee, the Company or, if applicable, the Guarantors in reliance thereon, whether or not notation of such action is made upon such Security.

(e) Without limiting the foregoing, a Holder entitled to give or take any action hereunder with regard to any particular Security may do so with regard to all or any part of the

principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any different part of such principal amount.

(f) The Company may set any day as the record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to give or take any request, demand, authorization, direction, notice, consent, waiver or other Act provided or permitted by this Indenture to be given or taken by Holders of Securities of such series, but the Company shall have no obligation to do so. With regard to any record date set pursuant to this paragraph, the Holders of Outstanding Securities of the relevant series on such record date (or their duly appointed agents), and only such Persons, shall be entitled to give or take the relevant action, whether or not such Holders remain Holders after such record date.

Section 1.6. Notices, Etc., to Trustee, Company and Guarantors.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

(1) the Trustee by any Holder, a Guarantor or by the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Trustee at its Corporate Trust Office, Attention: Corporate Trust Division,

(2) the Company by the Trustee, a Guarantor or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to the Company addressed to it at the address of its principal office specified in the first paragraph of this instrument to the attention of the Corporate Secretary, or at any other address previously furnished in writing to the Trustee by the Company, or

(3) a Guarantor by the Company, the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to such Guarantor addressed to it at 5300 Town & Country Blvd., Suite 500, Frisco, Texas 75034 to the attention of the Corporate Secretary, or at any other address previously furnished in writing to the Trustee by the Guarantor.

Section 1.7. Notice to Holders; Waiver.

Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Holder affected by such event, at his address as it appears in the Security Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Any notice mailed to a Holder in the manner herein prescribed shall be conclusively deemed to have been received by such Holder, whether or not such Holder actually receives such notice.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

Section 1.8. Conflict with Trust Indenture Act.

If any provision hereof limits, qualifies or conflicts with a provision of the Trust Indenture Act that is required under such Act to be a part of and govern this Indenture, the latter provision shall control. If any provision of this Indenture modifies or excludes any provision of the Trust Indenture Act that may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or excluded, as the case may be.

Section 1.9. Effect of Headings and Table of Contents.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.10. Successors and Assigns.

All covenants and agreements in this Indenture by each of the Company and the Guarantors shall bind their respective successors and assigns, whether so expressed or not.

Section 1.11. Separability Clause.

In case any provision in this Indenture or in the Securities or, if applicable, the Guarantee shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 1.12. Benefits of Indenture.

Nothing in this Indenture or in the Securities or, if applicable, the Guarantee, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, the holders of Senior Debt and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 1.13. Governing Law.

THIS INDENTURE, THE SECURITIES AND THE GUARANTEE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

To the fullest extent permitted by applicable law, each of the Company and the Guarantors hereby irrevocably submits to the jurisdiction of any Federal or state court located in the Borough of Manhattan in The City of New York, New York in any suit, action or proceeding based on or arising out of or relating to this Indenture, any Securities or, if applicable, the Guarantee and irrevocably agrees that all claims in respect of such suit or proceeding may be determined in any such court. Each of the Company and the Guarantors irrevocably waives, to the fullest extent permitted by law, any objection which it may have to the laying of the venue of any such suit, action or proceeding brought in an inconvenient forum. Each of the Company and the Guarantors hereby irrevocably designates and appoints The Bank of New York Trust Company, N.A., New York, New York (the "Process Agent") as its authorized agent for purposes of this Section 1.13, it being understood that the designation and appointment of the Process Agent as such authorized agent shall become effective immediately without any further action on the part of the Company or a Guarantor, as the case may be. Each of the Company and the Guarantors further agrees that, unless otherwise required by law, service of process upon the Process Agent and written notice of said service to the Company or a Guarantor, as the case may be, mailed by prepaid registered first class mail or delivered to the Process Agent at its principal office, shall be deemed in every respect effective service of process upon the Company or such Guarantor, as the case may be, in any such suit or proceeding. Each of the Company and the Guarantors further agrees to take any and all action, including the execution and filing of any and all such documents and instruments as may be necessary, to continue such designation and appointment of the Process Agent in full force and effect so long as the Company or such Guarantor, as the case may be, has any outstanding obligations under this Indenture. To the extent the Company or a Guarantor, as the case may be, has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, executor or otherwise) with respect to itself or its property, each of the Company and such Guarantor hereby irrevocably waives such immunity in respect of its obligations under this Indenture to the extent permitted by law.

Section 1.14. Legal Holidays.

In any case where any Interest Payment Date, Redemption Date or Stated Maturity of any Security shall not be a Business Day at any Place of Payment, then (notwithstanding any other provision of this Indenture or of the Securities or, if applicable, the Guarantee (other than a provision of the Securities of any series or, if applicable, the Guarantee that specifically states that such provision shall apply in lieu of this Section 1.14)) payment of interest or principal and any premium need not be made at such Place of Payment on such date, but may be made on the next succeeding Business Day at such Place of Payment with the same force and effect as if made on the Interest Payment Date or Redemption Date, or at the Stated Maturity, provided that

no interest shall accrue for the period from and after such Interest Payment Date, Redemption Date or Stated Maturity, as the case may be.

Section 1.15. Securities in a Composite Currency, Currency Unit or Foreign Currency.

Unless otherwise specified in an Officer's Certificate delivered pursuant to Section 3.1 of this Indenture with respect to a particular series of Securities, whenever for purposes of this Indenture any action may be taken by the Holders of a specified percentage in aggregate principal amount of Securities of all series or all series affected by a particular action at the time Outstanding and, at such time, there are Outstanding Securities of any series which are denominated in a coin, currency or currencies other than Dollars (including, but not limited to, any composite currency, currency units or Foreign Currency), then the principal amount of Securities of such series which shall be deemed to be Outstanding for the purpose of taking such action shall be that amount of Dollars that could be obtained for such amount at the Market Exchange Rate. For purposes of this Section 1.15, the term "Market Exchange Rate" shall mean the noon Dollar buying rate in The City of New York for cable transfers of such currency or currencies as published by the Federal Reserve Bank of New York, as of the most recent available date. If such Market Exchange Rate is not so available for any reason with respect to such currency, the Trustee shall use, in its sole discretion and without liability on its part, such quotation of the Federal Reserve Bank of New York as of the most recent available date, or quotations or rates of exchange from one or more major banks in The City of New York or in the country of issue of the currency in question, which for purposes of euros shall be Brussels, Belgium, or such other quotations or rates of exchange as the Trustee shall deem appropriate. The provisions of this paragraph shall apply in determining the equivalent principal amount in respect of Securities of a series denominated in a currency other than Dollars in connection with any action taken by Holders of Securities pursuant to the terms of this Indenture.

All decisions and determinations of the Trustee regarding the Market Exchange Rate or any alternative determination provided for in the preceding paragraph shall be in its sole discretion and shall, in the absence of manifest error, be conclusive to the extent permitted by law for all purposes and irrevocably binding upon the Issuer and all Holders.

Section 1.16. Payment in Required Currency; Judgment Currency.

Each of the Company and the Guarantors agrees, to the fullest extent that it may effectively do so under applicable law, that (a) if for the purpose of obtaining judgment in any court it is necessary to convert the sum due in respect of the principal of or interest on the Securities of any series (the "Required Currency") into a currency in which a judgment will be rendered (the "Judgment Currency"), the rate of exchange used shall be the rate at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the day on which final unappealable judgment is entered, unless such day is not a Banking Day, then, to the extent permitted by applicable law, the rate of exchange used shall be the rate at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the Banking Day next preceding the day on which final unappealable judgment is entered and (b) its obligations under this Indenture to make payments

in the Required Currency (i) shall not be discharged or satisfied by any tender, or any recovery pursuant to any judgment (whether or not entered in accordance with subclause (a)), in any currency other than the Required Currency, except to the extent that such tender or recovery shall result in the actual receipt, by the payee, of the full amount of the Required Currency expressed to be payable in respect of such payments, (ii) shall be enforceable as an alternative or additional cause of action for the purpose of recovering in the Required Currency the amount, if any, by which such actual receipt shall fall short of the full amount of the Required Currency so expressed to be payable and (iii) shall not be affected by judgment being obtained for any other sum due under this Indenture.

Section 1.17. Language of Notices, Etc.

Any request, demand, authorization, direction, notice, consent, waiver or Act required or permitted under this Indenture shall be in the English language, except that any published notice may be in an official language of the country of publication.

Section 1.18. Incorporators, Shareholders, Officers and Directors of the Company and the Guarantors Exempt from Individual Liability.

No recourse under or upon any obligation, covenant or agreement of or contained in this Indenture or of or contained in any Security or, if applicable, the Guarantee, or for any claim based thereon or otherwise in respect thereof, or in any Security or, if applicable, the Guarantee, or because of the creation of any indebtedness represented thereby, shall be had against any incorporator, shareholder, member, officer, manager or director, as such, past, present or future, of the Company, any Guarantor or any successor Person, either directly or through the Company, any Guarantor or any successor Person, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a part of the consideration for, the execution of this Indenture and the issue of the Securities.

ARTICLE II.

SECURITY FORMS

Section 2.1. Forms Generally.

The Securities of each series and, if applicable, the notation thereon relating to the Guarantee, shall be in substantially the form set forth in this Article Two, or in such other form or forms as shall be established by or pursuant to a Board Resolution or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or as may, consistently herewith, be determined by the officers executing such Securities and, if applicable, the Guarantee, as evidenced by their execution thereof.

The definitive Securities shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the officers executing such Securities, as evidenced by their execution thereof. If the form of Securities of any series is established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action shall be certified by an authorized officer or other authorized person on behalf of the Company and delivered to the Trustee at or prior to the delivery of the Company Order contemplated by Section 3.3 for the authentication and delivery of such Securities.

The forms of Global Securities of any series shall have such provisions and legends as are customary for Securities of such series in global form, including without limitation any legend required by the Depositary for the Securities of such series.

Section 2.2. Form of Face of Security.

[If the Security is an Original Issue Discount Security, insert-FOR PURPOSES OF SECTION 1275 OF THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED, THE AMOUNT OF THE ORIGINAL ISSUE DISCOUNT IS _____, THE ISSUE DATE IS _____, 20__ [AND] [,] THE YIELD TO MATURITY IS _____[,] [AND THE ORIGINAL ISSUE DISCOUNT FOR THE SHORT ACCRUAL PERIOD IS _____ AND THE METHOD USED TO DETERMINE THE YIELD THEREFOR IS _____]]

[Insert any other legend required by the United States Internal Revenue Code or the regulations thereunder.]

[If a Global Security,-insert legend required by Section 2.4 of the Indenture] [If applicable, insert - UNLESS THIS SECURITY IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION, TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY SECURITY ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.]

COMSTOCK RESOURCES, INC.

[TITLE OF SECURITY]

No _____ U.S. $_____
[CUSIP No. _____]

COMSTOCK RESOURCES, INC., a company duly incorporated under the laws of the State of Nevada (herein called the "Company ", which term includes any successor or resulting Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to _____, or registered assigns, the principal sum of _____ United States Dollars on _____ [If the Security is to bear interest prior to Maturity, insert-, and to pay interest thereon from _____ or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semi-annually on _____ and _____ in each year, commencing _____, at the rate of ___% per annum, until the principal hereof is paid or made available for payment [if applicable, insert-, and at the rate of ___% per annum on any overdue principal and premium and on any installment of interest (to the extent that the payment of such interest shall be legally enforceable)]. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be the _____ or _____ (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities of this series not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of this series may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture].

[If the Security is not to bear interest prior to Maturity, insert-The principal of this Security shall not bear interest except in the case of a default in payment of principal upon acceleration, upon redemption or at Stated Maturity and in such case the overdue principal of this Security shall bear interest at the rate of ___% per annum (to the extent that the payment of such interest shall be legally enforceable), which shall accrue from the date of such default in payment to the date payment of such principal has been made or duly provided for. Interest on any overdue principal shall be payable on demand. Any such interest on any overdue principal that is not so paid on demand shall bear interest at the rate of ___% per annum (to the extent that the payment of such interest shall be legally enforceable), which shall accrue from the date of such demand for payment to the date payment of such interest has been made or duly provided for, and such interest shall also be payable on demand.]

[If a Global Security, insert-Payment of the principal of (and premium, if any) and [if applicable, insert-any such] interest on this Security will be made by transfer of immediately available funds to a bank account in _____ designated by the Holder in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts [state other currency].]

[If a Definitive Security, insert-Payment of the principal of (and premium, if any) and [if applicable, insert-any such] interest on this Security will be made at the office or agency of the Company maintained for that purpose in _____, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts] [state other currency] [or subject to any laws or regulations applicable thereto and to the right of the Company (as provided in the Indenture) to rescind the designation of any such Paying Agent, at the [main] offices of _____ in _____, or at such other offices or agencies as the Company may designate, by [United States Dollar] [state other currency] check drawn on, or transfer to a [United States Dollar] account maintained by the payee with, a bank in The City of New York (so long as the applicable Paying Agency has received proper transfer instructions in writing at least ___ days prior to the payment date)] [if applicable, insert-; provided, however, that payment of interest may be made at the option of the Company by [United States Dollar] [state other currency] check mailed to the addresses of the Persons entitled thereto as such addresses shall appear in the Security Register] [or by transfer to a [United States Dollar] [state other currency] account maintained by the payee with a bank in The City of New York [state other Place of Payment] (so long as the applicable Paying Agent has received proper transfer instructions in writing by the Record Date prior to the applicable Interest Payment Date)].]

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated:

COMSTOCK RESOURCES, INC.

By:_____

Section 2.3. Form of Reverse of Security.

This Security is one of a duly authorized issue of subordinated securities of the Company (herein called the "Securities"), issued and to be issued in one or more series under an Indenture, dated as of February 25, 2004 (herein called the "Indenture"), between the Company, the

Guarantors and The Bank of New York Trust Company, N.A., as Trustee (herein called the "Trustee", which term includes any successor trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement, of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Guarantors, the Trustee and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered. As provided in the Indenture, the Securities may be issued in one or more series, which different series may be issued in various aggregate principal amounts, may mature at different times, may bear interest, if any, at different rates, may be subject to different redemption provisions, if any, may be subject to different sinking, purchase or analogous funds, if any, may be subject to different covenants and Events of Default and may otherwise vary as in the Indenture provided or permitted. This Security is one of the series designated on the face hereof [, limited in aggregate principal amount to $_____].

This security is the general, unsecured, subordinated obligation of the Company [if applicable, insert-and is guaranteed pursuant to a guarantee (the "Guarantee") by [insert name of each Guarantor] (the "Guarantors"). The Guarantee is the general, unsecured, subordinated obligation of each Guarantor.]

[If applicable, insert-The Securities of this series are subject to redemption upon not less than _____ days' notice by mail, [if applicable, insert, -(1) on _____ in any year commencing with the year _____ and ending with the year _____ through operation of the sinking fund for this series at a Redemption Price equal to 100% of the principal amount, and (2)] at any time [on or after _____, 20___], as a whole or in part, at the election of the Company, at the following Redemption Prices (expressed as percentages of the principal amount): If redeemed [on or before _____, ____%, and if redeemed] during the 12-month period beginning _____ of the years indicated,

YEAR	REDEMPTION PRICE	YEAR	REDEMPTION PRICE
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

and thereafter at a Redemption Price equal to ____% of the principal amount, together in the case of any such redemption [if applicable, insert-(whether through operation of the sinking fund or otherwise)] with accrued interest to the Redemption Date, but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Record Dates referred to on the face hereof, all as provided in the Indenture.]

[If applicable, insert-The Securities of this series are subject to redemption upon not less than ____ nor more than ____ days' notice by mail, (1) on _____ in any year commencing with the year _____ and ending with the year _____ through operation of the sinking fund for this series at the Redemption Prices for redemption through operation of the sinking fund (expressed as percentages of the principal amount) set forth in the table below, and (2) at

anytime [on or after _____], as a whole or in part, at the election of the Company, at the Redemption Prices for redemption otherwise than through operation of the sinking fund (expressed as percentages of the principal amount) set forth in the table below: If redeemed during the 12-month period beginning _____ of the years indicated,

YEAR	REDEMPTION PRICE FOR REDEMPTION THROUGH OPERATION OF THE SINKING FUND	REDEMPTION PRICE FOR REDEMPTION OTHERWISE THAN THROUGH OPERATION OF THE SINKING FUND
_____	_____	_____
_____	_____	_____
_____	_____	_____

and thereafter at a Redemption Price equal to ____% of the principal amount, together in the case of any such redemption (whether through operation of the sinking fund or otherwise) with accrued interest to the Redemption Date, but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Record Dates referred to on the face hereof, all as provided in the Indenture.]

[If applicable, insert-Notwithstanding the foregoing, the Company may not, prior to _____, redeem any Securities of this series as contemplated by [Clause (2) of] the preceding paragraph as a part of, or in anticipation of, any refunding operation by the application, directly or indirectly, of moneys borrowed having an interest cost to the Company (calculated in accordance with generally accepted financial practice) of less than ____% per annum.]

[If applicable, insert-The sinking fund for this series provides for the redemption on _____ in each year beginning with the year _____ and ending with the year _____ of [not less than] $_____ [("mandatory sinking fund") and not more than $_____] aggregate principal amount of Securities of this series. [Securities of this series acquired or redeemed by the Company otherwise than through [mandatory] sinking fund payments may be credited against subsequent [mandatory] sinking fund payments otherwise required to be made [If applicable, insert-in the inverse order in which they become due].]

[If the Securities are subject to redemption in part of any kind, insert-In the event of redemption of this Security in part only, a new Security or Securities of this series and of like tenor for the unredeemed portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof.]

[If applicable, insert-The Securities of this series are not redeemable prior to Stated Maturity.]

[If the Security is not an Original Issue Discount Security,-If an Event of Default with respect to Securities of

this series shall occur and be continuing, the principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture.]

[If the Security is an Original Issue Discount Security,-If an Event of Default with respect to Securities of this series shall occur and be continuing, an amount of principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture. Such amount shall be equal to -insert formula for determining the amount. Upon payment (i) of the amount of principal so declared due and payable and (ii) of interest on any overdue principal and overdue interest (in each case to the extent that the payment of such interest shall be legally enforceable), all of the Company's obligations in respect of the payment of the principal of and interest, if any, on the Securities of this series shall terminate.]

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company [If applicable, insert-and the Guarantors] and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company [If applicable, insert-and the Guarantors] and the Trustee with the consent of the Holders of a majority in principal amount of the Securities at the time Outstanding of each series to be affected. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance by the Company [If applicable, insert-and the Guarantors] with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of (and premium, if any) and interest on this Security at the times, place(s) and rate, and in the coin or currency, herein prescribed.

[If a Global Security, insert-This Global Security or portion hereof may not be exchanged for Definitive Securities of this series except in the limited circumstances provided in the Indenture. The holders of beneficial interests in this Global Security will not be entitled to receive physical delivery of Definitive Securities except as described in the Indenture and will not be considered the Holders thereof for any purpose under the Indenture.]

[If a Definitive Security, insert-As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registerable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in [if applicable, insert-any place where the principal of and any premium and interest on this Security are payable] [if applicable, insert-The City of New York [, or, subject to any laws or regulations applicable thereto and to the right of the Company (limited as provided in the Indenture) to rescind the designation of any such transfer agent, at the [main] offices of _____

in _____ or at such other offices or agencies as the Company may designate]], duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities of this series and of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.]

The Securities of this series are issuable only in registered form without coupons in denominations of U.S. $_____ and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this series are exchangeable for a like aggregate principal amount of Securities of this series and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, [If applicable, insert-any Guarantor,] the Trustee and any agent of the Company [If applicable, insert-, a Guarantor] or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and none of the Company, [If applicable, insert-the Guarantors,] the Trustee nor any such agent shall be affected by notice to the contrary.

This Security is subordinated in right of payment to Senior Debt [If applicable, insert-and the Guarantee is subordinated in right of payment to Guarantor Senior Debt], to the extent and in the manner provided in the Indenture.

No recourse under or upon any obligation, covenant or agreement of or contained in the Indenture or of or contained in any Security, [If applicable, insert-, or the Guarantee endorsed thereon,] or for any claim based thereon or otherwise in respect thereof, or in any Security [If applicable, insert-or in the Guarantee], or because of the creation of any indebtedness represented thereby, shall be had against any incorporator, shareholder, member, officer, manager or director, as such, past, present or future, of the Company [If applicable, insert-or any Guarantor] or of any successor Person, either directly or through the Company [If applicable, insert-or any Guarantor] or any successor Person, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment, penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released by the acceptance hereof and as a condition of, and as part of the consideration for, the Securities and the execution of the Indenture.

The Indenture provides that the Company [If applicable, insert-and the Guarantors] (a) will be discharged from any and all obligations in respect of the Securities (except for certain obligations described in the Indenture), or (b) need not comply with certain restrictive covenants of the Indenture, in each case if the Company [If applicable, insert-or a Guarantor] deposits, in trust, with the Trustee money or U.S. Government Obligations (or a combination thereof) which

through the payment of interest thereon and principal thereof in accordance with their terms will provide money, in an amount sufficient to pay all the principal of and interest on the Securities, but such money need not be segregated from other funds except to the extent required by law. Except as otherwise defined herein, all terms used in this Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

[If a Definitive Security, insert as a separate page-

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto _____ (Please Print or Typewrite Name and Address of Assignee) the within instrument of COMSTOCK RESOURCES, INC. and does hereby irrevocably constitute and appoint _____ Attorney to transfer said instrument on the books of the within-named Company, with full power of substitution in the premises.

Please Insert Social Security or Other Identifying Number of Assignee:

_____ _____

Dated:_____ _____
(Signature)

NOTICE: The signature to this assignment must correspond with the name as written upon the face of the within instrument in every particular, without alteration or enlargement or any change whatever.]

[If a Security to which Article Fourteen has been made applicable, insert the following Form of Notation on such Security relating to the Guarantee--

Each of the Guarantors (which term includes any successor Person in such capacity under the Indenture), has fully, unconditionally and absolutely guaranteed, to the extent set forth in the Indenture and subject to the provisions in the Indenture, the due and punctual payment of the principal of, and premium, if any, and interest on the Securities and all other amounts due and payable under the Indenture and the Securities by the Company.

The obligations of the Guarantors to the Holders of Securities and to the Trustee pursuant to the Guarantee and the Indenture are expressly set forth in Article Fourteen of the Indenture and reference is hereby made to the Indenture for the precise terms of the Guarantee.

Guarantors:

[NAME OF EACH GUARANTOR]

By: _____

Name:_____

Section 2.4. Global Securities.

Every Global Security authenticated and delivered hereunder shall bear a legend in substantially the following form:

THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS SECURITY MAY NOT BE TRANSFERRED TO, OR REGISTERED OR EXCHANGED FOR SECURITIES REGISTERED IN THE NAME OF, ANY PERSON OTHER THAN THE DEPOSITARY OR A NOMINEE THEREOF AND NO SUCH TRANSFER MAY BE REGISTERED, EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

EVERY SECURITY AUTHENTICATED AND DELIVERED UPON REGISTRATION OF TRANSFER OF, OR IN EXCHANGE FOR OR IN LIEU OF, THIS SECURITY SHALL BE A GLOBAL SECURITY SUBJECT TO THE FOREGOING, EXCEPT IN SUCH LIMITED CIRCUMSTANCES.

If Securities of a series are issuable in whole or in part in the form of one or more Global Securities, as specified as contemplated by Section 3.1, then, notwithstanding clause (9) of Section 3.1 and the provisions of Section 3.2, any Global Security shall represent such of the Outstanding Securities of such series as shall be specified therein and may provide that it shall represent the aggregate amount of Outstanding Securities from time to time endorsed thereon and that the aggregate amount of Outstanding Securities represented thereby may from time to time be reduced or increased, as the case may be, to reflect exchanges. Any endorsement of a Global Security to reflect the amount, or any reduction or increase in the amount, of Outstanding Securities represented thereby shall be made in such manner and upon instructions given by such Person or Persons as shall be specified therein or in a Company Order. Subject to the provisions of Sections 3.3, 3.4 and 3.5, the Trustee shall deliver and redeliver any Global Security in the manner and upon instructions given by the Person or Persons specified therein or in the applicable Company Order. Any instructions by the Company with respect to endorsement or delivery or redelivery of a Global Security shall be in a Company Order (which need not comply with Section 1.3 and need not be accompanied by an Opinion of Counsel).

The provisions of the last sentence of Section 3.3 shall apply to any Security represented by a Global Security if such Security was never issued and sold by the Company and the Company delivers to the Trustee the Global Security together with a Company Order (which need not comply with Section 1.3 and need not be accompanied by an Opinion of Counsel) with regard to the reduction or increase, as the case may be, in the principal amount of Securities represented thereby, together with the written statement contemplated by the last sentence of Section 3.3.

Section 2.5. Form of Trustee's Certificate of Authentication.

The Trustee's certificate(s) of authentication shall be in substantially the following form:

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

THE BANK OF NEW YORK TRUST
COMPANY, N.A., as Trustee

By:_____
Authorized Officer

ARTICLE III.

THE SECURITIES

Section 3.1. Amount Unlimited; Issuable in Series.

The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution, and set forth, or determined in the manner provided, in an Officer's Certificate, or established in one or more indentures supplemental hereto, prior to the issuance of Securities of any series,

(1) the title of the Securities of the series (which shall distinguish the Securities of the series from all other Securities and which may be part of a series of Securities previously issued);

(2) any limit upon the aggregate principal amount of the Securities of the series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Sections 3.4, 3.5, 3.6, 9.6 or 11.7 and except for any Securities which, pursuant to Section 3.3, are deemed never to have been authenticated and delivered hereunder);

(3) the Person to whom any interest on a Security of the series shall be payable, if other than the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest;

(4) the date or dates on which the principal of the Securities of the series is payable or the method of determination thereof;

(5) the rate or rates at which the Securities of the series shall bear interest, if any, or the formula, method or provision pursuant to which such rate or rates are determined, the date or dates from which such interest shall accrue or the method of determination thereof, the Interest Payment Dates on which such interest shall be payable and the Regular Record Date for the interest payable on any Interest Payment Date;

(6) the place or places where, subject to the provisions of Section 10.2, the principal of and any premium and interest on Securities of the series shall be payable, Securities of the series may be surrendered for registration of transfer, Securities of the series may be surrendered for exchange and notices, and demands to or upon the Company in respect of the Securities of the series and this Indenture may be served;

(7) the period or periods within which, the price or prices at which and the terms and conditions upon which Securities of the series may be redeemed, in whole or in part, at the option of the Company;

(8) the obligation, if any, of the Company to redeem or purchase Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof and the period or periods within which, the price or prices at which and the terms and conditions upon which Securities of the series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(9) if other than denominations of $1,000 and any integral multiple thereof, the denominations in which Securities of the series shall be issuable;

(10) whether payment of principal of and premium, if any, and interest, if any, on the Securities of the series shall be without deduction for taxes, assessments or governmental charges paid by Holders of the series;

(11) if other than the principal amount thereof, the portion of the principal amount of Securities of the series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 5.2;

(12) if the amount of payments of principal of and any premium or interest on the Securities of the series may be determined with reference to an index, the manner in which such amounts shall be determined;

(13) if and as applicable, that the Securities of the series shall be issuable in whole or in part in the form of one or more Global Securities and, in such case, the Depositary or Depositaries for such Global Security or Global Securities and any circumstances other than those set forth in Section 3.5 in which any such Global Security may be transferred to, and registered and exchanged for Securities registered in the name of, a Person other than the Depositary for such Global Security or a nominee thereof and in which any such transfer may be registered;

(14) any deletions from, modifications of or additions to the Events of Default set forth in Section 5.1 or the covenants of the Company set forth in Article Ten with respect to the Securities of such series;

(15) whether and under what circumstances the Company will pay additional amounts on the Securities of the series held by a Person who is not a U.S. person in respect of any tax, assessment or governmental charge withheld or deducted and, if so, whether the Company will have the option to redeem the Securities of the series rather than pay such additional amounts;

(16) if the Securities of the series are to be issuable in definitive form (whether upon original issue or upon exchange of a temporary Security of such series) only upon receipt of certain certificates or other documents or satisfaction of other conditions, the form and terms of such certificates, documents or conditions;

(17) if the Securities of the series are to be convertible into or exchangeable for any other security or property of the Company, including, without limitation, securities of another Person held by the Company or its Affiliates and, if so, the terms thereof;

(18) if other than as provided in Sections 13.2 and 13.3, the means of defeasance or covenant defeasance as may be specified for the Securities of the Series;

(19) if other than the Trustee, the identity of the initial Security Registrar and any initial Paying Agent;

(20) whether the Securities of the series will be guaranteed pursuant to the Guarantee, any modifications to the terms of Article Fourteen applicable to the Securities of such series and the applicability of any other guarantees; and

(21) any other terms of the series (which terms shall not be inconsistent with the provisions of this Indenture).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to the Board Resolution referred to above and (subject to Section 3.3) set forth, or determined in the manner provided, in the Officer's Certificate referred to above or in any such indenture supplemental hereto.

All Securities of any one series need not be issued at the same time and, unless otherwise provided, a series may be reopened, without the consent of the Holders, for increases in the aggregate principal amount of such series of Securities and issuances of additional Securities of such series or for the establishment of additional terms with respect to the Securities of such series.

If any of the terms of the series are established by action taken by or pursuant to a Board Resolution, a copy of an appropriate record of such action shall be certified by an authorized officer or other authorized person on behalf of the Company and, if applicable, the Guarantors

and delivered to the Trustee at or prior to the delivery of the Officer's Certificate setting forth, or providing the manner for determining, the terms of the series.

With respect to Securities of a series subject to a Periodic Offering, such Board Resolution or Officer's Certificate may provide general terms for Securities of such series and provide either that the specific terms of particular Securities of such series shall be specified in a Company Order or that such terms shall be determined by the Company and, if applicable, the Guarantors or one or more agents thereof designated in an Officer's Certificate, in accordance with a Company Order.

Section 3.2. Denominations.

The Securities of each series shall be issuable in registered form without coupons in such denominations as shall be specified as contemplated by Section 3.1. In the absence of any such provisions with respect to the Securities of any series, the Securities of such series shall be issuable in denominations of $1,000 and any integral multiple thereof.

Section 3.3. Execution, Authentication, Delivery and Dating.

The Securities shall be executed on behalf of the Company by its Chairman of the Board, its Chief Executive Officer, its President, its Chief Financial Officer or any of its Vice Presidents and need not be attested. The signature of any of these officers on the Securities may be manual or facsimile. Any Guarantee endorsed on the Securities shall be executed on behalf of the applicable Guarantor by its Chairman of the Board, its Chief Executive Officer, its President, its Chief Financial Officer or any of its Vice Presidents and need not be attested.

Securities and any Guarantee bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company or a Guarantor, as the case may be, shall bind the Company or such Guarantor, as the case may be, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities, and the Trustee in accordance with the Company Order shall authenticate and deliver such Securities; provided, however, that in the case of Securities offered in a Periodic Offering, the Trustee shall authenticate and deliver such Securities from time to time in accordance with such other procedures (including, without limitation, the receipt by the Trustee of oral or electronic instructions from the Company or its duly authorized agents, thereafter promptly confirmed in writing) acceptable to the Trustee as may be specified by or pursuant to a Company Order delivered to the Trustee prior to the time of the first authentication of Securities of such series. If the forms or terms of the Securities of the series have been established in or pursuant to one or more Board Resolutions as permitted by Sections 2.1 and 3.1, in authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive such documents as it may reasonably request.

The Trustee shall also be entitled to receive, and (subject to Section 6.1) shall be fully protected in relying upon, an Opinion of Counsel stating,

(a) if the form or forms of such Securities has been established in or pursuant to a Board Resolution as permitted by Section 2.1, that each such form has been established in conformity with the provisions of this Indenture;

(b) if the terms of such Securities have been, or in the case of Securities of a series offered in a Periodic Offering will be, established in or pursuant to a Board Resolution as permitted by Section 3.1, that such terms have been, or in the case of Securities of a series offered in a Periodic Offering will be, established in conformity with the provisions of this Indenture, subject, in the case of Securities of a series offered in a Periodic Offering, to any conditions specified in such Opinion of Counsel; and

(c) that such Securities when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions and assumptions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company and, if applicable, the Guarantors, enforceable in accordance with their terms, subject to the following limitations: (i) bankruptcy, insolvency, moratorium, reorganization, liquidation, fraudulent conveyance or transfer and other similar laws of general applicability relating to or affecting the enforcement of creditors' rights, or to general equity principles, (ii) the availability of equitable remedies being subject to the discretion of the court to which application therefor is made; and (iii) such other usual and customary matters as shall be specified in such Opinion of Counsel.

If such form or forms or terms have been so established, the Trustee shall not be required to authenticate such Securities if the issue of such Securities pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner which is not reasonably acceptable to the Trustee.

Notwithstanding the provisions of Section 3.1 and of the preceding paragraph, if all Securities of a series are not to be originally issued at one time, it shall not be necessary to deliver the Officer's Certificate otherwise required pursuant to Section 3.1 or the Company Order and Opinion of Counsel otherwise required pursuant to such preceding paragraph at or prior to the time of authentication of each Security of such series if such documents are delivered at or prior to the authentication upon original issuance of the first Security of such series to be issued.

With respect to Securities of a series offered in a Periodic Offering, the Trustee may rely, as to the authorization by the Company of any of such Securities, the form or forms and terms thereof and the legality, validity, binding effect and enforceability thereof, upon the Opinion of Counsel and the other documents delivered pursuant to Sections 2.1 and 3.1 and this Section, as applicable, in connection with the first authentication of Securities of such series.

Each Security shall be dated the date of its authentication.

No Security, nor any Guarantee endorsed thereon, shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a

certificate of authentication substantially in the form provided for herein executed by the Trustee by manual signature of an authorized officer, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder and is entitled to the benefits of this Indenture. Notwithstanding the foregoing, if any Security shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Trustee for cancellation as provided in Section 3.9 for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

Section 3.4. Temporary Securities.

Pending the preparation of Definitive Securities of any series, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the Definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities.

If temporary Securities of any series are issued, the Company will cause Definitive Securities of that series to be prepared without unreasonable delay. After the preparation of Definitive Securities of such series, the temporary Securities of such series shall be exchangeable for Definitive Securities of such series upon surrender of the temporary Securities of such series at the office or agency of the Company in a Place of Payment for that series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of Definitive Securities of the same series and tenor of authorized denominations. Until so exchanged the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as Definitive Securities of such series.

Section 3.5. Registration, Registration of Transfer and Exchange.

The Company shall cause to be kept at the office or agency of the Company in the Borough of Manhattan, the City of New York or in any other office or agency of the Company in a Place of Payment required by Section 10.2 a register (the register maintained in such office being herein sometimes referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Securities and of transfers of Securities. The Trustee is hereby appointed as the initial "Security Registrar" for the purpose of registering Securities and transfers of Securities as herein provided and its corporate trust office, which, at the date hereof, is located at 101 Barclay Street, New York, New York 10286, is the initial office or agency in the Borough of Manhattan where the Securities Register will be maintained. The Company may at any time replace such Security Registrar, change such office or agency or act as its own Security Registrar. The Company will

give prompt written notice to the Trustee of any change of the Security Registrar or of the location of such office or agency.

Upon surrender for registration of transfer of any Security of any series at the office or agency maintained pursuant to Section 10.2 for such purpose, the Company and, if applicable, the Guarantors shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities, with an endorsement of the Guarantee, if applicable, executed by the Guarantors, of the same series and tenor, of any authorized denominations and of a like aggregate principal amount.

At the option of the Holder, Securities of any series (except a Global Security) may be exchanged for other Securities of the same series and tenor, of any authorized denominations and of a like aggregate principal amount, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Company and, if applicable, the Guarantors shall execute and the Trustee shall authenticate and deliver, the Securities, with an endorsement of the Guarantee, if applicable, executed by the Guarantors, which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company and, if applicable, the Guarantors evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such registration of transfer or exchange.

Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed, by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 3.4, 9.6 or 11.7 not involving any transfer.

The Company shall not be required (i) to issue, register the transfer of or exchange Securities of any series during a period beginning at, the opening of business 15 days before the day of the mailing of a notice of redemption of Securities of that series selected for redemption under Section 11.3 and ending at the close of business on the day of such mailing, or (ii) to register the transfer of or exchange any Security so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part.

Notwithstanding any other provisions of this Indenture and except as otherwise specified with respect to any particular series of Securities as contemplated by Section 3.1, a Global Security representing all or a portion of the Securities of a series may not be transferred, except as a whole by the Depositary for such series to a nominee of such Depositary or by a nominee of such Depositary to such Depositary or another nominee of such Depositary or by such

Depositary or any such nominee to a successor Depositary for such series or a nominee of such successor Depositary. Every Security authenticated and delivered upon registration of, transfer of, or in exchange for or in lieu of, a Global Security shall be a Global Security except as provided in the two paragraphs immediately following.

If at any time the Depositary for any Securities of a series represented by one or more Global Securities notifies the Company that it is unwilling or unable to continue as Depositary for such Securities or if at any time the Depositary for such Securities shall no longer be eligible to continue as Depositary under Section 1.1 or ceases to be a clearing agency registered under the Exchange Act, the Company shall appoint a successor Depositary with respect to such Securities. If a successor Depositary for such Securities is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such ineligibility, the Company's election pursuant to Section 3.1 that such Securities be represented by one or more Global Securities shall no longer be effective and the Company and, if applicable, the Guarantors will execute and the Trustee, upon receipt of a Company Order for the authentication and delivery of Definitive Securities of such series, will authenticate and deliver, Securities, with an endorsement of the Guarantee, if applicable, executed by the Guarantors, of such series in definitive registered form without coupons, in any authorized denominations, in an aggregate principal amount equal to the principal amount of the Global Security or Securities representing such Securities in exchange for such Global Security or Securities registered in the names of such Persons as the Depositary shall direct.

The Company may at any time and in its sole discretion determine that the Securities of any series issued in the form of one or more Global Securities shall no longer be represented by a Global Security or Securities. In such event the Company and, if applicable, the Guarantors will execute and the Trustee, upon receipt of a Company Order for the authentication and delivery of the Definitive Securities of such series, will authenticate and deliver, Securities, with an endorsement of the Guarantee, if applicable, executed by the Guarantors, of such series in definitive registered form without coupons, in any authorized denominations, in an aggregate principal amount equal to the principal amount of the Global Security or Securities representing such Securities in exchange for such Global Security or Securities registered in the names of such Persons as the Depositary shall direct.

If specified by the Company pursuant to Section 3.1 with respect to Securities represented by a Global Security, the Depositary for such Global Security may surrender such Global Security in exchange in whole or in part for Securities of the same series and tenor in definitive registered form on such terms as are acceptable to the Company and such Depositary. Thereupon, the Company and, if applicable, the Guarantors shall execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of Securities in definitive registered form, shall authenticate and deliver, without service charge,

(1) to the Person specified by such Depositary a new Security or Securities, with an endorsement of the Guarantee, if applicable, executed by the Guarantors, of the same series and tenor, of any authorized denominations as requested by such Person, in an aggregate principal amount equal to and in exchange for such Person's beneficial interest in the Global Security; and

(2) to such Depositary a new Global Security, with an endorsement of the Guarantee, if applicable, executed by the Guarantors, in a denomination equal to the difference, if any, between the principal amount of the surrendered Global Security and the aggregate principal amount of Securities authenticated and delivered pursuant to clause (1) above.

Every Person who takes or holds any beneficial interest in a Global Security agrees that:

(a) the Company, the Guarantors (if applicable) and the Trustee may deal with the Depositary as sole owner of the Global Security and as the authorized representative of such Person;

(b) such Person's rights in the Global Security shall be exercised only through the Depositary and shall be limited to those established by law and agreement between such Person and the Depositary and/or direct and indirect participants of the Depositary;

(c) the Depositary and its participants make book-entry transfers of beneficial ownership among, and receive and transmit distributions of principal and interest on the Global Securities to, such Persons in accordance with their own procedures; and

(d) none of the Company, the Guarantors (if applicable), the Trustee, nor any agent of any of them will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

Section 3.6. Mutilated, Destroyed, Lost and Stolen Securities.

If any mutilated Security is surrendered to the Trustee, together with, in proper cases, such security or indemnity as may be required by the Company, the Guarantors (if applicable) or the Trustee to save each of them and any agent of any of them harmless, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security, with an endorsement of the Guarantee, if applicable, executed by the Guarantors, of the same series and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

If there shall be delivered to the Company, the Guarantors (if applicable) and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a bona fide purchaser, the Company and, if applicable, the Guarantors shall execute and upon its request the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security, with an endorsement of the Guarantee, if applicable, executed by the Guarantors, of the same series and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security.

Upon the issuance of any new Security under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security of any series issued pursuant to this Section in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company and, if applicable, the Guarantors, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of that series duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

Section 3.7. Payment of Interest; Interest Rights Preserved.

Except as otherwise provided as contemplated by Section 3.1 with respect to any series of Securities, interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest.

Any interest on any Security of any series which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security of such series and the date of the proposed payment, and at the same time the Company 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 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 in this clause provided. Thereupon, the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the

proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of Securities of such series at his address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (2).

(2) The Company may make payment of any Defaulted Interest on the Securities of any series in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee. Subject to the foregoing provisions of this Section, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

Section 3.8. Persons Deemed Owners.

Except as otherwise provided as contemplated by Section 3.1 with respect to any series of Securities, prior to due presentment of a Security for registration of transfer, the Company, the Trustee and, if applicable, the Guarantors and any agent thereof may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of and any premium and (subject to Sections 3.5 and 3.7) any interest on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and none of the Company, the Trustee nor, if applicable, the Guarantors nor any agent of any of them shall be affected by notice to the contrary.

No holder of any beneficial interest in any Global Security held on its behalf by a Depositary shall have any rights under this Indenture with respect to such Global Security, and such Depositary may be treated by the Company, the Trustee, and, if applicable, the Guarantors and any agent of thereof as the owner of such Global Security for all purposes whatsoever.

Section 3.9. Cancellation.

All Securities surrendered for payment, redemption, registration of transfer or exchange or for credit against any sinking fund payment shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly canceled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Securities previously authenticated hereunder which the Company has not issued and sold, and all Securities so delivered shall be promptly canceled by the Trustee. No Securities shall be

authenticated in lieu of or in exchange for any Securities canceled as provided in this Section, except as expressly permitted by this Indenture. All canceled Securities held by the Trustee shall be disposed of in accordance with its customary practices, and the Trustee shall thereafter deliver to the Company a certificate with respect to such disposition.

Section 3.10. Computation of Interest.

Except as otherwise specified as contemplated by Section 3.1 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a year of twelve 30-day months.

Section 3.11. CUSIP or CINS Numbers.

The Company in issuing the Securities may use "CUSIP" or "CINS" numbers (if then generally in use, and in addition to the other identification numbers printed on the Securities), and, if so, the Trustee shall use "CUSIP" or "CINS" numbers in notices of redemption as a convenience to Holders; provided, however, that any such notice may state that no representation is made as to the correctness of such "CUSIP" or "CINS" numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such "CUSIP" or "CINS" numbers.

ARTICLE IV.

SATISFACTION AND DISCHARGE

Section 4.1. Satisfaction and Discharge of Indenture.

This Indenture shall cease to be of further effect with respect to the Securities of any series (except as to any surviving rights of registration of transfer or exchange of Securities herein expressly provided for), and the Trustee, upon Company Request and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture with respect to such Securities, when:

(1) either

(a) all such Securities theretofore authenticated and delivered (other than (i) such Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.6, and (ii) such Securities for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 1.3) have been delivered to the Trustee for cancellation; or

(b) all such Securities not theretofore delivered to the Trustee for cancellation

(1) have become due and payable, or

(2) will become due and payable at their Stated Maturity within one year, or

(3) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company, and the Company, in the case of (1), (2) or (3) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for such purpose an amount sufficient to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal (and premium, if any) and interest to the date of such deposit (in the case of Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company with respect to such Securities; and

(3) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture with respect to such Securities have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture with respect to the Securities of any series, (x) the obligations of the Company to the Trustee under Section 6.7, the obligations of the Trustee to any Authenticating Agent under Section 6.14 and the right of the Trustee to resign under Section 6.10 shall survive, and (y) if money shall have been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section, the obligations of the Company and the Trustee under Section 4.2, 6.6 and 10.2 and the last paragraph of Section 10.3 shall survive.

Section 4.2. Application of Trust Money.

Subject to the provisions of the last paragraph of Section 10.3, all money deposited with the Trustee pursuant to Section 4.1 shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal and any premium and interest for whose payment such money has been deposited with the Trustee.

ARTICLE V.

REMEDIES

Section 5.1. Events of Default.

"Event of Default", wherever used herein with respect to Securities of any series, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in the payment of any interest upon any Security of that series when it becomes due and payable, and continuance of such default for a period of 30 days (whether or not such payment is prohibited by the provisions of Article Fifteen hereof); or

(2) default in the payment of the principal of (or premium, if any, on) any Security of that series at its Maturity (whether or not such payment is prohibited by the provisions of Article Fifteen hereof); or

(3) default in the performance, or breach, of any covenant set forth in Article X in this Indenture (other than a covenant a default in whose performance or whose breach is elsewhere in this Section specifically dealt with or which has expressly been included in this Indenture solely for the benefit of series of Securities other than that series), and continuance of such default or breach for a period of 90 days after there has been given, by registered or certified mail, to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in principal amount of the Outstanding Securities of that series a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; or

(4) default in the performance, or breach, of any covenant in this Indenture (other than a covenant in Article X or any other covenant a default in whose performance or whose breach is elsewhere in this Section specifically dealt with or which has expressly been included in this Indenture solely for the benefit of series of Securities other than that series), and continuance of such default or breach for a period of 180 days after there has been given, by registered or certified mail, to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in principal amount of the Outstanding Securities of that series a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; or

(5) the Company pursuant to or within the meaning of any Bankruptcy Law (a) commences a voluntary case, (b) consents to the entry of any order for relief against it in an involuntary case, (c) consents to the appointment of a Custodian of it or for all or substantially all of its property, or (d) makes a general assignment for the benefit of its creditors; or

(6) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (a) is for relief against the Company in an involuntary case, (b) appoints a Custodian of the Company or for all or substantially all of its property, or (c) orders the liquidation of the Company; and the order or decree remains unstayed and in effect for 90 consecutive days; or

(7) default in the deposit of any sinking fund payment when due; or

(8) any other Event of Default provided with respect to Securities of that series in accordance with Section 3.1.

Section 5.2. Acceleration of Maturity; Rescission and Annulment.

If an Event of Default with respect to Securities of any series at the time Outstanding occurs and is continuing, then in every such case the Trustee or the Holders of a specified percentage in aggregate principal amount of the Outstanding Securities of that series may declare the principal amount (or, if the Securities of that series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of that series) of all of the Securities of that series to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), and upon any such declaration such principal amount (or specified amount) shall become immediately due and payable. Notwithstanding the foregoing, if an Event of Default specified in clause (5) or (6) of Section 5.1 occurs, the Securities of any series at the time Outstanding shall be due and payable immediately without further action or notice.

At any time after such a declaration of acceleration with respect to Securities of any series has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article Five provided, the Holders of a majority in principal amount of the Outstanding Securities of that series, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if:

(1) the Company or, if applicable, one or more of the Guarantors has paid or deposited with the Trustee a sum sufficient to pay:

(a) all overdue interest on all Securities of that series,

(b) the principal of (and premium, if any, on) any Securities of that series which have become due otherwise than by such declaration of acceleration and any interest thereon at the rate or rates prescribed therefor in such Securities,

(c) to the extent that payment of such interest is lawful, interest upon overdue interest at the rate or rates prescribed therefor in such Securities, and

(d) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and

(2) all Events of Default with respect to Securities of that series, other than the non-payment of the principal of Securities of that series which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 5.13. No such rescission shall affect any subsequent default or impair any right consequent thereon.

Section 5.3. Collection of Indebtedness and Suits for Enforcement by Trustee.

The Company covenants that if:

(1) default is made in the payment of any installment of interest on any Security when such interest becomes due and payable and such default continues for a period of 60 days (whether or not such payment is prohibited by the provisions of Article Fifteen hereof), or

(2) default is made in the payment of the principal of (or premium, if any, on) any Security at the Maturity thereof (whether or not such payment is prohibited by the provisions of Article Fifteen hereof), the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and any premium and interest and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal and any premium and on any overdue interest, at the rate or rates prescribed therefor in such Securities, and, in addition thereto, 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.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company or, if applicable, the Guarantors or any other obligor upon such Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or, if applicable, the Guarantors or any other obligor upon such Securities, wherever situated.

If an Event of Default with respect to Securities of any series occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities of such series by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 5.4. Trustee May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or, if applicable, any Guarantor or any other obligor upon the Securities, their property or their creditors, the Trustee (irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether

the Trustee shall have made any demand on the Company or, if applicable, the Guarantors for the payment of overdue principal or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(i) to file and prove a claim for the whole amount of principal (and premium, if any) and interest owing and unpaid in respect of the Securities and to file such 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 and counsel) and of the Holders allowed in such judicial proceeding, and

(ii) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, if the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 6.7.

No provision of this Indenture 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, compromise, arrangement, adjustment or composition affecting the Securities or, if applicable, the Guarantee 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; provided, however, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee.

Section 5.5. Trustee May Enforce Claims Without Possession of Securities.

All rights of action and claims under this Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

Section 5.6. Application of Money Collected.

Any money collected by the Trustee pursuant to this Article Five shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or any premium or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 6.7;

SECOND: Subject to Article Fifteen, to the payment of the amounts then due and unpaid for principal of and any premium and interest on the Securities in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal and any premium and interest, respectively; and

THIRD: The balance, if any, to the Company.

Section 5.7. Limitation on Suits.

No Holder of any Security of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture (including, if applicable, the Guarantee), or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(1) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Securities of that series;

(2) the Holders of not less than 25% in principal amount of the Outstanding Securities of that series shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(3) such Holder or Holders have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;

(4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in principal amount of the Outstanding Securities of that series; it being understood and intended that no one or more of such Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other of such Holders, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all such Holders.

Section 5.8. Unconditional Right of Holders to Receive Principal, Premium and Interest.

Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment of the principal of and any premium and (subject to Sections 3.5 and 3.7) interest on such Security on the Stated Maturity or Maturities expressed in such Security (or, in the case of redemption, on the

Redemption Date) and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

Section 5.9. Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture 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, subject to any determination in such proceeding, the Company, the Guarantors, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 5.10. Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 3.6, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 5.11. Delay or Omission Not Waiver.

To fullest extent permitted by applicable law, no delay or omission of the Trustee or of any Holder of any Securities to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article Five or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 5.12. Control by Holders.

The Holders of not less than a majority in principal amount of the Outstanding Securities of any series 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, with respect to the Securities of such series; provided, however, that:

(1) such direction shall not be in conflict with any rule of law or with this Indenture;

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction; and

(3) subject to the provisions of Section 6.1, the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall determine that the proceeding so directed would involve the Trustee in personal liability.

Section 5.13. Waiver of Past Defaults.

The Holders of not less than a majority in principal amount of the Outstanding Securities of any series may on behalf of the Holders of all the Securities of such series waive any past default hereunder with respect to such series and its consequences, except:

(1) a continuing default in the payment of the principal of or any premium or interest on any Security of such series, or

(2) a default in respect of a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Security of such series affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture, but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 5.14. Undertaking for Costs.

All parties to this Indenture agree, and each Holder of any Security by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, 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, suffered or omitted by it as Trustee, the filing by any party litigant, other than the Trustee, in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but (1) the provisions of this Section 5.14 shall not apply to any suit instituted by the Company, to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the Outstanding Securities of any series, or to any suit instituted by any Holder for the enforcement of the payment of the principal of (or premium, if any) or interest on any Security on or after the Stated Maturity or Maturities expressed in such Security (or, in the case of redemption, on or after the Redemption Date).

Section 5.15. Waiver of Stay or Extension Laws.

Each of the Company and the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and each of the Company and the Guarantors (to the extent that it may lawfully do so) 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.

ARTICLE VI.

THE TRUSTEE

Section 6.1. Certain Duties and Responsibilities.

(a) Except during the continuance of an Event of Default,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and as are provided by the Trust Indenture Act, and, except for implied covenants or obligations under the Trust Indenture Act, no implied covenants or obligations shall be read into this Indenture against the Trustee; 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; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

(b) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this Subsection shall not be construed to limit the effect of Subsection (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Securities of any series, given pursuant to Section 5.12, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Securities of such series; and

(4) 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 hereunder, 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.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

Section 6.2. Notice of Defaults.

Within 90 days after the occurrence of any Default hereunder with respect to the Securities of any series, the Trustee shall transmit by mail to all Holders of Securities of such series, as their names and addresses appear in the Security Register, notice of such Default hereunder known to the Trustee, unless such Default shall have been cured or waived; provided, however, that, except in the case of a Default in the payment of the principal of or any premium or interest on any Security of such series or in the payment of any sinking fund installment with respect to Securities of such series, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interest of the Holders of Securities of such series; and, provided, further, that in the case of any Default of the character specified in Section 5.1(3) with respect to Securities of such series, no such notice to Holders shall be given until at least 90 days after the occurrence thereof and that in the case of any Default of the character specified in Section 5.1(4) with respect to Securities of such series, no such notice to Holders shall be given until at least 180 days after the occurrence thereof.

Section 6.3. Certain Rights of Trustee.

Subject to the provisions of Section 6.1:

(a) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request or direction of the Company or a Guarantor mentioned herein shall be sufficiently evidenced by a Company Request or Company Order (other than delivery of any Security to the Trustee for authentication and delivery pursuant to Section 3.3, which shall be sufficiently evidenced as provided therein) and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

(c) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) shall be entitled to receive and may, in the absence of bad faith on its part, rely upon an Officer's Certificate;

(d) the Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(e) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness 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 to examine the books, records and premises of the Company, personally or by agent or attorney;

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder and shall not be responsible for the supervision of officers and employees of such agents or attorneys;

(h) the Trustee may request that the Company and, if applicable, the Guarantors deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's Certificate may be signed by any person authorized to sign an Officer's Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded; and

(i) the Trustee shall be entitled to the rights and protections afforded to the Trustee pursuant to this Article Six in acting as a Paying Agent or Security Registrar hereunder.

Section 6.4. Not Responsible for Recitals or Issuance of Securities.

The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company or, if applicable, the Guarantors, and the Trustee or any Authenticating Agent assumes no responsibility for their correctness. Neither the Trustee nor any Authenticating Agent makes any representations as to the validity or sufficiency of this Indenture or of the Securities. The Trustee or any Authenticating Agent shall

not be accountable for the use or application by the Company of Securities or the proceeds thereof.

Section 6.5. May Hold Securities.

The Trustee, any Authenticating Agent, any Paying Agent, any Security Registrar or any other agent of the Company or, if applicable, any Guarantor, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Sections 310(b) and 311 of the Trust Indenture Act and Sections 6.8, 6.9 and 6.13, may otherwise deal with the Company or, if applicable, the Guarantors with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.

Section 6.6. Money Held in Trust.

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company or, if applicable, one or more of the Guarantors.

Section 6.7. Compensation and Reimbursement.

The Company agrees:

(1) to pay to the Trustee from time to time reasonable compensation for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith; and

(3) to indemnify each of the Trustee and its officers, directors, agents and employees for, and to hold it harmless against, any loss, liability or expense incurred without negligence or willful misconduct on its part, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

As security for the performance of the obligations of the Company under this Section the Trustee shall have a lien prior to the Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the payment of principal of (and premium, if any) or interest on particular Securities.

Without limiting any rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 5.1(5) or Section 5.1(6), the expenses (including the reasonable charges and expenses of its counsel) and the compensation for the services of the Trustee are intended to constitute expenses of administration under any applicable Bankruptcy Law.

The provisions of this Section 6.7 shall survive the satisfaction and discharge of this Indenture and the defeasance of the Securities.

Section 6.8. Disqualification; Conflicting Interests.

Reference is made to Section 310(b) of the Trust Indenture Act. There shall be excluded from the operation of Section 310(b)(1) of the Trust Indenture Act this Indenture with respect to the Securities of more than one series.

Section 6.9. Corporate Trustee Required; Eligibility.

There shall at all times be a Trustee hereunder which shall be a corporation organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus required by the Trust Indenture Act, subject to supervision or examination by Federal or State authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Trustee shall not be an obligor upon the Securities or an Affiliate thereof. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article Six.

Section 6.10. Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 6.11.

(b) The Trustee may resign at any time with respect to the Securities of one or more series by giving written notice thereof to the Company. If the instrument of acceptance by a successor Trustee required by Section 6.11 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

(c) The Trustee may be removed at any time with respect to the Securities of any series by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series, delivered to the Trustee and to the Company.

(d) If at any time:

(1) the Trustee shall fail to comply with Section 310(b) of the Trust Indenture Act after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Security for at least six months, or

(2) the Trustee shall cease to be eligible under Section 6.9 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case, (i) the Company by a Board Resolution may remove the Trustee with respect to all Securities, or (ii) subject to Section 5.14, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Securities and the appointment of a successor Trustee or Trustees.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, with respect to the Securities of one or more series, the Company, by a Board Resolution, shall promptly appoint a successor Trustee or Trustees with respect to the Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Securities of one or more or all of such series and that at any time there shall be only one Trustee with respect to the Securities of any particular series) and shall comply with the applicable requirements of Section 6.11. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Securities of any series shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment in accordance with the applicable requirements of Section 6.11, become the successor Trustee with respect to the Securities of such series and to that extent supersede the successor Trustee appointed by the Company. If no successor Trustee with respect to the Securities of any series shall have been so appointed by the Company or the Holders and accepted appointment in the manner required by Section 6.11, any Holder who has been a bona fide Holder of a Security of such series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

(f) The Company shall give notice of each resignation and each removal of the Trustee with respect to the Securities of any series and each appointment of a successor Trustee with respect to the Securities of any series to all Holders of Securities of such series in the manner provided in Section 1.7. Each notice shall include the name of the successor Trustee with respect to the Securities of such series and the address of its Corporate Trust Office.

Section 6.11. Acceptance of Appointment by Successor.

(a) In case of the appointment hereunder of a successor Trustee with respect to all Securities, every such successor Trustee so appointed shall execute, acknowledge and deliver to the Company, the Guarantors (if applicable) and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or, if applicable, any Guarantor or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.

(b) In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the Guarantors (if applicable), the retiring Trustee and each successor Trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which (1) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates; but, on request of the Company, any Guarantor (if applicable) or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor Trustee relates.

(c) Upon request of any such successor Trustee, the Company and, if applicable, the Guarantors shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to in paragraph (a) or (b) of this Section, as the case may be.

(d) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article and the Trust Indenture Act.

Section 6.12. Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article Six, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

Section 6.13. Preferential Collection of Claims Against Company.

Reference is made to Section 311 of the Trust Indenture Act. For purposes of Section 311(b) of the Trust Indenture Act,

(1) the term "cash transaction" means any transaction in which full payment for goods or securities sold is made within seven days after delivery of the goods or securities in currency or in checks or other orders drawn upon banks or bankers and payable upon demand;

(2) the term "self-liquidating paper" means any draft, bill of exchange, acceptance or obligation which is made, drawn, negotiated or incurred by the Company or, if applicable, any Guarantor for the purpose of financing the purchase, processing, manufacturing, shipment, storage or sale of goods, wares or merchandise and which is secured by documents evidencing title to, possession of, or a lien upon, the goods, wares or merchandise or the receivables or proceeds arising from the sale of the goods, wares or merchandise previously constituting the security, provided the security is received by the Trustee simultaneously with the creation of the creditor relationship with the Company or, if applicable, such Guarantor arising from the making, drawing, negotiating or incurring of the draft, bill of exchange, acceptance or obligation.

Section 6.14. Appointment of Authenticating Agent.

The Trustee may appoint an Authenticating Agent or Agents with respect to one or more series of Securities which shall be authorized to act on behalf of the Trustee to authenticate Securities of such series issued upon exchange, registration of transfer or partial redemption thereof or pursuant to Section 3.6, and Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Wherever reference is made in this Indenture to the authentication and delivery of Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an

Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than $100,000,000 and subject to supervision or examination by Federal or State authority. If such Authenticating Agent publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation shall be otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company and, if applicable, the Guarantors. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company and, if applicable, the Guarantors. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and, if applicable, the Guarantors and shall mail written notice of such appointment by first-class mail, postage prepaid, to all Holders of Securities of the series with respect to which such Authenticating Agent will serve, as their names and addresses appear in the Security Register. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

Except with respect to an Authenticating Agent appointed at the request of the Company or, if applicable, the Guarantors, the Trustee agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section 6.14, and the Trustee shall be entitled to be reimbursed by the Company or, if applicable, the Guarantors for such payments, subject to the provisions of Section 6.7.

If an appointment with respect to one or more series is made pursuant to this Section 6.14, the Securities of such series may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternate certificate of authentication in the following form:

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

THE BANK OF NEW YORK TRUST
COMPANY, N.A., As Trustee

By:

As Authenticating Agent

By:

Authorized Officer

ARTICLE VII.

HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY

Section 7.1. Company to Furnish Trustee Names and Addresses of Holders.

The Company will furnish or cause to be furnished to the Trustee:

(a) semi-annually, not more than 15 days after each Regular Record Date for a series of Securities, a list for such series of Securities, in such form as the Trustee may reasonably require, of the names and addresses of the Holders of Securities of such series as of such Regular Record Date, and

(b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished; provided, however, that if and so long as the Trustee shall be the Security Registrar, no such list need be furnished with respect to such series of Securities.

Section 7.2. Preservation of Information; Communications to Holders.

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 7.1 and the names and addresses of Holders received by the Trustee in its capacity as Security Registrar. The Trustee may destroy any list furnished to it as provided in Section 7.1 upon receipt of a new list so furnished.

(b) If three or more Holders (herein referred to as "applicants") apply in writing to the Trustee, and furnish to the Trustee reasonable proof that each such applicant has owned a Security for a period of at least six months preceding the date of such application, and such application states that the applicants desire to communicate with other Holders with respect to

their rights under this Indenture or under the Securities and is accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, then the Trustee shall, within five business days after the receipt of such application, at its election, either

(i) afford such applicants access to the information preserved at the time by the Trustee in accordance with Section 7.2(a), or

(ii) inform such applicants as to the approximate number of Holders whose names and addresses appear in the information preserved at the time by the Trustee in accordance with Section 7.2(a) , and as to the approximate cost of mailing to such Holders the form of proxy or other communication, if any, specified in such application. If the Trustee shall elect not to afford such applicants access to such information, the Trustee shall, upon the written request of such applicants, mail to each Holder whose name and address appear in the information preserved at the time by the Trustee in accordance with Section 7.2(a) a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of mailing, unless within five days after such tender the Trustee shall mail to such applicants and file with the Commission, together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of the Trustee, such mailing would be contrary to the best interest of the Holders or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If the Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections or if, after the entry of an order sustaining one or more of such objections, the Commission shall find, after notice and opportunity for hearing, that all the objections so sustained have been met and shall enter an order so declaring, the Trustee shall mail copies of such material to all such Holders with reasonable promptness after the entry of such order and the renewal of such tender; otherwise the Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

(c) Every Holder of Securities, by receiving and holding the same, agrees with the Company, the Guarantors (if applicable) and the Trustee that none of the Company, the Guarantors (if applicable) nor the Trustee nor any agent of any of them shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders in accordance with Section 7.2(b), regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under Section 7.2(b).

Section 7.3. Reports by Trustee.

Any Trustee's report required pursuant to Section 313(a) of the Trust Indenture Act shall be dated as of May 15, and shall be transmitted within 60 days after May 15 of each year (but in all events at intervals of not more than 12 months), commencing with the year 2004, by mail to all Holders, as their names and addresses appear in the Security Register. A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each stock

exchange upon which any Securities are listed, with the Commission and with the Company. The Company will notify the Trustee when any Securities are listed on any stock exchange.

Section 7.4. Reports by Company.

The Company shall:

(a) file with the Trustee, within 15 days after the Company is required to file the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Exchange Act; or, if the Company is not required to file information, documents or reports pursuant to either of said Sections, then it shall file with the Trustee and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Exchange Act in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations;

(b) file with the Trustee and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants of this Indenture as may be required from time to time by such rules and regulations; and

(c) transmit by mail to all Holders, as their names and addresses appear in the Security Register, within 30 days after the filing thereof with the Trustee, such summaries of any information, documents and reports required to be filed by the Company pursuant to clauses (a) and (b) of this Section as may be required by rules and regulations prescribed from time to time by the Commission.

ARTICLE VIII.

CONSOLIDATION, AMALGAMATION, MERGER AND SALE

Section 8.1. Company May Consolidate, Etc., Only on Certain Terms.

The Company shall not consolidate or merge with or into any other Person or sell, convey, transfer, lease or otherwise dispose of all or substantially all of the properties and assets of the Company and, if applicable, the Guarantors on a consolidated basis to any other Person unless:

(1) the Person formed by such consolidation or merger (if other than the Company) or the Person which acquires by sale, conveyance, transfer or other disposition, or which leases, such properties and assets shall be a corporation and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form satisfactory to the Trustee,

the due and punctual payment of the principal of and any premium and interest on all the Securities and the performance or observance of every other covenant of this Indenture on the part of the Company to be performed or observed and shall have expressly provided for conversion rights in respect of any series of Outstanding Securities with conversion rights;

(2) immediately after giving effect to such transaction, no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, shall have occurred and be continuing; and

(3) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, amalgamation, merger, conveyance, sale, transfer or lease and such supplemental indenture, if any, comply with this Article Eight and that all conditions precedent herein provided for relating to such transaction have been complied with.

Section 8.2. Successor Substituted.

Upon any consolidation or merger of the Company with or into any other Person or any sale, conveyance, transfer, lease or other disposition of all or substantially all of the properties and assets of the Company and, if applicable, the Guarantors on a consolidated basis in accordance with Section 8.1, the successor or resulting Person formed by or resulting upon such consolidation or merger (if other than the Company) or to which such sale, conveyance, transfer, lease or other disposition is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor Company and each of the Guarantors shall be relieved of all obligations and covenants under this Indenture and the Securities.

ARTICLE IX.

SUPPLEMENTAL INDENTURES

Section 9.1. Supplemental Indentures Without Consent of Holders.

Without the consent of any Holders, the Company, when authorized by a Board Resolution, the Guarantors and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(1) to evidence the succession of another Person to the Company and the assumption by any such successor of the covenants of the Company herein and in the Securities; or

(2) to evidence the succession of another Person to the Guarantor and the assumption by any such successor of the Guarantee of the Guarantor herein and, to the extent applicable, endorsed upon any Securities; or

(3) to add to the covenants of the Company such further covenants, restrictions, conditions or provisions as the Company shall consider to be appropriate for the benefit of the Holders of all or any series of Securities (and if such covenants, restrictions, conditions or provisions are to be for the benefit of less than all series of Securities, stating that such covenants are expressly being included solely for the benefit of such series) or to surrender any right or power herein conferred upon the Company and to make the occurrence, or the occurrence and continuance, of a Default in any such additional covenants, restrictions, conditions or provisions an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; provided, that in respect of any such additional covenant, restriction, condition or provision such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such an Event of Default or may limit the remedies available to the Trustee upon such an Event of Default or may limit the right of the Holders of a majority in aggregate principal amount of the Securities of such series to waive such an Event of Default; or

(4) to add any additional Defaults or Events of Default in respect of all or any series of Securities; or

(5) to add to, change or eliminate any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the issuance of Securities in bearer form, registrable or not registrable as to principal, and with or without interest coupons; or

(6) to change or eliminate any of the provisions of this Indenture, provided that any such change or elimination shall become effective only when there is no Security Outstanding of any series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision; or

(7) to secure the Securities of any series; or

(8) to establish the form or terms of Securities of any series as permitted by Sections 2.1 and 3.1, including to reopen any series of any Securities as permitted under Section 3.1; or

(9) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 6.11(b); or

(10) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein, to comply with any applicable mandatory provision of law or to make any other provisions with respect to matters or questions arising under this Indenture which shall not adversely affect the interests of the Holders of Securities of any series in any material respect; or

(11) to modify, eliminate or add to the provisions of this Indenture to such extent as shall be necessary to effect the qualification of this Indenture under the Trust Indenture Act or under any similar federal statute subsequently enacted, and to add to this Indenture such other provisions as may be expressly required under the Trust Indenture Act.

The Trustee is hereby authorized to join with the Company and any Guarantor in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer, assignment, mortgage, charge or pledge of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Section 9.2. Supplemental Indentures with Consent of Holders.

With the consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Securities of all series affected by such supplemental indenture, by Act of said Holders delivered to the Company, the Guarantors and the Trustee, the Company, when authorized by a Board Resolution, the Guarantor and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of Securities of such series under this Indenture; provided, however, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security affected thereby,

(1) change the Stated Maturity of the principal of, or any installment of principal of or interest on, any Security, or reduce the principal amount thereof or the rate of interest thereon or any premium payable upon the redemption thereof, or reduce the amount of the principal of an Original Issue Discount Security that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2, or change any Place of Payment where, or the coin or currency in which, any Security or any premium or the interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), or

(2) reduce the percentage in principal amount of the Outstanding Securities of any series, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences) provided for in this Indenture, or

(3) modify any of the provisions of this Section 9.2, Section 5.13 or Section 10.6, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby, provided, however, that this clause (3) shall not be deemed to require the consent of any Holder with respect to changes in the references to "the Trustee" and concomitant changes in this Section, or the deletion of this proviso, in accordance with the requirements of Sections 6.11(b) and 9.1(9).

A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of the Holders of Securities of such series with respect to such covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

It shall not be necessary for any Act of Holders under this Section 9.2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

Section 9.3. Execution of Supplemental Indentures.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and (subject to Section 6.1) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Section 9.4. Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article Nine, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 9.5. Conformity with Trust Indenture Act.

Every supplemental indenture executed pursuant to this Article Nine shall conform to the requirements of the Trust Indenture Act as then in effect.

Section 9.6. Reference in Securities to Supplemental Indentures.

Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to this Article Nine may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Securities of such series.

ARTICLE X.

COVENANTS

Section 10.1. Payment of Principal, Premium and Interest.

The Company covenants and agrees for the benefit of each series of Securities that it will duly and punctually pay the principal of and any premium and interest on the Securities of that series in accordance with the terms of the Securities and this Indenture.

Section 10.2. Maintenance of Office or Agency.

The Company will maintain an office or agency where Securities of that series may be presented or surrendered for payment, where Securities of that series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company 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 Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Securities of one or more series may be presented or surrendered for any or all such purposes and may from time to time rescind such designations. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

Except as otherwise specified with respect to a series of Securities as contemplated by Section 301, the Company hereby initially designates as the Place of Payment for each series of Securities The City and State of New York, and initially appoints the Trustee at its Corporate Trust Office as the Company's office or agency for each such purpose in such city.

Section 10.3. Money for Securities Payments to Be Held in Trust.

If the Company shall at any time act as its own Paying Agent, with respect to any series of Securities, it will, on or before each due date of the principal of and any premium or interest on any of the Securities of that series, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal and any premium and interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for any series of Securities, it will, prior to each due date of the principal of and any premium or interest on any Securities of that series, deposit with a Paying Agent a sum sufficient to pay the principal and any premium or interest so becoming due, such sum to be held in trust for the benefit of the

Persons entitled to such principal, premium or interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act. For purposes of this Section 10.3, should a due date for principal of and any premium or interest on, or sinking fund payment with respect to any series of Securities not be on a Business Day, such payment shall be due on the next Business Day without any interest for the period from the due date until such Business Day.

The Company will cause each Paying Agent for any series of Securities other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will:

(1) hold all sums held by it for the payment of the principal of and any premium or interest on Securities of that series in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;

(2) give the Trustee notice of any Default by the Company (or any other obligor upon the Securities of that series) in the making of any payment of principal and any premium or interest on the Securities of that series; and

(3) at any time during the continuance of any such Default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent. The Company and, if applicable, the Guarantors may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Subject to any applicable escheat or abandoned property laws, any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of and any premium or interest on any Security of any series and remaining unclaimed for one year after such principal and any premium or interest has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in the Borough of Manhattan, The City of New York, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 10.4. Existence.

Subject to Article Eight, the Company and, if any Securities of a series to which Article Fourteen has been made applicable are Outstanding, each Guarantor will do or cause to be done all things necessary to preserve and keep in full force and effect its existence, rights (charter and statutory) and franchises; provided, however, that the Company and, if applicable, each Guarantor shall not be required to preserve any such right or franchise if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company or such Guarantor, as the case may be.

Section 10.5. Statement by Officers as to Default.

Annually, within 150 days after the close of each fiscal year beginning with the first fiscal year during which one or more series of Securities are Outstanding, the Company and, if any Securities of a series to which Article Fourteen has been made applicable are Outstanding, each Guarantor will deliver to the Trustee a brief certificate (which need not include the statements set forth in Section 1.3) from the principal executive officer, principal financial officer or principal accounting officer of the Company and, if applicable, such Guarantor as to his or her knowledge of the Company's or such Guarantor's, as the case may be, compliance (without regard to any period of grace or requirement of notice provided herein) with all conditions and covenants under the Indenture and, if the Company or such Guarantor, as the case may be, shall be in Default, specifying all such Defaults and the nature and status thereof of which such officer has knowledge.

Section 10.6. Waiver of Certain Covenants.

The Company may omit in any particular instance to comply with any term, provision or condition set forth in Section 10.4 with respect to the Securities of any series if before the time for such compliance the Holders of at least a majority in aggregate principal amount of the Outstanding Securities of all affected series (voting as one class) shall, by Act of such Holders, either waive such compliance in such instance or generally waive compliance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee in respect of any such term, provision or condition shall remain in full force and effect.

A waiver which changes or eliminates any term, provision or condition of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of the Holders of Securities of such series with respect to such term, provision or condition, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

Section 10.7. Additional Amounts.

If the Securities of a series provide for the payment of additional amounts (as provided in Section 3.1(15)), at least 10 days prior to the first Interest Payment Date with respect to that

series of Securities and at least 10 days prior to each date of payment of principal of, premium, if any, or interest on the Securities of that series if there has been a change with respect to the matters set forth in the below-mentioned Officer's Certificate, the Company shall furnish to the Trustee and the principal Paying Agent, if other than the Trustee, an Officer's Certificate instructing the Trustee and such Paying Agent whether such payment of principal of, premium, if any, or interest on the Securities of that series shall be made to holders of the Securities of that series without withholding or deduction for or on account of any tax, assessment or other governmental charge described in the Securities of that series. If any such withholding or deduction shall be required, then such Officer's Certificate shall specify by country the amount, if any, required to be withheld or deducted on such payments to such holders and shall certify the fact that additional amounts will be payable and the amounts so payable to each holder, and the Company shall pay to the Trustee or such Paying Agent the additional amounts required to be paid by this Section. The Company covenants to indemnify the Trustee and any Paying Agent for, and to hold them harmless against, any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any Officer's Certificate furnished pursuant to this Section 10.7.

Whenever in this Indenture there is mentioned, in any context, the payment of the principal of or any premium, interest or any other amounts on, or in respect of, any Securities of any series, such mention shall be deemed to include mention of the payment of additional amounts provided by the terms of such series established hereby or pursuant hereto to the extent that, in such context, additional amounts are, were or would be payable in respect thereof pursuant to such terms, and express mention of the payment of additional amounts (if applicable) in any provision hereof shall not be construed as excluding the payment of additional amounts in those provisions hereof where such express mention is not made.

ARTICLE XI.

REDEMPTION OF SECURITIES

Section 11.1. Applicability of Article.

Securities of any series which are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise specified as contemplated by Section 3.1 for Securities of any series) in accordance with this Article Eleven.

Section 11.2. Election to Redeem; Notice to Trustee.

The election of the Company to redeem any Securities shall be evidenced by a Board Resolution. In case of any redemption at the election of the Company of less than all the Securities of any series, the Company shall, at least 15 days prior to the last date for the giving of notice of such redemption (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date and of the principal amount of Securities of such series to be redeemed and, if applicable, of the tenor of the Securities to be redeemed. In the case of any redemption of Securities (a) prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture or (b) pursuant to an

election of the Company that is subject to a condition specified in the terms of the Securities of the series to be redeemed, the Company shall furnish the Trustee with an Officer's Certificate evidencing compliance with such restriction or condition.

Section 11.3. Selection by Trustee of Securities to Be Redeemed.

If less than all the Securities of any series are to be redeemed (unless all of the Securities of such series and of a specified tenor are to be redeemed), the particular Securities to be redeemed shall be selected not more than 45 days prior to the Redemption Date by the Trustee, from the Outstanding Securities of such series not previously called for redemption, by such method as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of portions (equal to the minimum authorized denomination for Securities of that series or any integral multiple thereof) of the principal amount of Securities of such series of a denomination larger than the minimum authorized denomination for Securities of that series.

The Trustee shall promptly notify the Company in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed. If the Securities of any series to be redeemed consist of Securities having different dates on which the principal is payable or different rates of interest, or different methods by which interest may be determined or have any other different tenor or terms, then the Company may, by written notice to the Trustee, direct that the Securities of such series to be redeemed shall be selected from among the groups of such Securities having specified tenor or terms and the Trustee shall thereafter select the particular Securities to be redeemed in the manner set forth in the preceding paragraph from among the group of such Securities so specified.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Securities redeemed or to be redeemed only in part, to the portion of the principal amount of such Securities which has been or is to be redeemed.

Section 11.4. Notice of Redemption.

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed, at his address appearing in the Security Register.

All notices of redemption shall state:

(1) the Redemption Date,

(2) the Redemption Price, or if not then ascertainable, the manner of calculation thereof,

(3) if less than all the Outstanding Securities of any series are to be redeemed, the identification (and, in the case of partial redemption, the principal amounts) of the particular Securities to be redeemed,

(4) that on the Redemption Date the Redemption Price will become due and payable upon each such Security to be redeemed and, if applicable, that interest thereon will cease to accrue on and after said date,

(5) the place or places where such Securities are to be surrendered for payment of the Redemption Price, and

(6) that the redemption is for a sinking fund, if such is the case.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company.

Section 11.5. Deposit of Redemption Price.

Prior to any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 10.3) an amount of money sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on, all the Securities which are to be redeemed on that date.

Section 11.6. Securities Payable on Redemption Date.

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest) such Securities shall cease to bear interest. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the Redemption Price, together with accrued interest to the Redemption Date; provided, however, that unless otherwise specified with respect to Securities of any series as contemplated in Section 3.1, installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 3.7.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

Section 11.7. Securities Redeemed in Part.

Any Security which is to be redeemed only in part shall be surrendered at a Place of Payment therefor (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or his attorney duly authorized in writing), and the Company shall execute, and the Trustee shall authenticate and deliver to the Holder of such Security without service charge, a new Security or Securities of the same series and tenor, of any authorized denomination as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered.

ARTICLE XII.

SINKING FUNDS

Section 12.1. Applicability of Article.

The provisions of this Article Twelve shall be applicable to any sinking fund for the retirement of Securities of a series except as otherwise specified as contemplated by Section 3.1 for Securities of such series.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a "mandatory sinking fund payment", and any payment in excess of such minimum amount provided for by the terms of Securities of any series is herein referred to as an "optional sinking fund payment." If provided for by the terms of Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 12.2. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of Securities of such series.

Section 12.2. Satisfaction of Sinking Fund Payments with Securities.

The Company (a) may deliver Outstanding Securities of a series (other than any previously called for redemption) and (b) may apply as a credit Securities of a series which have been redeemed either at the election of the Company pursuant to the terms of such Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Securities, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Securities of such series required to be made pursuant to the terms of such Securities as provided for by the terms of such series; provided that such Securities have not been previously so credited. Such Securities shall be received and credited for such purpose by the Trustee at the Redemption Price specified in such Securities for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

Section 12.3. Redemption of Securities for Sinking Fund.

Not less than 45 days prior to each sinking fund payment date for any series of Securities (unless a shorter period shall be satisfactory to the Trustee), the Company will deliver to the Trustee an Officer's Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, which is to be satisfied by payment of cash and the portion thereof, if any, which is to be satisfied by delivering and crediting Securities of that series pursuant to Section 12.2 and stating the basis for such credit and that such Securities have not been previously so credited, and will also deliver to the Trustee any Securities to be so delivered. Not less than 30 days before each such sinking fund payment date the Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 11.3 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 11.4. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 11.6 and 11.7.

ARTICLE XIII.

DEFEASANCE

Section 13.1. Applicability of Article.

The provisions of this Article shall be applicable to each series of Securities except as otherwise specified as contemplated by Section 3.1 for Securities of such series.

Section 13.2. Legal Defeasance.

In addition to discharge of the Indenture pursuant to Section 4.1, the Company shall be deemed to have paid and discharged the entire indebtedness on all the Securities of such a series on the 91st day after the date of the deposit referred to in clause (1) below (and the Trustee, at the expense of the Company, shall upon a Company Request execute proper instruments acknowledging same), and the provisions of this Indenture with respect to the Securities of such series shall no longer be in effect, except for the following which shall survive until otherwise terminated or discharged hereunder: (A) the rights of Holders of Outstanding Securities of such series to receive, solely from the trust fund described in Section 13.4 and as more fully set forth in such Section, payments in respect of the principal of and any premium and interest on such Securities when such payments are due, (B) the Company's obligations with respect to such Securities under Sections 3.4, 3.5, 3.6, 10.2 and 10.3, (C) the rights, powers, trusts, duties, and immunities of the Trustee hereunder and (D) this Article Thirteen, if the conditions set forth below are satisfied (hereinafter, "defeasance"):

(1) The Company has irrevocably deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 6.9 who shall agree to comply with the provisions of this Article Thirteen applicable to it) as trust funds in trust for the purposes of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of the Securities of such series (i) cash in an amount, or (ii) in the case

of any series of Securities the payments on which may only be made in legal coin or currency of the United States, U.S. Government Obligations which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, cash in an amount, or (iii) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge (a) the principal of and any premium and interest on and each installment of principal of and any premium and interest on the Outstanding Securities of such series on the Stated Maturity of such principal or installment of principal or interest, as the case may be, or on any Redemption Date established pursuant to clause (3) below, and (b) any mandatory sinking fund or analogous payments on the dates on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series;

(2) The Company has delivered to the Trustee an Opinion of Counsel based on the fact that (a) the Company has received from, or there has been published by, the Internal Revenue Service a ruling, or (b) since the date hereof, there has been a change in the applicable federal income tax law, in either case to the effect that, and such opinion shall confirm that, the holders of the Securities of such series will not recognize income, gain or loss for federal income tax purposes as a result of such deposit and defeasance and will be subject to federal income tax on the same amount and in the same manner and at the same times, as would have been the case if such deposit and defeasance had not occurred;

(3) If the Securities are to be redeemed prior to Stated Maturity (other than from mandatory sinking fund payments or analogous payments), notice of such redemption shall have been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee shall have been made;

(4) No Default or Event of Default shall have occurred and be continuing on the date of such deposit;

(5) Such defeasance shall be effected in compliance with any additional terms, conditions or limitations which may be imposed on the Company in connection therewith pursuant to Section 3.1; and

(6) The Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the defeasance contemplated by this provision have been complied with.

For this purpose, such defeasance means that the Company, the Guarantors (if applicable) and any other obligor upon the Securities of such series shall be deemed to have paid and discharged the entire debt represented by the Securities of such series, which shall thereafter be deemed to be "Outstanding" only for the purposes of Section 13.4 and the rights and obligations referred to in clauses (A) through (D), inclusive, of the first paragraph of this Section 13.2, and to have satisfied all its other obligations under the Securities of such series and this Indenture insofar as the Securities of such series are concerned.

Notwithstanding the foregoing, if an Event of Default specified in Subsection 5.1(5) or 5.1(6), or an event which with lapse of time would become such an Event of Default, shall occur during the period ending on the 91st day after the date of the deposit referred to in clause (1) or, if longer, ending on the day following the expiration of the longest preference period applicable to the Company in respect of such deposit, then, effective upon such occurrence, the defeasance pursuant to this Section 13.2 and such deposit shall be rescinded and annulled, and the Company, the Guarantors (if applicable), the Trustee and the Holders of the Securities of such series shall be restored to their former positions.

Section 13.3. Covenant Defeasance.

The Company, the Guarantors (if applicable) and any other obligor, if any, shall be released from their respective obligations under Sections 7.4, 8.1 and 10.4 with respect to the Securities of any series on and after the date the conditions set forth below are satisfied (hereinafter, "covenant defeasance"), and the Securities of such series shall thereafter be deemed to be not "Outstanding" for the purposes of any request, demand, authorization, direction, notice, waiver, consent or declaration or other action or Act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed Outstanding for all other purposes hereunder. For this purpose, such covenant defeasance means that, with respect to the Securities of such series, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such Section, whether directly or indirectly by reason of any reference elsewhere herein to such Section or by reason of any reference in such Section to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 5.1, but, except as specified above, the remainder of this Indenture and the Securities of such series shall be unaffected thereby. The following shall be the conditions to application of this Section 13.3;

(1) The Company has irrevocably deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 6.9 who shall agree to comply with the provisions of this Article Thirteen applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of the Securities of such series (i) cash in an amount, or (ii) in the case of any series of Securities the payments on which may only be made in legal coin or currency of the United States, U.S. Government Obligations which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, cash in an amount, or (iii) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accounts expressed in a written certification thereof delivered to the Trustee, to pay and discharge (a) the principal of and any premium and interest on and each installment of principal of and any premium and interest on the Outstanding Securities of such series on the Stated Maturity of such principal or installment of principal or interest, as the case may be, or on any Redemption Date established pursuant to clause (2) below, and (b) any mandatory sinking fund payments on the date on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series;

(2) If the Securities are to be redeemed prior to Stated Maturity (other than from mandatory sinking fund payments or analogous payments), notice of such redemption shall have been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee shall have been made;

(3) No Event of Default, or an event which with notice or lapse of time or both would become such an Event of Default, shall have occurred and be continuing on the date of such deposit;

(4) Such defeasance shall be effected in compliance with any additional terms, conditions or limitations which may be imposed on the Company in connection therewith pursuant to Section 3.1; and

(5) The Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel stating that all conditions precedent provided for relating to the covenant defeasance contemplated by this provision have been complied with. Notwithstanding the foregoing, if an Event of Default specified in Subsection 5.1(5) or 5.1(6), or an event which with lapse of time would become such an Event of Default, shall occur during the period ending on the 181st day after the date of the deposit referred to in clause (1) or, if longer, ending on the day following the expiration of the longest preference period applicable to the Company in respect of such deposit, then, effective upon such occurrence, the defeasance pursuant to this Section 13.3 and such deposit shall be rescinded and annulled, and the Company, the Guarantors (if applicable), the Trustee and the Holders of the Securities of such series shall be restored to their former positions.

Section 13.4. Deposited Money and U.S. Government Obligations to be Held in Trust.

Subject to the provisions of the last paragraph of Section 10.3, all money and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee - collectively, for purposes of this Section 13.4, the "Trustee") pursuant to Section 13.2 or 13.3 in respect of the Outstanding Securities of such series shall be held in trust and applied by the Trustee, in accordance with the provisions of such Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent), to the Holders of such Securities, of all sums due and to become due thereon in respect of principal and any premium and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 13.2 or 13.3 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 the Outstanding Securities of such series.

Section 13.5. Repayment to Company; Qualifying Trustee.

The Trustee and any Paying Agent promptly shall pay or return to the Company upon Company Request any money and U.S. Government Obligations held by them at any time that, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the same certification given at the time of the deposit pursuant to Section 13.2 or 13.3, as applicable), are not required for the payment of the principal of and any interest on the Securities of any series for which money or U.S. Government Obligations have been deposited pursuant to Section 13.2 or 13.3.

The provisions of the last paragraph of Section 10.3 shall apply to any money held by the Trustee or any Paying Agent under this Article Thirteen that remains unclaimed for one year after the Maturity of any series of Securities for which money or U.S. Government obligations have been deposited pursuant to Section 13.2 or 13.3.

Any trustee appointed pursuant to Section 13.2 or 13.3 for the purpose of holding trust funds deposited pursuant to that Section shall be appointed under an agreement in form acceptable to the Trustee and shall provide to the Trustee a certificate of such trustee, upon which certificate the Trustee shall be entitled to conclusively rely, that all conditions precedent provided for herein to the related defeasance or covenant defeasance have been complied with. In no event shall the Trustee be liable for any acts or omissions of said trustee.

ARTICLE XIV.

GUARANTEE OF SECURITIES

Section 14.1. Unconditional Guarantee.

For value received, each of the Guarantors hereby fully, irrevocably, unconditionally and absolutely guarantees to the Holders of Securities of each series to which this Article Fourteen has been made applicable as provided in Section 3.1(20) and to the Trustee the due and punctual payment of the principal of, and premium, if any, and interest on such Securities, and all other amounts due and payable under this Indenture and such Securities by the Company to the Trustee or such Holders (including, without limitation, all costs and expenses (including reasonable legal fees and disbursements) incurred by the Trustee or such Holders in connection with the enforcement of this Indenture and the Guarantee) (collectively, the "Indenture Obligations"), when and as such principal, premium, if any, interest, if any, and other amounts shall become due and payable, whether at the Stated Maturity, upon redemption or by declaration of acceleration or otherwise, according to the terms of such Securities and this Indenture. The guarantees by the Guarantors set forth in this Article Fourteen are referred to herein as the "Guarantee." Without limiting the generality of the foregoing, each Guarantor's liability shall extend to all amounts that constitute part of the Indenture Obligations and would be owed by the Company to the Trustee or such Holders under this Indenture and such Securities but for the fact that they are unenforceable, reduced, limited, impaired, suspended or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving the Company.

Failing payment when due of any amount guaranteed pursuant to the Guarantee, for whatever reason, each Guarantor will be obligated (to the fullest extent permitted by applicable law) to pay the same immediately to the Trustee, without set-off or counterclaim or other reduction whatsoever (whether for taxes, withholding or otherwise). The Guarantee hereunder is intended to be a general, unsecured, subordinated obligation of each Guarantor and will be subordinated in right of payment to all Guarantor Senior Debt. Each Guarantor hereby agrees that, to the fullest extent permitted by applicable law, its obligations hereunder shall be full, irrevocable, unconditional and absolute, irrespective of the validity, regularity or enforceability of such Securities, the Guarantee or this Indenture, the absence of any action to enforce the same, any waiver or consent by any such Holder with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of such Guarantor. Each Guarantor hereby agrees that in the event of a default in payment of the principal of, or premium, if any, or interest on such Securities, or any other amounts payable under this Indenture and such Securities by the Company to the Trustee or the Holders thereof, whether at the Stated Maturity, upon redemption or by declaration of acceleration or otherwise, legal proceedings may be instituted by the Trustee on behalf of such Holders or, subject to Section 5.7 hereof, by such Holders, on the terms and conditions set forth in this Indenture, directly against such Guarantor to enforce the Guarantee without first proceeding against the Company.

To the fullest extent permitted by applicable law, the obligations of each Guarantor under this Article Fourteen shall be as aforesaid full, irrevocable, unconditional and absolute and shall not be impaired, modified, discharged, released or limited by any occurrence or condition whatsoever, including, without limitation, (i) any compromise, settlement, release, waiver, renewal, extension, indulgence or modification of, or any change in, any of the obligations and liabilities of the Company or any Guarantor contained in any of such Securities or this Indenture, (ii) any impairment, modification, release or limitation of the liability of the Company, any Guarantor or any of their estates in bankruptcy, or any remedy for the enforcement thereof, resulting from the operation of any present or future provision of any applicable Bankruptcy Law, as amended, or other statute or from the decision of any court, (iii) the assertion or exercise by the Trustee or any such Holder of any rights or remedies under any of such Securities or this Indenture or their delay in or failure to assert or exercise any such rights or remedies, (iv) the assignment or the purported assignment of any property as security for any of such Securities, including all or any part of the rights of the Company or any Guarantor under this Indenture, (v) the extension of the time for payment by the Company or any Guarantor of any payments or other sums or any part thereof owing or payable under any of the terms and provisions of any of such Securities or this Indenture or of the time for performance by the Company or any Guarantor of any other obligations under or arising out of any such terms and provisions or the extension or the renewal of any thereof, (vi) the modification or amendment (whether material or otherwise) of any duty, agreement or obligation of the Company or any Guarantor set forth in this Indenture, (vii) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshaling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment, rehabilitation or relief of, or other similar proceeding affecting, the Company or any Guarantor or any of their respective assets, or the disaffirmance of any of such

Securities, the Guarantee or this Indenture in any such proceeding, (viii) the release or discharge of the Company or any Guarantor from the performance or observance of any agreement, covenant, term or condition contained in any of such instruments by operation of law, (ix) the unenforceability of any of such Securities, the Guarantee or this Indenture, (x) any change in the name, business, capital structure, corporate existence, or ownership of the Company or any Guarantor, or (xi) any other circumstance which might otherwise constitute a defense available to, or a legal or equitable discharge of, a surety or any Guarantor.

To the fullest extent permitted by applicable law, each Guarantor hereby (i) waives diligence, presentment, demand of payment, notice of acceptance, filing of claims with a court in the event of the merger, insolvency or bankruptcy of the Company or such Guarantor, and all demands and notices whatsoever, (ii) acknowledges that any agreement, instrument or document evidencing the Guarantee may be transferred and that the benefit of its obligations hereunder shall extend to each holder of any agreement, instrument or document evidencing the Guarantee without notice to them and (iii) covenants that its Guarantee will not be discharged except by complete performance of the Guarantee. To the fullest extent permitted by applicable law, each Guarantor further agrees that if at any time all or any part of any payment theretofore applied by any Person to any Guarantee is, or must be, rescinded or returned for any reason whatsoever, including without limitation, the insolvency, bankruptcy or reorganization of any Guarantor, such Guarantee shall, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence notwithstanding such application, and the Guarantee shall continue to be effective or be reinstated, as the case may be, as though such application had not been made.

Each Guarantor shall be subrogated to all rights of the Holders and the Trustee against the Company in respect of any amounts paid by such Guarantor pursuant to the provisions of this Indenture; provided, however, that such Guarantor shall not be entitled to enforce or to receive any payments arising out of, or based upon, such right of subrogation with respect to any of such Securities until all of such Securities and the Guarantee shall have been indefeasibly paid in full or discharged.

A director, officer, employee or stockholder, as such, of a Guarantor shall not have any liability for any obligations of the Guarantor under this Indenture or for any claim based on, in respect of or by reason of such obligations or their creation.

To the fullest extent permitted by applicable law, no failure to exercise and no delay in exercising, on the part of the Trustee or the Holders, any right, power, privilege or remedy under this Article Fourteen and the Guarantee shall operate as a waiver thereof, nor shall any single or partial exercise of any rights, power, privilege or remedy preclude any other or further exercise thereof, or the exercise of any other rights, powers, privileges or remedies. The rights and remedies herein provided for are cumulative and not exclusive of any rights or remedies provided in law or equity. Nothing contained in this Article Fourteen shall limit the right of the Trustee or the Holders to take any action to accelerate the maturity of such Securities pursuant to Article Five or to pursue any rights or remedies hereunder or under applicable law.

Section 14.2. Execution and Delivery of Notation of Guarantee.

To further evidence the Guarantee, each Guarantor hereby agrees that a notation of such Guarantee may be endorsed on each Security of a series to which this Article Fourteen has been made applicable authenticated and delivered by the Trustee and executed by either manual or facsimile signature of an officer of such Guarantor.

Each Guarantor hereby agrees that its Guarantee of Securities of a series to which this Article Fourteen has been made applicable shall remain in full force and effect notwithstanding any failure to endorse on any such Security a notation relating to the Guarantee thereof.

If an officer of any Guarantor whose signature is on this Indenture or a Security no longer holds that office at the time the Trustee authenticates such Security or at any time thereafter, such Guarantor's Guarantee of such Security shall be valid nevertheless.

The delivery by the Trustee of any Security of a series to which this Article Fourteen has been made applicable, after the authentication thereof under this Indenture, shall constitute due delivery of the Guarantee set forth in this Indenture on behalf of each Guarantor.

Section 14.3. Reports by Guarantor.

In addition to the certificates delivered to the Trustee pursuant to Section 10.5, each Guarantor shall file with the Trustee and the Commission, and transmit to Holders of Outstanding Securities of each series to which this Article Fourteen has been made applicable, such information, documents and other reports, and such summaries thereof, as may be required pursuant to the Trust Indenture Act at the times and in the manner provided pursuant thereto; provided that any such information, documents or reports required to be filed with the Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, shall be filed with the Trustee within 15 days after the same is so required to be filed with the Commission.

Section 14.4. Subordination of Guarantees.

The obligations of each Guarantor under the Guarantee pursuant to this Article Fourteen shall be junior and subordinated to the prior payment in full in cash of all Guarantor Senior Debt (including interest after the commencement of any proceeding of the type described in Section 14.1 with respect to such Guarantor at the rate specified in the applicable Guarantor Senior Debt, whether or not such interest would be an allowed claim in such proceeding) of such Guarantor, in each case on the same basis as the Securities are junior and subordinated to Senior Debt, as set forth in Article Fifteen mutatis mutandis. For the purposes of the foregoing sentence, the Trustee and the Holders shall have the right to receive and/or retain payments by a Guarantor only at such times as they may receive and/or retain payments and distributions in respect of the Securities pursuant to this Indenture, including Article Fifteen hereof.

ARTICLE XV.

SUBORDINATION OF SECURITIES

Section 15.1. Securities Subordinated to Senior Debt.

(1) The Company, for itself, its successors and assigns, covenants and agrees, and each Holder of Securities, by his acceptance thereof, likewise covenants and agrees, that the payment of the principal of and premium, if any, and interest on each and all of the Securities is hereby expressly subordinated, to the extent and in the manner hereinafter set forth, in right of payment to the prior payment in full of all Senior Debt of the Company.

(2) If (A) the Company shall default in the payment of any principal of, premium, if any, or interest, if any, on any Senior Debt of the Company when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration of acceleration or otherwise, or (B) any other default shall occur with respect to Senior Debt of the Company and the maturity of such Senior Debt has been accelerated in accordance with its terms, then, upon written notice of such default to the Company and the Trustee by the holders of Senior Debt of the Company or any trustee therefor, unless and until, in either case, the default has been cured or waived or has ceased to exist, or, any such acceleration has been rescinded or such Senior Debt has been paid in full, no direct or indirect payment (in cash, property, securities, by set-off or otherwise) shall be made or agreed to be made on account of the principal of, premium, if any, or interest, if any, on any of the Securities, or in respect of any redemption, retirement, purchase or other acquisition of any of the Securities other than those made in capital stock of the Company (or cash in lieu of fractional shares thereof).

(3) If any default occurs (other than a default described in paragraph (2) of this Section 15.1) under the Senior Debt of the Company, pursuant to which the maturity thereof may be accelerated immediately without further notice (except such notice as may be required to effect such acceleration) or at the expiration of any applicable grace periods (a "Senior Nonmonetary Default"), then, upon the receipt by the Company and the Trustee of written notice thereof (a "Payment Blockage Notice") from or on behalf of holders of such Senior Debt of the Company specifying an election to prohibit such payment and other action by the Company in accordance with the following provisions of this paragraph (3), the Company may not make any payment or take any other action that would be prohibited by paragraph (2) of this Section 15.1 during the period (the "Payment Blockage Period") commencing on the date of receipt of such Payment Blockage Notice and ending on the earlier of (A) the date, if any, on which the holders of such Senior Debt or their representative notifies the Trustee that such Senior Nonmonetary Default is cured or waived or ceases to exist or the Senior Debt to which such Senior Nonmonetary Default relates is discharged or (B) the 179th day after the date of receipt of such Payment Blockage Notice. Notwithstanding the provisions described in the immediately preceding sentence, the Company may resume payments on the Securities following such Payment Blockage Period.

Section 15.2. Distribution on Dissolution, Liquidation and Reorganization; Subrogation of Securities.

Upon any distribution of assets of the Company upon any dissolution, winding up, liquidation or reorganization of the Company, whether in bankruptcy, insolvency, reorganization or receivership proceedings or upon an assignment for the benefit of creditors or any other marshalling of the assets and liabilities of the Company or otherwise (subject to the power of a court of competent jurisdiction to make other equitable provision reflecting the rights conferred in this Indenture upon the Senior Debt of the Company and the holders thereof with respect to the Securities and the Holders thereof by a lawful plan or reorganization under applicable bankruptcy law),

(1) the holders of all Senior Debt of the Company shall be entitled to receive payment in full of the principal thereof, premium, if any, interest, and any interest thereon, due thereon before the Holders of the Securities are entitled to receive any payment upon the principal, premium, interest of or on the Securities or interest on overdue amounts thereof;

(2) any payment or distribution of assets of the Company, a Guarantor (if applicable) or any other obligor upon the Securities of any kind or character, whether in cash, property or securities, to which the Holders of the Securities or the Trustee (on behalf of the Holders) would be entitled except for the provisions of this Article Fifteen shall be paid by the liquidating trustee or agent or other person making such payment or distribution, whether a trustee in bankruptcy, a receiver or liquidating trustee or otherwise, directly to the holders of Senior Debt of the Company or their representative or representatives or to the trustee or trustees under any indenture under which any instruments evidencing any of such Senior Debt may have been issued, ratably according to the aggregate amounts remaining unpaid on account of the principal of, premium, if any, interest, and any interest thereon, on the Senior Debt of the Company held or represented by each, to the extent necessary to make payment in full of all Senior Debt of the Company remaining unpaid, after giving effect to any concurrent payment or distribution to the holders of such Senior Debt; and

(3) in the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company, a Guarantor (if applicable) or any other obligor upon the Securities of any kind or character, whether in cash, property or securities, shall be received by the Trustee (on behalf of the Holders) or the Holders of the Securities before all Senior Debt of the Company is paid in full, such payment or distribution shall be paid over to the holders of such Senior Debt or their representative or representatives or to the trustee or trustees under any indenture under which any instruments evidencing any of such Senior Debt may have been issued, ratably as aforesaid, for application to the payment of all Senior Debt remaining unpaid until all such Senior Debt shall have been paid in full, after giving effect to any concurrent payment or distribution to the holders of such Senior Debt.

Subject to the payment in full of all Senior Debt of the Company, the Holders of the Securities shall be subrogated to the rights of the holders of such Senior Debt to receive payments or distributions of cash, property or securities of the Company applicable to Senior Debt of the Company until the principal, premium, interest, and any interest thereon, of or on the

Securities shall be paid in full and no such payments or distributions to the Holders of the Securities of cash, property or securities otherwise distributable to the Senior Debt of the Company shall, as between the Company, its creditors other than the holders of Senior Debt of the Company, and the Holders of the Securities, be deemed to be a payment by the Company to or on account of the Securities. It is understood that the provisions of this Article Fifteen are and are intended solely for the purpose of defining the relative rights of the Holders of the Securities, on the one hand, and the holders of Senior Debt of the Company, on the other hand. Nothing contained in this Article Fifteen or elsewhere in this Indenture or in the Securities is intended to or shall impair, as between the Company, its creditors other than the holders of Senior Debt of the Company, and the Holders of the Securities, the obligation of the Company, which is unconditional and absolute, to pay to the Holders of the Securities the principal, premium, interest, and any interest thereon, of or on the Securities as and when the same shall become due and payable in accordance with their terms, or to affect the relative rights of the Holders of the Securities and creditors of the Company other than the holders of Senior Debt of the Company, nor shall anything herein or in the Securities prevent the Trustee or the Holder of any Security from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article Fifteen of the holders of such Senior Debt in respect of cash, property or securities of the Company received upon the exercise of any such remedy. Upon any payment or distribution of assets of the Company referred to in this Article Fifteen, the Trustee shall be entitled to conclusively rely upon a certificate of the liquidating trustee or agent or other person making any distribution to the Trustee for the purpose of ascertaining the persons entitled to participate in such distribution, the holders of Senior Debt of the Company and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon, and all other facts pertinent thereto or to this Article Fifteen.

The Trustee, however, shall not be deemed to owe any fiduciary duty to the holders of Senior Debt of the Company. The Trustee shall not be liable to any such holder if it shall pay over or distribute to or on behalf of Holders of Securities or the Company moneys or assets to which any holder of Senior Debt of the Company shall be entitled by virtue of this Article Fifteen. The rights and claims of the Trustee under Section 6.7 shall not be subject to the provisions of this Article Fifteen.

If the Trustee or any Holder of Securities does not file a proper claim or proof of debt in the form required in any proceeding referred to above prior to 30 days before the expiration of the time to file such claim in such proceeding, then the holder of any Senior Debt of the Company is hereby authorized, and has the right, to file an appropriate claim or claims for or on behalf of such Holder of Securities.

Section 15.3. Payments on Securities Permitted.

Nothing contained in this Indenture or in any of the Securities shall (1) affect the obligation of the Company to make, or prevent the Company from making, at any time except as provided in Sections 15.1 and 15.2, payments of principal, premium, interest, and any interest thereon, of or on the Securities or (2) prevent the application by the Trustee of any moneys deposited with it hereunder to the payment of or on account of the principal, premium, interest or

other amounts, and any interest thereon, of or on the Securities unless the Trustee shall have received at its Corporate Trust Office written notice of any event prohibiting the making of such payment two Business Days (A) prior to the date fixed for such payment, (B) prior to the execution of an instrument to satisfy and discharge this Indenture based upon the deposit of funds under Section 4.1(1)(b), (C) prior to the execution of an instrument acknowledging the defeasance of such Securities pursuant to Section 13.2 or (D) prior to any deposit pursuant to clause (1) of Section 13.3 with respect to such Securities.

Section 15.4. Authorization of Holders of Securities to Trustee to Effect Subordination.

Each Holder of Securities by his acceptance thereof, whether upon original issue or upon transfer or assignment, authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to effectuate the subordination as provided in this Article Fifteen and appoints the Trustee his attorney-in-fact for any and all such purposes.

Section 15.5. Notices to Trustee.

The Company shall give prompt written notice to a responsible officer of the Trustee located at the Corporate Trust Office of the Trustee of any fact known to the Company which would prevent the making of any payment to or by the Trustee in respect of the Securities. Notwithstanding the provisions of this Article Fifteen or any other provisions of this Indenture, neither the Trustee nor any Paying Agent (other than the Company) shall be charged with knowledge of the existence of any Senior Debt of the Company or of any event which would prohibit the making of any payment of moneys to or by the Trustee or such Paying Agent, unless and until the Trustee or such Paying Agent shall have received (in the case of the Trustee, at its Corporate Trust Office) written notice thereof from the Company or from the holder of any Senior Debt of the Company or from the trustee for or representative of any Senior Debt of the Company together with proof satisfactory to the Trustee of such holding of such Senior Debt or of the authority of such trustee or representative; provided, however, that if at least two Business Days prior to the date upon which by the terms hereof any such moneys may become payable for any purpose (including, without limitation, the payment of the principal, premium, interest, of or on any Security, or any interest thereon) or the date on which the Trustee shall execute an instrument acknowledging satisfaction and discharge of this Indenture or the defeasance of Securities pursuant to Section 13.2 or the date on which a deposit pursuant to clause (1) of Section 13.3 is made, the Trustee shall not have received with respect to such moneys or the moneys deposited with it as a condition to such satisfaction and discharge or defeasance the notice provided for in this Section 15.5, then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such moneys and to apply the same to the purpose for which they were received, and shall not be affected by any notice to the contrary, which may be received by it on or after such two Business Days prior to such date. The Trustee shall be entitled to conclusively rely on the delivery to it of a written notice by a person representing himself to be a holder of Senior Debt of the Company (or a trustee or representative on behalf of such holder) to establish that such a notice has been given by a holder of Senior Debt of the Company or a trustee or representative on behalf of any such holder. In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any Person as a holder of Senior Debt of the Company to participate

in any payment or distribution pursuant to this Article Fifteen, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Debt of the Company held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such Person under this Article Fifteen and, if such evidence is not furnished, the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment.

Section 15.6. Trustee as Holder of Senior Debt.

The Trustee shall be entitled to all the rights set forth in this Article Fifteen in respect of any Senior Debt of the Company at any time held by it to the same extent as any other holder of Senior Debt of the Company and nothing in this Indenture shall be construed to deprive the Trustee of any of its rights as such holder.

Section 15.7. Modification of Terms of Senior Debt.

Any renewal or extension of the time of payment of any Senior Debt of the Company or the exercise by the holders of Senior Debt of the Company of any of their rights under any instrument creating or evidencing such Senior Debt, including without limitation the waiver of default thereunder, may be made or done all without notice to or assent from Holders of the Securities or the Trustee.

No compromise, alteration, amendment, modification, extension, renewal or other change of, or waiver, consent or other action in respect of, any liability or obligation under or in respect of, or of any of the terms, covenants or conditions of any indenture or other instrument under which any Senior Debt of the Company is outstanding or of such Senior Debt, whether or not such release is in accordance with the provisions of any applicable document, shall in any way alter or affect any of the provisions of this Article Fifteen or of the Securities relating to the subordination thereof.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank; Signature Page Follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

COMSTOCK RESOURCES, INC.

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

COMSTOCK OIL & GAS, INC.

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

COMSTOCK OIL & GAS-LOUISIANA, LLC

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

COMSTOCK OFFSHORE, LLC

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

COMSTOCK OIL & GAS HOLDINGS, INC.

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

TRUSTEE:

THE BANK OF NEW YORK TRUST COMPANY, N.A.

By: /s/ PATRICK T. GIORDANO

Name: Patrick T. Giordano
Title: Vice President

EXHIBIT 4.7

COMSTOCK RESOURCES, INC.,

GUARANTORS

NAMED HEREIN

and

THE BANK OF NEW YORK TRUST COMPANY, N.A.

Trustee

FIRST SUPPLEMENTAL INDENTURE

dated as of February 25, 2004

to

INDENTURE

dated as of February 25, 2004

6 7/8% Senior Notes due 2012

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THIS FIRST SUPPLEMENTAL INDENTURE dated as of February 25, 2004 (as originally executed and as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, this "Supplemental Indenture"), is among COMSTOCK RESOURCES, INC., a Nevada corporation (hereinafter called the "Company"), the GUARANTORS (as defined hereinafter) and THE BANK OF NEW YORK TRUST COMPANY, N.A., as Trustee (hereinafter called the "Trustee").

RECITALS OF THE COMPANY

The Company has duly authorized the execution and delivery of this Supplemental Indenture to provide for the issuance of its 6 7/8% Senior Notes due 2012, to be issued from time to time as provided in this Supplemental Indenture (the "Securities").

The Guarantors have duly authorized the execution and delivery of this Supplemental Indenture to provide for the guarantee of the Securities by the Guarantors as provided in this Supplemental Indenture.

This Supplemental Indenture constitutes a supplemental indenture in respect of that certain Indenture dated as of even date herewith (the "Base Indenture") by and among the Company, the Guarantors named therein and the Trustee, the form of which Base Indenture was filed as an exhibit to the Company's registration statement on Form S-3, filed on December 16, 2003, as amended by Amendment No. 1 to Form S-3 filed on January 8, 2004, to the extent related to the Securities, and this Supplemental Indenture supersedes the Base Indenture to the extent inconsistent therewith.

All things necessary have been done to make the Securities, when executed by the Company and authenticated and delivered hereunder and duly issued by the Company, the valid obligations of the Company and to make this Supplemental Indenture, when executed by the Company and each Guarantor named herein, a valid agreement of the Company and each such Guarantor, in each case in accordance with the terms of the Securities and this Supplemental Indenture, respectively.

NOW, THEREFORE, THIS SUPPLEMENTAL INDENTURE WITNESSETH:

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders of the Securities:

ARTICLE I.

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.1 Definitions.

"Acquired Indebtedness" means Indebtedness of a Person (i) existing at the time such Person becomes a Restricted Subsidiary or (ii) assumed in connection with acquisitions of Properties from such Person (other than any Indebtedness incurred in connection with, or in contemplation of, such Person becoming a Restricted Subsidiary or such acquisition). Acquired Indebtedness shall be deemed to be incurred on the date the acquired Person becomes a Restricted Subsidiary or the date of the related acquisition of Properties from such Person.

"Act" when used with respect to any Holder, has the meaning specified in Section 10.1.

"Additional Assets" means (i) any Property (other than cash, Cash Equivalents or securities) used in the Oil and Gas Business or any business ancillary thereto, (ii) Investments in any other Person engaged in the Oil and Gas Business or any business ancillary thereto (including the acquisition from third parties of Capital Stock of such Person) as a result of which such other Person becomes a Restricted Subsidiary, (iii) the acquisition from third parties of Capital Stock of a Restricted Subsidiary or (iv) Investments pursuant to clause (v) of the definition of "Permitted Investments."

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

(i) the sum of (a) discounted future net revenues from proved oil and gas reserves of the Company and its Restricted Subsidiaries calculated in accordance with Commission guidelines before any state, Federal or foreign income taxes, as estimated by the Company and confirmed by a nationally recognized firm of independent petroleum engineers in a reserve report prepared as of the end of the Company's most recently completed fiscal year for which audited financial statements are available, as increased by, as of the date of determination, the estimated discounted future net revenues from (1) estimated proved oil and gas reserves acquired since such year-end, which reserves were not reflected in such year-end reserve report, and (2) estimated oil and gas reserves attributable to upward revisions of estimates of proved oil and gas reserves since such year-end due to exploration, development or exploitation activities, in each case calculated in accordance with Commission guidelines (utilizing the prices utilized in such year-end reserve report), and decreased by, as of the date of determination, the estimated discounted future net revenues from (3) estimated proved oil and gas reserves produced or disposed of since such year-end and (4) estimated oil and gas reserves attributable to downward revisions of estimates of proved oil and gas reserves since such year-end due to changes in geological conditions or other factors which would, in accordance with standard industry practice, cause such revisions, in each case calculated in accordance with Commission guidelines (utilizing the prices utilized in such year-end reserve report); provided that, in the case of each of the determinations made pursuant to clauses (1) through (4), such increases and decreases shall be as estimated by the Company's petroleum engineers, unless there is a Material Change as a

result of such acquisitions, dispositions or revisions, in which event the discounted future net revenues utilized for purposes of this clause (i)(a) shall be confirmed in writing by a nationally recognized firm of independent petroleum engineers, (b) the capitalized costs that are attributable to oil and gas properties of the Company and its Restricted Subsidiaries to which no proved oil and gas reserves are attributable, based on the Company's books and records as of a date no earlier than the date of the Company's latest annual or quarterly financial statements, (c) the Net Working Capital on a date no earlier than the date of the Company's latest annual or quarterly financial statements and (d) the greater of (1) the net book value on a date no earlier than the date of the Company's latest annual or quarterly financial statements and (2) the appraised value, as estimated by independent appraisers, of other tangible assets (including, without duplication, Investments in unconsolidated Restricted Subsidiaries) of the Company and its Restricted Subsidiaries, as of the date no earlier than the date of the Company's latest audited financial statements, minus

(ii) the sum of (a) minority interests, (b) any net gas balancing liabilities of the Company and its Restricted Subsidiaries reflected in the Company's latest audited financial statements, (c) to the extent included in (i)(a) above, the discounted future net revenues, calculated in accordance with Commission guidelines (utilizing the prices utilized in the Company's year-end reserve report), attributable to reserves which are required to be delivered to third parties to fully satisfy the obligations of the Company and its Restricted Subsidiaries with respect to Volumetric Production Payments (determined, if applicable, using the schedules specified with respect thereto) and (d) the discounted future net revenues, calculated in accordance with Commission 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 (i)(a) above, would be necessary to fully satisfy the payment obligations of the Company and its Restricted Subsidiaries with respect to Dollar-Denominated Production Payments (determined, if applicable, using the schedules specified with respect thereto).

"Adjusted Net Assets" of a Guarantor at any date shall mean the amount by which the fair value of the Properties of such Guarantor exceeds the total amount of liabilities, including, without limitation, contingent liabilities (after giving effect to all other fixed and contingent liabilities incurred or assumed on such date), but excluding liabilities under its Guarantee, of such Guarantor at such date.

"Affiliate" means, with respect to any specified Person, 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. For purposes of this definition, beneficial ownership of 10% or more of the voting common equity (on a fully diluted basis) or options or warrants to purchase such equity (but only if exercisable at the date of determination or within 60 days thereof) of a Person shall be deemed to constitute control of such Person.

"Asset Sale" means any sale, issuance, conveyance, transfer, lease or other disposition to any Person other than the Company or any of its Restricted Subsidiaries (including, without limitation, by means of a merger or consolidation) (collectively, for purposes of this definition, a "transfer"), directly or indirectly, in one or a series of related transactions, of (i) any Capital Stock of any Restricted Subsidiary held by the Company or any Restricted Subsidiary, (ii) all or substantially all of the Properties of any division or line of business of the Company or any of its Restricted Subsidiaries or (iii) any other Properties of the Company or any of its Restricted Subsidiaries other than (a) a transfer of cash, Cash Equivalents, hydrocarbons or other mineral products in the ordinary course of business or (b) any lease, abandonment, disposition, relinquishment or farm-out of any oil and gas Property in the ordinary course of business. For the purposes of this definition, the term "Asset Sale" also shall not include (A) any transfer of Properties (including Capital Stock) that is governed by, and made in accordance with, the provisions of Article IV hereof; (B) any transfer of Properties to an Unrestricted Subsidiary, if permitted under Section 6.7 hereof; or (C) any transfer of Properties (including Capital Stock) having a Fair Market Value of less than $5,000,000.

"Attributable Indebtedness" means, with respect to any particular lease under which any Person is at the time liable and at any date as of which the amount thereof is to be determined, the present value of the total net amount of rent required to be paid by such Person under the lease during the primary term thereof, without giving effect to any renewals at the option of the lessee, discounted from the respective due dates thereof to such date at the rate of interest per annum implicit in the terms of the lease. As used in the preceding sentence, the net amount of rent under any lease for any such period shall mean the sum of rental and other payments required to be paid with respect to such period by the lessee thereunder excluding any amounts required to be paid by such lessee on account of maintenance and repairs, insurance, taxes, assessments, water rates or similar charges. In the case of any lease which is terminable by the lessee upon payment of a penalty, such net amount of rent shall also include the amount of such penalty, but no rent shall be considered as required to be paid under such lease subsequent to the first date upon which it may be so terminated.

"Average Life" means, with respect to any Indebtedness, as at any date of determination, the quotient obtained by dividing (i) the sum of the products of (a) the number of years (and any portion thereof) from the date of determination to the date or dates of each successive scheduled principal payment (including, without limitation, any sinking fund or mandatory redemption payment requirements) of such Indebtedness multiplied by (b) the amount of each such principal payment by (ii) the sum of all such principal payments.

"Bank Credit Facility" means that certain Amended and Restated Credit Agreement dated as of February 25, 2004 among Comstock Resources, Inc., as Borrower, the lenders party thereto from time to time, Bank of Montreal, as Administrative Agent and Issuing Bank, Bank of America, N.A., as Syndication Agent, and Comerica Bank, Fortis Capital Corp. and Union Bank of California, N.A., as Co-Documentation Agents, and together with all related documents executed or delivered pursuant thereto at any time (including, without limitation, all mortgages, deeds of trust, guarantees, security agreements and all other collateral and security documents), in each case as such agreements may be amended (including any amendment and restatement thereof), supplemented or otherwise modified from time to time, including any agreement or

agreements extending the maturity of, refinancing, replacing or otherwise restructuring (including into two or more separate credit facilities, and including increasing the amount of available borrowings thereunder provided that such increase in borrowings is within the definition of "Permitted Indebtedness" or is otherwise permitted under Section 6.9) or adding Subsidiaries as additional borrowers or guarantors thereunder and all or any portion of the Indebtedness and other Obligations under such agreement or agreements or any successor or replacement agreement or agreements, and whether by the same or any other agent(s), lender(s) or group(s) of lenders.

"Base Indenture" has the meaning stated in the third recital of this Supplemental Indenture.

"Borrowing Base" means, as of any date, the aggregate amount of borrowing availability as of such date under the Bank Credit Facility that determines availability on the basis of a borrowing base or other asset-based calculation.

"Business Day" means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in the cities of New York, New York or Dallas, Texas are authorized or obligated by law or executive order to close.

"Capital Stock" means, with respect to any Person, any and all shares, interests, participations, rights or other equivalents in the equity interests (however designated) in such Person, and any rights (other than debt securities convertible into an equity interest), warrants or options exercisable for, exchangeable for or convertible into such an equity interest in such Person.

"Capitalized Lease Obligation" means any obligation to pay rent or other amounts under a lease of (or other agreement conveying the right to use) any Property that is required to be classified and accounted for as a capital lease obligation under GAAP, and, for the purpose of this Supplemental Indenture, the amount of such obligation at any date shall be the capitalized amount thereof at such date, determined in accordance with GAAP.

"Cash Equivalents" means (i) any evidence of Indebtedness with a maturity of 180 days or less issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof); (ii) demand and time deposits and certificates of deposit or acceptances with a maturity of 180 days or less of any financial institution that is a member of the Federal Reserve System having combined capital and surplus and undivided profits of not less than $500,000,000; (iii) commercial paper with a maturity of 180 days or less issued by a corporation that is not an Affiliate of the Company and is organized under the laws of any state of the United States or the District of Columbia and rated at least A-l by S&P or at least P-l by Moody's; (iv) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (i) above entered into with any commercial bank meeting the specifications of clause (ii) above; (v) overnight bank deposits and bankers' acceptances at any commercial bank meeting the qualifications specified in clause (ii) above; (vi) deposits available for withdrawal on demand with any commercial bank not meeting the

qualifications specified in clause (ii) above but which is a lending bank under the Bank Credit Facility, provided all such deposits do not exceed $5,000,000 in the aggregate at any one time; (vii) demand and time deposits and certificates of deposit with any commercial bank organized in the United States not meeting the qualifications specified in clause (ii) above, provided that such deposits and certificates support bond, letter of credit and other similar types of obligations incurred in the ordinary course of business; and (viii) investments in money market or other mutual funds substantially all of whose assets comprise securities of the types described in clauses (i) through (v) above.

"Change of Control" means the occurrence of any event or series of events by which (i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of more than 50% of the total Voting Stock of the Company; (ii) the Company consolidates with or merges into another Person or any Person consolidates with, or merges into, the Company, in any such event pursuant to a transaction in which the outstanding Voting Stock of the Company is changed into or exchanged for cash, securities or other Property, other than any such transaction where (a) the outstanding Voting Stock of the Company is changed into or exchanged for Voting Stock of the surviving or resulting Person that is Qualified Capital Stock and (b) the holders of the Voting Stock of the Company immediately prior to such transaction own, directly or indirectly, not less than a majority of the Voting Stock of the surviving or resulting Person immediately after such transaction; (iii) the Company, either individually or in conjunction with one or more Restricted Subsidiaries, sells, assigns, conveys, transfers, leases or otherwise disposes of, or the Restricted Subsidiaries sell, assign, convey, transfer, lease or otherwise dispose of, all or substantially all of the Properties of the Company and such Restricted Subsidiaries, taken as a whole (either in one transaction or a series of related transactions), including Capital Stock of the Restricted Subsidiaries, to any Person (other than the Company or a Wholly Owned Restricted Subsidiary); (iv) during any consecutive two-year period, individuals who at the beginning of such period constituted the Board of Directors of the Company (together with any new directors whose election by such Board of Directors or whose nomination for election by the stockholders of the Company was approved by a vote of 66 2/3% of the directors then still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of the Board of Directors of the Company then in office; or (v) the liquidation or dissolution of the Company.

"Change of Control Triggering Event" means the occurrence of a Change of Control followed within 30 days by a downgrade in the ratings of the Securities by either S&P or Moody's.

"Commission" or "SEC" means the Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or, if at any time after the execution of this Supplemental Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

"Common Stock" of any Person means Capital Stock of such Person that does not rank prior, as to the payment of dividends or as to the distribution of assets upon any voluntary or

involuntary liquidation, dissolution or winding-up of such Person, to shares of Capital Stock of any other class of such Person.

"Consolidated Exploration Expenses" means, for any period, exploration expenses of the Company and its Restricted Subsidiaries for such period as determined on a consolidated basis in accordance with GAAP.

"Consolidated Fixed Charge Coverage Ratio" means, for any period, the ratio on a pro forma basis of (i) the sum of Consolidated Net Income, Consolidated Interest Expense, Consolidated Income Tax Expense and Consolidated Non-cash Charges each to the extent deducted in computing Consolidated Net Income, in each case, for such period, of the Company and its Restricted Subsidiaries on a consolidated basis, all determined in accordance with GAAP, decreased (to the extent included in determining Consolidated Net Income) by 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 and (y) amounts recorded in accordance with GAAP as repayments of principal and interest pursuant to Dollar-Denominated Production Payments, to (ii) the sum of such Consolidated Interest Expense for such period; provided, however, that (a) the Consolidated Fixed Charge Coverage Ratio shall be calculated on a pro forma basis on the assumptions that (A) the Indebtedness to be incurred (and all other Indebtedness incurred after the first day of such period of four full fiscal quarters referred to in Section 6.9(a) hereof through and including the date of determination), and (if applicable) the application of the net proceeds therefrom (and from any other such Indebtedness), including to refinance other Indebtedness, had been incurred on the first day of such four-quarter period and, in the case of Acquired Indebtedness, on the assumption that the related transaction (whether by means of purchase, merger or otherwise) also had occurred on such date with the appropriate adjustments with respect to such acquisition being included in such pro forma calculation and (B) any acquisition or disposition by the Company or any Restricted Subsidiary of any Properties outside the ordinary course of business, or any repayment of any principal amount of any Indebtedness of the Company or any Restricted Subsidiary prior to the Stated Maturity thereof, in either case since the first day of such period of four full fiscal quarters through and including the date of determination, had been consummated on such first day of such four-quarter period, (b) in making such computation, the Consolidated Interest Expense attributable to interest on any Indebtedness required to be computed on a pro forma basis in accordance with Section 6.9(a) hereof and (A) bearing a floating interest rate shall be computed as if the rate in effect on the date of computation had been the applicable rate for the entire period and (B) which was not outstanding during the period for which the computation is being made but which bears, at the option of the Company, a fixed or floating rate of interest, shall be computed by applying, at the option of the Company, either the fixed or floating rate, (c) in making such computation, the Consolidated Interest Expense attributable to interest on any Indebtedness under a revolving credit facility required to be computed on a pro forma basis in accordance with Section 6.9(a) hereof shall be computed based upon the average daily balance of such Indebtedness during the applicable period, provided that such average daily balance shall be reduced by the amount of any repayment of Indebtedness under a revolving credit facility during the applicable period, which repayment permanently reduced the commitments or amounts available to be reborrowed under such facility, (d) notwithstanding clauses (b) and (c) of this provision, interest on Indebtedness determined on a fluctuating basis, to the extent such interest is covered by

agreements relating to Interest Rate Protection Obligations, shall be deemed to have accrued at the rate per annum resulting after giving effect to the operation of such agreements, (e) in making such calculation, Consolidated Interest Expense shall exclude interest attributable to Dollar-Denominated Production Payments, and (f) if after the first day of the period referred to in clause (i) of this definition the Company has permanently retired any Indebtedness out of the Net Cash Proceeds of the issuance and sale of shares of Qualified Capital Stock of the Company within 30 days of such issuance and sale, Consolidated Interest Expense shall be calculated on a pro forma basis as if such Indebtedness had been retired on the first day of such period.

"Consolidated Income Tax Expense" means, for any period, the provision for federal, state, local and foreign income taxes (including state franchise taxes accounted for as income taxes in accordance with GAAP) of the Company and its Restricted Subsidiaries for such period as determined on a consolidated basis in accordance with GAAP.

"Consolidated Interest Expense" means, for any period, without duplication, the sum of (i) the interest expense of the Company and its Restricted Subsidiaries for such period as determined on a consolidated basis in accordance with GAAP, including, without limitation, (a) any amortization of debt discount, (b) the net cost under Interest Rate Protection Obligations (including any amortization of discounts), (c) the interest portion of any deferred payment obligation constituting Indebtedness, (d) all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing and (e) all accrued interest, in each case to the extent attributable to such period, (ii) to the extent any Indebtedness of any Person (other than the Company or a Restricted Subsidiary) is guaranteed by the Company or any Restricted Subsidiary, the aggregate amount of interest paid (to the extent not accrued in a prior period) or accrued by such other Person during such period attributable to any such Indebtedness, in each case to the extent attributable to that period, (iii) the aggregate amount of the interest component of Capitalized Lease Obligations paid (to the extent not accrued in a prior period), accrued or scheduled to be paid or accrued by the Company and its Restricted Subsidiaries during such period as determined on a consolidated basis in accordance with GAAP and (iv) the aggregate amount of dividends paid (to the extent such dividends are not accrued in a prior period and excluding dividends paid in Qualified Capital Stock) or accrued on Disqualified Capital Stock of the Company and its Restricted Subsidiaries, to the extent such Disqualified Capital Stock is owned by Persons other than the Company or its Restricted Subsidiaries, less, to the extent included in any of clauses (i) through (iv), amortization of capitalized debt issuance costs of the Company and its Restricted Subsidiaries during such period.

"Consolidated Net Income" means, for any period, the consolidated net income (or loss) of the Company and its Restricted Subsidiaries for such period as determined in accordance with GAAP, adjusted by excluding (i) net after-tax extraordinary gains or losses (less all fees and expenses relating thereto), (ii) net after-tax gains or losses (less all fees and expenses relating thereto) attributable to Asset Sales, (iii) the net income (or net loss) of any Person (other than the Company or any of its Restricted Subsidiaries), in which the Company or any of its Restricted Subsidiaries has an ownership interest, except to the extent of the amount of dividends or other distributions actually paid to the Company or any of its Restricted Subsidiaries in cash by such other Person during such period (regardless of whether such cash dividends or distributions is

attributable to net income (or net loss) of such Person during such period or during any prior period), (iv) net income (or net loss) of any Person combined with the Company or any of its Restricted Subsidiaries on a "pooling of interests" basis attributable to any period prior to the date of combination, (v) the net income of any Restricted Subsidiary to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary is not at the date of determination permitted, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, (vi) dividends paid in Qualified Capital Stock, (vii) income resulting from transfers of assets received by the Company or any Restricted Subsidiary from an Unrestricted Subsidiary, (viii) Consolidated Exploration Expenses and any write-downs or impairments of non-current assets, (ix) to the extent deducted in the calculation of net income, any charges associated with the extinguishment of the Indebtedness evidenced by the Company's 11 1/4% Senior Notes due 2007 and (x) the cumulative effect of a change in accounting principles.

"Consolidated Net Worth" means, at any date, the consolidated stockholders' equity of the Company and its Restricted Subsidiaries less the amount of such stockholders' equity attributable to Disqualified Capital Stock or treasury stock of the Company and its Restricted Subsidiaries, as determined in accordance with GAAP.

"Consolidated Non-cash Charges" means, for any period, the aggregate depreciation, depletion, amortization and exploration expense and other non-cash expenses of the Company and its Restricted Subsidiaries reducing Consolidated Net Income for such period, determined on a consolidated basis in accordance with GAAP (excluding any such non-cash charge for which an accrual of or reserve for cash charges for any future period is required).

"Consolidated Total Indebtedness" means, with respect to the Company and its Restricted Subsidiaries as of any date of determination, the aggregate of all Indebtedness of the Company and its Restricted Subsidiaries as of such date of determination, on a consolidated basis, determined in accordance with GAAP.

"Corporate Trust Office" means the office of the Trustee at which at any particular time the trust created by this Supplemental Indenture is administered, which office at the date of execution of this Supplemental Indenture is located at 600 North Pearl Street, Suite 420, Dallas, Texas 75201.

"Default" means any event, act or condition that is, or after notice or passage of time or both would become, an Event of Default.

"Disinterested Director" means, with respect to any transaction or series of transactions in respect of which the Board of Directors of the Company is required to deliver a Board Resolution hereunder, a member of the Board of Directors of the Company who does not have any material direct or indirect financial interest (other than an interest arising solely from the beneficial ownership of Capital Stock of the Company) in or with respect to such transaction or series of transactions.

"Disqualified Capital Stock" means any Capital Stock that, either by its terms, by the terms of any security into which it is convertible or exchangeable or by contract or otherwise, is, or upon the happening of an event or passage of time would be, required to be redeemed or repurchased prior to the final Stated Maturity of the Securities or is redeemable at the option of the holder thereof at any time prior to such final Stated Maturity, or is convertible into or exchangeable for debt securities at any time prior to such final Stated Maturity. For purposes of Section 6.9(a) hereof, Disqualified Capital Stock shall be valued at the greater of its voluntary or involuntary maximum fixed redemption or repurchase price plus accrued and unpaid dividends. For such purposes, the "maximum fixed redemption or repurchase price" of any Disqualified Capital Stock which does not have a fixed redemption or repurchase price shall be calculated in accordance with the terms of such Disqualified Capital Stock as if such Disqualified Capital Stock were redeemed or repurchased on the date of determination, and if such price is based upon, or measured by, the fair market value of such Disqualified Capital Stock, such fair market value shall be determined in good faith by the board of directors of the issuer of such Disqualified Capital Stock; provided, however, that if such Disqualified Capital Stock is not at the date of determination permitted or required to be redeemed or repurchased, the "maximum fixed redemption or repurchase price" shall be the book value of such Disqualified Capital Stock.

"Dollar-Denominated Production Payments" means production payment obligations of the Company or any Restricted Subsidiary recorded as liabilities in accordance with GAAP, together with all undertakings and obligations in connection therewith.

"Event of Default" has the meaning specified in Section 3.1 hereof.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, and any successor act thereto.

"Exchanged Properties" means properties or assets used or useful in the Oil and Gas Business received by the Company or a Restricted Subsidiary in trade or as a portion of the total consideration for other such properties or assets.

"Fair Market Value" means the fair market value of a Property (including shares of Capital Stock) as determined in good faith by the Board of Directors of the Company and evidenced by a Board Resolution, which determination shall be conclusive for purposes of this Supplemental Indenture; provided, however, that unless otherwise specified herein, the Board of Directors shall be under no obligation to obtain any valuation or assessment from any investment banker, appraiser or other third party.

"Federal Bankruptcy Code" means the United States Bankruptcy Code of Title 11 of the United States Code, as amended from time to time.

The uncapitalized term "guarantee" means, as applied to any obligation, (i) a guarantee (other than by endorsement of negotiable instruments or documents for collection in the ordinary course of business), direct or indirect, in any manner, of any part or all of such obligation and (ii) an agreement, direct or indirect, contingent or otherwise, the practical effect of which is to assure in any way the payment or performance (or payment of damages in the event of non-

performance) of all or any part of such obligation, including, without limiting the foregoing, the payment of amounts drawn down under letters of credit. When used as a verb, "guarantee" has a corresponding meaning.

"Guarantee" has the meaning specified in Section 9.1 hereof.

"Guarantor" means (i) Comstock Oil & Gas, Inc., (ii) Comstock Oil & Gas - Louisiana, LLC, (iii) Comstock Offshore, LLC, (iv) Comstock Oil & Gas Holdings, Inc., (v) each of the Company's other Restricted Subsidiaries, if any, executing a supplemental indenture in compliance with the provisions of Section 6.10(a) hereof and (vi) any Person that becomes a successor guarantor of the Securities in compliance with the provisions of Section 9.2 hereof.

"Indebtedness" means, with respect to any Person, without duplication, (i) all liabilities of such Person, contingent or otherwise, for borrowed money or for the deferred purchase price of Property or services (excluding any trade accounts payable and other accrued current liabilities incurred and reserves established in the ordinary course of business) and all liabilities of such Person incurred in connection with any agreement to purchase, redeem, exchange, convert or otherwise acquire for value any Capital Stock of such Person, or any warrants, rights or options to acquire such Capital Stock outstanding on the date of this Supplemental Indenture or thereafter, if, and to the extent, any of the foregoing would appear as a liability upon a balance sheet of such Person prepared in accordance with GAAP, (ii) all obligations of such Person evidenced by bonds, notes, debentures or other similar instruments, if, and to the extent, any of the foregoing would appear as a liability upon a balance sheet of such Person prepared in accordance with GAAP, (iii) all obligations of such Person with respect to letters of credit, (iv) all indebtedness of such Person created or arising under any conditional sale or other title retention agreement with respect to Property acquired by such Person (even if the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such Property), but excluding trade accounts payable arising and reserves established in the ordinary course of business, (v) all Capitalized Lease Obligations of such Person, (vi) the Attributable Indebtedness (in excess of any related Capitalized Lease Obligations) related to any Sale/Leaseback Transaction of such Person, (vii) all Indebtedness referred to in the preceding clauses of other Persons and all dividends of other Persons, the payment of which is secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon Property (including, without limitation, accounts and contract rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness (the amount of such obligation being deemed to be the lesser of the value of such Property or the amount of the obligation so secured), (viii) all guarantees by such Person of Indebtedness referred to in this definition (including, with respect to any Production Payment, any warranties or guaranties of production or payment by such Person with respect to such Production Payment but excluding other contractual obligations of such Person with respect to such Production Payment), and (ix) all obligations of such Person under or in respect of currency exchange contracts, oil and natural gas price hedging arrangements and Interest Rate Protection Obligations. Subject to clause (viii) of the first sentence of this definition, neither Dollar-Denominated Production Payments nor Volumetric Production Payments shall be deemed to be Indebtedness. In addition, Disqualified Capital Stock shall not be deemed to be Indebtedness.

"Indenture" means the Base Indenture as supplemented by this Supplemental Indenture and as the Base Indenture may from time to time be further supplemented or amended by one or more indentures supplemental thereto entered into pursuant to the applicable provisions thereof.

"Insolvency or Liquidation Proceeding" means, with respect to any Person, (a) an insolvency or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or similar case or proceeding in connection therewith, relative to such Person or its creditors, as such, or its assets or (b) any liquidation, dissolution or other winding-up proceeding of such Person, whether voluntary or involuntary and whether or not involving insolvency or bankruptcy or (c) any assignment for the benefit of creditors or any other marshaling of assets and liabilities of such Person.

"Interest Payment Date" means the Stated Maturity of an installment of interest on the Securities.

"Interest Rate Protection Obligations" means the obligations of any Person pursuant to any arrangement with any other Person whereby, directly or indirectly, such Person is entitled to receive from time to time periodic payments calculated by applying either a floating or a fixed rate of interest on a stated notional amount in exchange for periodic payments made by such Person calculated by applying a fixed or a floating rate of interest on the same notional amount and shall include, without limitation, interest rate swaps, caps, floors, collars and similar agreements or arrangements designed to protect against or manage such Person's and any of its Subsidiaries' exposure to fluctuations in interest rates.

"Investment" means, with respect to any Person, any direct or indirect advance, loan, guarantee of Indebtedness or other extension of credit 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 by such Person of any Capital Stock, bonds, notes, debentures or other securities (including derivatives) or evidences of Indebtedness issued by, any other Person. In addition, the Fair Market Value of the net assets of any Restricted Subsidiary at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary shall be deemed to be an "Investment" made by the Company in such Unrestricted Subsidiary at such time. "Investments" shall exclude (i) extensions of trade credit or other advances to customers on commercially reasonable terms in accordance with normal trade practices or otherwise in the ordinary course of business, (ii) Interest Rate Protection Obligations entered into in the ordinary course of business or as required by any Permitted Indebtedness or any Indebtedness incurred in compliance with Section 6.9 hereof, but only to the extent that the stated aggregate notional amounts of such Interest Rate Protection Obligations do not exceed 105% of the aggregate principal amount of such Indebtedness to which such Interest Rate Protection Obligations relate and (iii) endorsements of negotiable instruments and documents in the ordinary course of business.

"Issue Date" means the date on which the Original Securities were first issued under this Supplemental Indenture.

"Leverage Ratio" means with respect to the Company and its Restricted Subsidiaries for any period, the ratio of (i) the Consolidated Total Indebtedness of the Company and its Restricted Subsidiaries as of the last day of such period to (ii) the sum of Consolidated Net Income, Consolidated Interest Expense, Consolidated Income Tax Expense and Consolidated Non-cash Charges each to the extent deducted in computing Consolidated Net Income, in each case, for such period, of the Company and its Restricted Subsidiaries on a consolidated basis, all determined in accordance with GAAP, decreased (to the extent included in determining Consolidated Net Income) by the sum of (a) the amount of deferred revenues that are amortized during such period and are attributable to reserves that are subject to Volumetric Production Payments and (b) amounts recorded in accordance with GAAP as repayments of principal and interest pursuant to Dollar-Denominated Production Payments. Calculation of the Leverage Ratio on a pro forma basis shall be made in the manner specified in the definition of "Consolidated Fixed Charge Coverage Ratio" with respect to pro forma calculations of the Consolidated Fixed Charge Coverage Ratio.

"Lien" means any mortgage, charge, pledge, lien (statutory or other), security interest, hypothecation, assignment for security, claim or similar type of encumbrance (including, without limitation, any agreement to give or grant any lease, conditional sale or other title retention agreement having substantially the same economic effect as any of the foregoing) upon or with respect to any Property of any kind. A Person shall be deemed to own subject to a Lien any Property which such Person has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement.

"Liquid Securities" means securities (i) of an issuer that is not an Affiliate of the Company, (ii) that are publicly traded on the New York Stock Exchange, the American Stock Exchange or the Nasdaq National Market and (iii) as to which the Company is not subject to any restrictions on sale or transfer (including any volume restrictions under Rule 144 under the Securities Act or any other restrictions imposed by the Securities Act) or as to which a registration statement under the Securities Act covering the resale thereof is in effect for as long as the securities are held; provided that securities meeting the requirements of clauses (i), (ii) and (iii) above shall be treated as Liquid Securities from the date of receipt thereof until and only until the earlier of (a) the date on which such securities are sold or exchanged for cash or Cash Equivalents and (b) 150 days following the date of receipt of such securities. If such securities are not sold or exchanged for cash or Cash Equivalents within 120 days of receipt thereof, for purposes of determining whether the transaction pursuant to which the Company or a Restricted Subsidiary received the securities was in compliance with Section 6.14 hereof, such securities shall be deemed not to have been Liquid Securities at any time.

"Material Change" means an increase or decrease (except to the extent resulting from changes in prices) of more than 30% during a fiscal quarter in the estimated discounted future net revenues from proved oil and gas reserves of the Company and its Restricted Subsidiaries, calculated in accordance with clause (i)(a) of the definition of Adjusted Consolidated Net Tangible Assets; provided, however, that the following will be excluded from the calculation of Material Change: (i) any acquisitions during the quarter of oil and gas reserves with respect to which the Company's estimate of the discounted future net revenues from proved oil and gas

reserves has been confirmed by independent petroleum engineers and (ii) any dispositions of Properties during such quarter that were disposed of in compliance with Section 6.14.

"Moody's" means Moody's Investors Service, Inc. and its successors.

"Net Available Cash" from an Asset Sale or Sale/Leaseback Transaction means cash proceeds received therefrom (including (i) any cash proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise, but only as and when received and (ii) the Fair Market Value of Liquid Securities and Cash Equivalents, and excluding (a) any other consideration received in the form of assumption by the acquiring Person of Indebtedness or other obligations relating to the Property that is the subject of such Asset Sale or Sale/Leaseback Transaction and (b) except to the extent subsequently converted to cash, Cash Equivalents or Liquid Securities within 240 days after such Asset Sale or Sale/Leaseback Transaction, consideration constituting Exchanged Properties or consideration other than as identified in the immediately preceding clauses (i) and (ii)), in each case net of (a) all legal, title and recording expenses, commissions and other fees and expenses incurred, and all federal, state, foreign and local taxes required to be paid or accrued as a liability under GAAP as a consequence of such Asset Sale or Sale/Leaseback Transaction, (b) all payments made on any Indebtedness (but specifically excluding Indebtedness of the Company and its Restricted Subsidiaries assumed in connection with or in anticipation of such Asset Sale or Sale/Leaseback Transaction) which is secured by any assets subject to such Asset Sale or Sale/Leaseback Transaction, 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 Sale or Sale/Leaseback Transaction or by applicable law, be repaid out of the proceeds from such Asset Sale or Sale/Leaseback Transaction, provided that such payments are made in a manner that results in the permanent reduction in the balance of such Indebtedness and, if applicable, a permanent reduction in any outstanding commitment for future incurrences of Indebtedness thereunder, (c) all distributions and other payments required to be made to minority interest holders in Subsidiaries or joint ventures as a result of such Asset Sale or Sale/Leaseback Transaction and (d) 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 Sale or Sale/Leaseback Transaction and retained by the Company or any Restricted Subsidiary after such Asset Sale or Sale/Leaseback Transaction; provided, however, that if any consideration for an Asset Sale or Sale/Leaseback Transaction (which would otherwise constitute Net Available Cash) is required to be held in escrow pending determination of whether a purchase price adjustment will be made, such consideration (or any portion thereof) shall become Net Available Cash only at such time as it is released to such Person or its Restricted Subsidiaries from escrow.

"Net Cash Proceeds" with respect to any issuance or sale of Qualified Capital Stock or other securities, means the cash proceeds of such issuance or sale net of attorneys' fees, accountants' fees, underwriters' or placement agents' fees, discounts or commissions and brokerage, consultant and other fees and expenses actually incurred in connection with such issuance or sale and net of taxes paid or payable as a result thereof.

"Net Working Capital" means (i) all current assets of the Company and its Restricted Subsidiaries, less (ii) all current liabilities of the Company and its Restricted Subsidiaries, except

current liabilities included in Indebtedness, in each case as set forth in consolidated financial statements of the Company prepared in accordance with GAAP.

"Non-Recourse Indebtedness" means Indebtedness or that portion of Indebtedness of the Company or any Restricted Subsidiary incurred in connection with the acquisition by the Company or such Restricted Subsidiary of any Property and as to which (i) the holders of such Indebtedness agree that they will look solely to the Property so acquired and securing such Indebtedness for payment on or in respect of such Indebtedness, and neither the Company nor any Subsidiary (other than an Unrestricted Subsidiary) (a) provides credit support, including any undertaking, agreement or instrument which would constitute Indebtedness or (b) is directly or indirectly liable for such Indebtedness, and (ii) no default with respect to such Indebtedness would permit (after notice or passage of time or both), according to the terms thereof, any holder of any Indebtedness of the Company or a Restricted Subsidiary to declare a default on such Indebtedness or cause the payment thereof to be accelerated or payable prior to its Stated Maturity.

"Obligations" means all obligations for principal, premium, interest, penalties, fees, indemnifications, payments with respect to any letters of credit, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"Officers" means, with respect to any Person, the Chief Executive Officer, the President, any Vice President, the Chief Financial Officer and the Treasurer of such Person.

"Officers' Certificate" means a certificate signed by the Chairman of the Board, the President or a Vice President, and by the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of the Company, and delivered to the Trustee.

"Oil and Gas Business" means (i) the acquisition, exploration, development, operation and disposition of interests in oil, gas and other hydrocarbon Properties, (ii) the gathering, marketing, treating, processing, storage, refining, selling and transporting of any production from such interests or Properties, (iii) any business relating to or arising from exploration for or development, production, treatment, processing, storage, refining, transportation or marketing of oil, gas and other minerals and products produced in association therewith and (iv) any activity necessary, appropriate or incidental to the activities described in the foregoing clauses (i) through (iii) of this definition.

"Opinion of Counsel" means a written opinion of counsel, who may be counsel for the Company (or any Guarantor), including an employee of the Company (or any Guarantor), and who shall be reasonably acceptable to the Trustee.

"Outstanding," when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Supplemental Indenture, except:

(i) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(ii) Securities, or portions thereof, for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Securities, provided that, if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Supplemental Indenture or provision therefor satisfactory to the Trustee has been made;

(iii) Securities, except to the extent provided in Sections 8.2 and 8.3 hereof, with respect to which the Company has effected legal defeasance or covenant defeasance as provided in Article VIII hereof; and

(iv) Securities which have been paid pursuant to Section 2.7 hereof or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Supplemental Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such securities are held by a bona fide purchaser in whose hands the Securities are valid obligations of the Company;

provided, however, that in determining whether the Holders of the requisite principal amount of Outstanding Securities have given any request, demand, authorization, direction, consent, notice or waiver hereunder, and for the purpose of making the calculations required by TIA Section 313, Securities owned by the Company, any Guarantor or any other obligor upon the Securities or any Affiliate of the Company, any Guarantor or such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in making such calculation or in relying upon any such request, demand, authorization, direction, consent, notice or waiver, only Securities which the Trustee knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Company, any Guarantor or any other obligor upon the Securities or any Affiliate of the Company, any Guarantor or such other obligor.

"Permitted Indebtedness" means any of the following:

(i) Priority Credit Facility Debt in an aggregate amount at any one time outstanding not to exceed the greater of (a) the Borrowing Base under the Bank Credit Facility at such time less the sum of all repayments of principal of Priority Credit Facility Debt made pursuant to Section 6.14 hereof and (b) 25% of Adjusted Consolidated Net Tangible Assets; provided, however, that Indebtedness and Disqualified Capital Stock of Restricted Subsidiaries that are not Guarantors shall not at any time constitute more than 50% of all Priority Credit Facility Debt otherwise permitted under this clause (i);

(ii) Indebtedness under the Original Securities;

(iii) Indebtedness outstanding or in effect on the date of this Supplemental Indenture (and not repaid or defeased with the proceeds of the offering of the Securities);

(iv) obligations pursuant to Interest Rate Protection Obligations, but only to the extent such obligations do not exceed 105% of the aggregate principal amount of the Indebtedness covered by such Interest Rate Protection Obligations; obligations under currency exchange contracts entered into in the ordinary course of business; hedging arrangements entered into in the ordinary course of business for the purpose of protecting production, purchases and resales against fluctuations in oil or natural gas prices; and any guarantee of any of the foregoing;

(v) the Guarantees of the Securities (and any assumption of the obligations guaranteed thereby);

(vi) Indebtedness of the Company owing to and held by a Wholly Owned Restricted Subsidiary, and Indebtedness of any Restricted Subsidiary owing to and held by the Company or a Wholly Owned Restricted Subsidiary;

(vii) Permitted Refinancing Indebtedness and any guarantee thereof;

(viii) Non-Recourse Indebtedness;

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

(x) Indebtedness in respect of bid, performance or surety bonds issued for the account of the Company or any Restricted Subsidiary in the ordinary course of business, including guaranties and letters of credit supporting such bid, performance or surety obligations (in each case other than for an obligation for money borrowed); and

(xi) any additional Indebtedness in an aggregate principal amount not in excess of $50,000,000 at any one time outstanding and any guarantee thereof.

"Permitted Investments" means any of the following:

(i) Investments in Cash Equivalents;

(ii) Investments in property, plant and equipment used in the ordinary course of business;

(iii) Investments in the Company or any of its Restricted Subsidiaries;

(iv) Investments by the Company or any of its Restricted Subsidiaries in another Person, if as a result of such Investment (a) such other Person becomes a Restricted Subsidiary or (b) such other Person is merged or consolidated with or into, or

transfers or conveys all or substantially all of its Properties to, the Company or a Restricted Subsidiary;

(v) entry into operating agreements, joint ventures, partnership agreements, working interests, royalty interests, mineral leases, processing agreements, farm-out agreements, contracts for the sale, transportation or exchange of oil and natural gas, unitization agreements, pooling arrangements, area of mutual interest agreements or other similar or customary agreements, transactions, Properties, interests or arrangements, and Investments and expenditures in connection therewith or pursuant thereto, in each case made or entered into in the ordinary course of the Oil and Gas Business, excluding, however, Investments in corporations;

(vi) entry into any hedging arrangements in the ordinary course of business for the purpose of protecting the Company's or any Restricted Subsidiary's production, purchases and resales against fluctuations in oil or natural gas prices;

(vii) entry into any currency exchange contract in the ordinary course of business;

(viii) Investments in stock, obligations or securities received in settlement of debts owing to the Company or any Restricted Subsidiary as a result of bankruptcy or insolvency proceedings or upon the foreclosure, perfection or enforcement of any Lien in favor of the Company or any Restricted Subsidiary, in each case as to debt owing to the Company or any Restricted Subsidiary that arose in the ordinary course of business of the Company or any such Restricted Subsidiary;

(ix) any Investment by the Company or any of its Restricted Subsidiaries in any Person that was previously a Subsidiary of the Company but ceases to be such as a result of a reduction in the Company's direct or indirect ownership interest in such Person; provided, that at the time such Person ceases to be a Subsidiary of the Company and immediately after giving effect thereto, (a) no other "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) shall be or become the beneficial owner (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of a percentage of the total Voting Stock of such Person greater than the percentage of the total Voting Stock of such Person owned by the Company at such time and (b) the Leverage Ratio on a pro forma basis with respect to the period of four full fiscal quarters then most recently ended does not exceed 1.75 to 1.0; or

(x) other Investments, in an aggregate amount not to exceed at any one time outstanding the greater of (a) $20,000,000 and (b) 5% of Adjusted Consolidated Net Tangible Assets.

"Permitted Liens" means the following types of Liens:

(i) Liens securing Indebtedness of the Company or any Restricted Subsidiary that constitutes Priority Credit Facility Debt permitted pursuant to clause (i) of the definition of "Permitted Indebtedness";

(ii) Liens existing as of the date of this Supplemental Indenture (excluding Liens securing Indebtedness of the Company under the Bank Credit Facility);

(iii) Liens securing the Securities or the Guarantees;

(iv) Liens in favor of the Company or any Restricted Subsidiary;

(v) Liens for taxes, assessments and governmental charges or claims either (a) not delinquent or (b) contested in good faith by appropriate proceedings and as to which the Company or its Restricted Subsidiaries shall have set aside on its books such reserves as may be required pursuant to GAAP;

(vi) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics, suppliers, materialmen, repairmen and other Liens imposed by law incurred in the ordinary course of business for sums not delinquent or being contested in good faith, if such reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made in respect thereof;

(vii) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the payment or performance of tenders, statutory or regulatory obligations, surety and appeal bonds, bids, government contracts and leases, performance and return of money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money but including lessee or operator obligations under statutes, governmental regulations or instruments related to the ownership, exploration and production of oil, gas and minerals on state, federal or foreign lands or waters);

(viii) judgment and attachment Liens not giving rise to an Event of Default so long as any appropriate legal proceedings which may have been duly initiated for the review of such judgment shall not have been finally terminated or the period within which such proceeding may be initiated shall not have expired;

(ix) easements, rights-of-way, restrictions and other similar charges or encumbrances not interfering in any material respect with the ordinary conduct of the business of the Company or any of its Restricted Subsidiaries;

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

(xi) purchase money Liens; provided, however, that (a) the related purchase money Indebtedness shall not be secured by any Property of the Company or any Restricted Subsidiary other than the Property so acquired (including, without limitation, those acquired indirectly through the acquisition of stock or other ownership interests) and any proceeds therefrom and (b) the Lien securing such Indebtedness shall be created within 90 days of such acquisition;

(xii) Liens securing obligations under hedging agreements that the Company or any Restricted Subsidiary enters into in the ordinary course of business for the purpose of protecting its production, purchases and resales against fluctuations in oil or natural gas prices;

(xiii) Liens upon specific items of inventory or other goods 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;

(xiv) Liens securing reimbursement obligations with respect to commercial letters of credit which encumber documents and other Property relating to such letters of credit and products and proceeds thereof;

(xv) Liens encumbering Property under construction arising from progress or partial payments by a customer of the Company or its Restricted Subsidiaries relating to such Property;

(xvi) Liens encumbering deposits made to secure obligations arising from statutory, regulatory, contractual or warranty requirements of the Company or any of its Restricted Subsidiaries, including rights of offset and set-off;

(xvii) Liens securing Interest Rate Protection Obligations which Interest Rate Protection Obligations relate to Indebtedness that is secured by Liens otherwise permitted under this Supplemental Indenture;

(xviii) Liens on, or related to, Properties to secure all or part of the costs incurred in the ordinary course of business for the exploration, drilling, development or operation thereof;

(xix) Liens on pipeline or pipeline facilities which arise by operation of law;

(xx) Liens arising under operating agreements, joint venture agreements, partnership agreements, oil and gas leases, farm-out agreements, division orders, contracts for the sale, transportation or exchange of oil and natural gas, unitization and pooling declarations and agreements, area of mutual interest agreements and other agreements which are customary in the Oil and Gas Business;

(xxi) Liens reserved in oil and gas mineral leases for bonus or rental payments or for compliance with the terms of such leases;

(xxii) Liens constituting survey exceptions, encumbrances, easements or reservations of, or rights to others for, rights-of-way, zoning or other restrictions as to the use of real properties, and minor defects of title which, in the case of any of the foregoing, were not incurred or created to secure the payment of borrowed money or the deferred purchase price of Property or services, and in the aggregate do not materially adversely affect the value of the Properties of the Company and the Restricted Subsidiaries, taken as a whole, or materially impair the use of such Properties for the purposes for which such Properties are held by the Company or any Restricted Subsidiaries;

(xxiii) Liens securing Non-Recourse Indebtedness; provided, however, that the related Non-Recourse Indebtedness shall not be secured by any Property of the Company or any Restricted Subsidiary other than the Property acquired (including, without limitation, those acquired indirectly through the acquisition of stock or other ownership interests) by the Company or any Restricted Subsidiary with the proceeds of such Non-Recourse Indebtedness;

(xxiv) Liens on property existing at the time of acquisition thereof by the Company or any Subsidiary of the Company and Liens on Property of a Subsidiary existing at the time it became a Subsidiary, provided that such Liens were in existence prior to the contemplation of the acquisition and do not extend to any assets other than the acquired Property; and

(xxv) Liens resulting from the deposit of funds or evidences of Indebtedness in trust for the purpose of defeasing Indebtedness of the Company or any of its Restricted Subsidiaries.

Notwithstanding anything in clauses (i) through (xxv) of this definition, the term "Permitted Liens" shall not include any Liens resulting from the creation, incurrence, issuance, assumption or guarantee of any Production Payments other than Production Payments that are created, incurred, issued, assumed or guaranteed in connection with the financing of, and within 30 days after, the acquisition of the Properties that are subject thereto.

"Permitted Refinancing Indebtedness" means Indebtedness of the Company or a Restricted Subsidiary, the net proceeds of which are used to renew, extend, refinance, refund or repurchase (including, without limitation, pursuant to a Change of Control Offer or Prepayment Offer) outstanding Indebtedness of the Company or any Restricted Subsidiary, provided that (i) if the Indebtedness (including the Securities) being renewed, extended, refinanced, refunded or repurchased is pari passu with or subordinated in right of payment to either the Securities or the Guarantees, then such Indebtedness is pari passu with or subordinated in right of payment to the Securities or the Guarantees, as the case may be, at least to the same extent as the Indebtedness being renewed, extended, refinanced, refunded or repurchased, (ii) such Indebtedness has a Stated Maturity for its final scheduled principal payment that is no earlier than the Stated

Maturity for the final scheduled principal payment of the Indebtedness being renewed, extended, refinanced, refunded or repurchased and (iii) such Indebtedness has an Average Life at the time such Indebtedness is incurred that is equal to or greater than the Average Life of the Indebtedness being renewed, extended, refinanced, refunded or repurchased; provided, further, that such Indebtedness is in an aggregate principal amount (or, if such Indebtedness is issued at a price less than the principal amount thereof, the aggregate amount of gross proceeds therefrom is) not in excess of the aggregate principal amount then outstanding of the Indebtedness being renewed, extended, refinanced, refunded or repurchased (or if the Indebtedness being renewed, extended, refinanced, refunded or repurchased was issued at a price less than the principal amount thereof, then not in excess of the amount of liability in respect thereof determined in accordance with GAAP) plus the amount of any premium required to be paid in connection with such renewal, extension, refinancing, refunding or repurchase pursuant to the terms of the Indebtedness being renewed, extended, refinanced, refunded or repurchased or the amount of any premium reasonably determined by the Company as necessary to accomplish such renewal, extension, refinancing, refunding or repurchase, plus the amount of reasonable fees and expenses incurred by the Company or such Restricted Subsidiary in connection therewith.

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

"Preferred Stock" means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated) of such Person's preferred or preference stock, whether now outstanding or issued after the date of this Supplemental Indenture, including, without limitation, all classes and series of preferred or preference stock of such Person.

"Priority Credit Facility Debt" means, collectively, (i) Indebtedness of the Company or any Restricted Subsidiary (including, without limitation, Indebtedness under the Bank Credit Facility) secured by Liens not otherwise permitted under any of clauses (ii) through (xxv), inclusive, of the definition of "Permitted Liens," and (ii) other Indebtedness or Disqualified Capital Stock of any Restricted Subsidiary that is not a Guarantor. For purposes of clause (i) of the definition of "Permitted Indebtedness," Priority Credit Facility Debt shall be calculated, at any time of determination, (a) in the case of Indebtedness under the Bank Credit Facility or Indebtedness under any other instrument or agreement, with reference to the aggregate principal amount outstanding thereunder at such time, excluding all interest, fees and other Obligations under such facility, instrument or agreement, and (b) in the case of Disqualified Capital Stock, in the manner specified in the definition of "Disqualified Capital Stock."

"Production Payments" means, collectively, Dollar-Denominated Production Payments and Volumetric Production Payments.

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

"Public Equity Offering" means an offer and sale of Common Stock of the Company for cash pursuant to a registration statement that has been declared effective by the Commission pursuant to the Securities Act (other than a registration statement on Form S-8 or otherwise relating to equity securities issuable under any employee benefit plan of the Company).

"Qualified Capital Stock" of any Person means any and all Capital Stock of such Person other than Disqualified Capital Stock.

"Redemption Date," when used with respect to any Security to be redeemed, in whole or in part, means the date fixed for such redemption by or pursuant to this Supplemental Indenture.

"Redemption Price," when used with respect to any Security to be redeemed, means the price at which it is to be redeemed pursuant to this Supplemental Indenture.

"Regular Record Date" for the interest payable on any Interest Payment Date means the February 15 or August 15 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date.

"Responsible Officer," when used with respect to the Trustee, means any officer in the Corporate Trust Office, and also means, with respect to a particular corporate trust matter, any other officer of the Trustee to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Restricted Investment" means (without duplication) (i) the designation of a Subsidiary as an Unrestricted Subsidiary in the manner described in the definition of "Unrestricted Subsidiary" and (ii) any Investment other than a Permitted Investment.

"Restricted Subsidiary" means any Subsidiary of the Company, whether existing on or after the date of this Supplemental Indenture, unless such Subsidiary of the Company is an Unrestricted Subsidiary or is designated as an Unrestricted Subsidiary pursuant to the terms of this Supplemental Indenture.

"S&P" means Standard and Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and its successors.

"Sale/Leaseback Transaction" means, with respect to the Company or any of its Restricted Subsidiaries, any arrangement with any Person providing for the leasing by the Company or any of its Restricted Subsidiaries of any principal property, acquired or placed into service more than 180 days prior to such arrangement, whereby such property has been or is to be sold or transferred by the Company or any of its Restricted Subsidiaries to such Person.

"Securities" has the meaning stated in the first recital of this Supplemental Indenture and more particularly means any Securities authenticated and delivered under this Supplemental Indenture.

"Securities Act" means the Securities Act of 1933, as amended from time to time, and any successor act thereto.

"Senior Indebtedness" means any Indebtedness of the Company (whether outstanding on the date hereof or hereinafter incurred), unless such Indebtedness is Subordinated Indebtedness.

"Subordinated Indebtedness" means Indebtedness of the Company or a Guarantor which is expressly subordinated in right of payment to the Securities or the Guarantees, as the case may be.

"Supplemental Indenture" has the meaning stated in the first paragraph hereof.

"Trustee" means the Person named as the "Trustee" in the first paragraph of this Supplemental Indenture until a successor Trustee shall have become such pursuant to the applicable provisions of the Indenture, and thereafter "Trustee" shall mean such successor Trustee.

"Unrestricted Subsidiary" means (i) any Subsidiary of the Company that at the time of determination will be designated an Unrestricted Subsidiary by the Board of Directors of the Company as provided below and (ii) any Subsidiary of an Unrestricted Subsidiary. The Board of Directors of the Company may designate any Subsidiary of the Company as an Unrestricted Subsidiary so long as (a) neither the Company nor any Restricted Subsidiary is directly or indirectly liable pursuant to the terms of any Indebtedness of such Subsidiary; (b) no default with respect to any Indebtedness of such Subsidiary would permit (upon notice, lapse of time or otherwise) any holder of any other Indebtedness of the Company or any Restricted Subsidiary to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its Stated Maturity; (c) such designation as an Unrestricted Subsidiary would be permitted under Section 6.7 hereof; and (d) such designation shall not result in the creation or imposition of any Lien on any of the Properties of the Company or any Restricted Subsidiary (other than any Permitted Lien or any Lien the creation or imposition of which shall have been in compliance with Section 6.12 hereof); provided, however, that with respect to clause (a), the Company or a Restricted Subsidiary may be liable for Indebtedness of an Unrestricted Subsidiary if (1) such liability constituted a Permitted Investment or a Restricted Payment permitted by Section 6.7 hereof, in each case at the time of incurrence, or (2) the liability would be a Permitted Investment at the time of designation of such Subsidiary as an Unrestricted Subsidiary. Any such designation by the Board of Directors of the Company shall be evidenced to the Trustee by filing a Board Resolution with the Trustee giving effect to such designation. The Board of Directors of the Company may designate any Unrestricted Subsidiary as a Restricted Subsidiary if, immediately after giving effect to such designation, on a pro forma basis, (i) no Default or Event of Default shall have occurred and be continuing, (ii) the Company could incur $1.00 of additional Indebtedness (not including the incurrence of Permitted Indebtedness) under Section 6.9(a) hereof and (iii) if any of the Properties of the Company or any of its Restricted Subsidiaries would upon such designation become subject to any Lien (other than a Permitted Lien), the creation or imposition of such Lien shall have been in compliance with Section 6.12 hereof.

"Vice President," when used with respect to the Company or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title "vice president."

"Volumetric Production Payments" means production payment obligations of the Company or a Restricted Subsidiary recorded as deferred revenue in accordance with GAAP, together with all undertakings and obligations in connection therewith.

"Voting Stock" means any class or classes of Capital Stock pursuant to which the holders thereof have the general voting power under ordinary circumstances to elect at least a majority of the board of directors, managers or trustees of any Person (irrespective of whether or not, at the time, stock of any other class or classes shall have, or might have, voting power by reason of the happening of any contingency).

"Wholly Owned Restricted Subsidiary" means any Restricted Subsidiary of the Company to the extent (i) all of the Capital Stock or other ownership interests in such Restricted Subsidiary, other than any directors' qualifying shares mandated by applicable law, is owned directly or indirectly by the Company or (ii) such Restricted Subsidiary does substantially all of its business in one or more foreign jurisdictions and is required by the applicable laws and regulations of any such foreign jurisdiction to be partially owned by the government of such foreign jurisdiction or individual or corporate citizens of such foreign jurisdiction in order for such Restricted Subsidiary to transact business in such foreign jurisdiction, provided that the Company, directly or indirectly, owns the remaining Capital Stock or ownership interest in such Restricted Subsidiary and, by contract or otherwise, controls the management and business of such Restricted Subsidiary and derives the economic benefits of ownership of such Restricted Subsidiary to substantially the same extent as if such Restricted Subsidiary were a wholly owned subsidiary.

Section 1.2 Other Definitions.

Term	Defined in
"Change of Control Notice"	6.13(c)
"Change of Control Offer"	6.13(a)
"Change of Control Purchase Date"	6.13(c)
"Change of Control Purchase Price"	6.13(a)
"Excess Proceeds"	6.13(b)
"Funding Guarantor"	9.5
"Global Security"	Appendix A
"Investment Grade Ratings"	6.18
"Offer Amount"	6.14(c)
"Offer Period"	6.14(c)
"OID"	2.1
"Original Securities"	2.1
"Paying Agent"	2.4
"Payment Restriction"	6.16

"Permitted Consideration"	6.14(a)
"Prepayment Offer"	6.14(b)
"Prepayment Offer Notice	6.14(c)
"Purchase Date"	6.14(c)
"Registrar"	2.4
"Restricted Payment"	6.7(a)
"Reversion Date"	6.18
"Security Register"	2.4
"Surviving Entity"	4.1(a)
"Suspended Covenants"	6.18
"Suspension Date"	6.18
"Suspension Period	6.18
"U.S. Government Obligations"	8.4(a)

Section 1.3 Incorporation by Reference of Trust Indenture Act.

Whenever this Supplemental Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Supplemental Indenture. The following TIA terms used in this Supplemental Indenture have the following meanings:

"indenture securities" means the Securities,

"indenture security holder" means a Holder,

"indenture to be qualified" means the Base Indenture, as supplemented by this Supplemental Indenture,

"indenture trustee" or "institutional trustee" means the Trustee, and

"obligor" on the indenture securities means the Company or any other obligor on the Securities.

All other TIA terms used in this Supplemental Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by Commission rule and not otherwise defined herein have the meanings assigned to them therein.

Section 1.4 Rules of Construction.

For all purposes of this Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms defined in this Article have the meanings assigned to them in this Article, and include the plural as well as the singular;

(b) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP and all accounting calculations will be determined in accordance with GAAP;

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

(d) the masculine gender includes the feminine and the neuter;

(e) a "day" means a calendar day;

(f) the term "merger" includes a statutory share exchange and the term "merged" has a correlative meaning;

(g) provisions apply to successive events and transactions; and

(h) references to agreements and other instruments include subsequent amendments and waivers but only to the extent not prohibited by this Supplemental Indenture.

ARTICLE II.

THE SECURITIES

Section 2.1 Amount of Securities; Multiple Issuances.

All Securities shall be identical in all respects other than issue price and issuance dates. The Securities may be issued in one or more issuances; provided, however, that any Securities issued with original issue discount ("OID") for Federal income tax purposes shall not be issued as part of the same issuance as any Securities that are issued with a different amount of OID or are not issued with OID.

Subject to Section 2.3, the Trustee shall authenticate Securities for original issue on the Issue Date in the aggregate principal amount of $175,000,000 (the "Original Securities"). Subject to compliance with Section 6.9 hereof, the Company may issue an unlimited amount of additional Securities from time to time after the Issue Date. With respect to any Securities issued after the Issue Date (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities pursuant to Section 2.7, 2.8, 2.9, 6.13, 6.14 or 7.6 or Appendix A), there shall be established in or pursuant to a resolution of the Board of Directors and, subject to Section 2.3, set forth or determined in the manner provided in an Officer's Certificate, or established in one or more indentures supplemental hereto, prior to the issuance of such Securities:

(1) the aggregate principal amount of such Securities which may be authenticated and delivered under this Supplemental Indenture;

(2) the issue price and issuance date of such Securities, including the date from which interest on such Securities shall accrue; and

(3) if applicable, that such Securities shall be issuable in whole or in part in the form of one or more Global Securities and, in such case, the respective depositories for such Global Securities, the form of any legend or legends which shall be borne by any such Global Security in addition to or in lieu of that set forth in Exhibit 1 to Appendix A and any circumstances in addition to or in lieu of those set forth in Section 2.3 of Appendix A in which any such Global Security may be exchanged in whole or in part for Securities registered, and any transfer of such Global Security in whole or in part may be registered, in the name or names of Persons other than the depository for such Global Security or a nominee thereof.

If any of the terms of any subsequent issuance of Securities are established by action taken pursuant to a resolution of the Board of Directors, a copy of an appropriate record of such action shall be certified by the Secretary or any Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers' Certificate or the trust indenture supplementary thereto setting forth the terms of such issuance.

Section 2.2 Form and Dating.

Provisions relating to the Securities are set forth in Appendix A, which is hereby incorporated in and expressly made a part of this Supplemental Indenture. The Securities and the Trustee's certificate of authentication shall be substantially in the form of Exhibit 1 to Appendix A which is hereby incorporated in and expressly made a part of this Supplemental Indenture. The Securities may have notations, legends or endorsements required by law, stock exchange rule, agreements to which the Company is subject, if any, or usage, provided that any such notation, legend or endorsement is in a form reasonably acceptable to the Company. Each Security shall be dated the date of its authentication. The terms of the Securities set forth in Exhibit 1 to Appendix A are part of the terms of this Supplemental Indenture.

Section 2.3 Execution and Authentication.

Two Officers of the Company shall sign the Securities for the Company by manual or facsimile signature. The Company's seal may be impressed, affixed, imprinted or reproduced on the Securities and may be in facsimile form.

If an Officer whose signature is on a Security no longer holds that office at the time the Trustee authenticates the Security, the Security shall be valid nevertheless.

At any time and from time to time after the execution and delivery of this Supplemental Indenture, the Company may deliver additional Securities executed by the Company to the Trustee for authentication, together with a written order of the Company signed by two Officers of the Company for the authentication and delivery of such Securities, and the Trustee in accordance with such written order of the Company shall authenticate and deliver such Securities.

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

The Trustee may appoint an authenticating agent reasonably acceptable to the Company to authenticate the Securities. Unless limited by the terms of such appointment, an authenticating agent may authenticate Securities whenever the Trustee may do so. Each reference in this Supplemental Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

Section 2.4 Registrar and Paying Agent.

The Company shall maintain an office or agency where Securities may be presented for registration of transfer or for exchange (the "Registrar") and an office or agency where Securities may be presented for payment (the "Paying Agent"). The Registrar shall keep a register (the "Security Register") of the Securities and of their transfer and exchange. The Company may have one or more co-registrars and one or more additional paying agents. The term "Paying Agent" includes any additional paying agent.

The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-registrar not a party to this Supplemental Indenture, which shall incorporate the terms of the TIA. The agreement shall implement the provisions of this Supplemental Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Article VI of the Base Indenture. The Company may act as Paying Agent, Registrar, co-registrar or transfer agent.

The Company initially appoints the Trustee as Registrar and Paying Agent in connection with the Securities.

Section 2.5 Paying Agent To Hold Money in Trust.

Not later than 10:00 a.m., Eastern standard time, on each due date of the principal and interest on any Security, the Company shall deposit with the Paying Agent a sum sufficient to pay such principal and interest when so becoming due. The Company shall require each Paying Agent (other than the Trustee) to agree in writing that the Paying Agent shall hold in trust for the benefit of the Holders or the Trustee all money held by the Paying Agent for the payment of principal of or interest on the Securities and shall notify the Trustee of any default by the Company in making any such payment. If the Company acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by the Paying Agent. Upon complying with this Section, the Paying Agent shall have no further liability for the money delivered to the Trustee.

Section 2.6 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. If the Trustee is not the Registrar, the Company shall furnish to the Trustee, in writing at least five Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders.

Section 2.7 Replacement Securities.

If a mutilated Security is surrendered to the Registrar or if the Holder of a Security claims that such Security has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall authenticate a replacement Security if the requirements of Section 8-405 of the Uniform Commercial Code are met and the Holder satisfies any other reasonable requirements of the Trustee. If required by the Trustee or the Company, such Holder shall furnish an indemnity bond sufficient in the judgment of the Company and the Trustee to protect the Company, the Trustee, the Paying Agent, the Registrar and any co-registrar from any loss which any of them may suffer if a Security is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Security.

Every replacement Security is an additional obligation of the Company.

Section 2.8 Outstanding Securities.

Securities outstanding at any time are all Securities authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation and those described in this Section as not outstanding. A Security does not cease to be outstanding because the Company or an Affiliate of the Company holds the Security.

If a Security is replaced pursuant to Section 2.7, it ceases to be outstanding unless the Trustee and the Company receive proof satisfactory to them that the replaced Security is held by a bona fide purchaser.

If the Paying Agent segregates and holds in trust, in accordance with this Supplemental Indenture, on a redemption date or maturity date money sufficient to pay all principal and interest payable on that date with respect to the Securities (or portions thereof) to be redeemed or maturing, as the case may be, and the Paying Agent is not prohibited from paying such money to the Holders of such Securities on that date pursuant to the terms of this Supplemental Indenture, then on and after that date such Securities (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

Section 2.9 Temporary Securities.

Until definitive Securities are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Securities. Temporary Securities shall be substantially in

the form of definitive Securities but may have variations that the Company considers appropriate for temporary Securities. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Securities and deliver them in exchange for temporary Securities.

Section 2.10 Cancellation.

The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Securities surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel and destroy (subject to the record retention requirements of the Exchange Act) all Securities surrendered for registration of transfer, exchange, payment or cancellation and shall, upon written request, deliver a certificate of such destruction to the Company. The Company may not issue new Securities to replace Securities it has redeemed, paid or delivered to the Trustee for cancellation.

Section 2.11 Defaulted Interest.

If the Company defaults in a payment of interest on the Securities, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the persons who are Holders on a subsequent special record date, in each case at the rate provided in the Securities and in Section 6.1 hereof. The Company shall fix or cause to be fixed any such special record date and payment date to the reasonable satisfaction of the Trustee and shall promptly mail to each Holder a notice that states the special record date, the payment date and the amount of defaulted interest to be paid.

Section 2.12 CUSIP Numbers.

The Company in issuing the Securities may use "CUSIP" numbers (if then generally in use) and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to Holders; provided, however, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers.

ARTICLE III.

DEFAULTS AND REMEDIES

Section 3.1 Events of Default.

"Event of Default," wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary

or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) default in the payment of the principal of or premium, if any, on any of the Securities when the same becomes due and payable, whether such payment is due at Stated Maturity, upon redemption, upon repurchase pursuant to a Change of Control Offer or a Prepayment Offer, upon acceleration or otherwise; or

(b) default in the payment of any installment of interest on any of the Securities, when it becomes due and payable, and the continuance of such default for a period of 30 days; or

(c) default in the performance or breach of the provisions of Article IV hereof, the failure to make or consummate a Change of Control Offer in accordance with the provisions of Section 6.13 or the failure to make or consummate a Prepayment Offer in accordance with the provisions of Section 6.14; or

(d) the Company or any Guarantor shall fail to perform or observe any other term, covenant or agreement contained in the Securities, any Guarantee or the Indenture (other than a default specified in subparagraph (a), (b) or (c) above) for a period of 60 days after written notice of such failure stating that it is a "notice of default" hereunder and requiring the Company or such Guarantor, as the case may be, to remedy the same shall have been given (x) to the Company by the Trustee or (y) to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Securities then Outstanding; or

(e) the occurrence and continuation beyond any applicable grace period of any default in the payment of the principal of (or premium, if any, on) or interest on any Indebtedness of the Company (other than the Securities) or any Guarantor or any other Restricted Subsidiary for money borrowed when due, or any other default resulting in acceleration of any Indebtedness of the Company or any Guarantor or any other Restricted Subsidiary for money borrowed, provided that the aggregate principal amount of such Indebtedness shall exceed $20,000,000; or

(f) any Guarantee shall for any reason cease to be, or be asserted by the Company or any Guarantor, as applicable, not to be, in full force and effect (except pursuant to the release of any such Guarantee in accordance with this Supplemental Indenture); or

(g) final judgments or orders rendered against the Company or any Guarantor or any other Restricted Subsidiary that are unsatisfied and that require the payment in money, either individually or in an aggregate amount, that is more than $20,000,000 over the coverage under applicable insurance policies and either (A) commencement by any creditor of an enforcement proceeding upon such judgment (other than a judgment that is stayed by reason of pending appeal or otherwise) or (B) the occurrence of a 60-day period during which a stay of such judgment or order, by reason of pending appeal or otherwise, was not in effect; or

(h) the entry of a decree or order by a court having jurisdiction in the premises (A) for relief in respect of the Company or any Guarantor or any other Restricted Subsidiary in an

involuntary case or proceeding under the Federal Bankruptcy Code or any other applicable federal or state bankruptcy, insolvency, reorganization or other similar law or (B) adjudging the Company or any Guarantor or any other Restricted Subsidiary bankrupt or insolvent, or approving a petition seeking reorganization, arrangement, adjustment or composition of the Company or any Guarantor or any other Restricted Subsidiary under the Federal Bankruptcy Code or any applicable federal or state law, or appointing under any such law a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or any Guarantor or any other Restricted Subsidiary or of a substantial part of its consolidated assets, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days; or

(i) the commencement by the Company or any Guarantor or any other Restricted Subsidiary of a voluntary case or proceeding under the Federal Bankruptcy Code or any other applicable federal or state bankruptcy, insolvency, reorganization or other similar law or any other case or proceeding to be adjudicated bankrupt or insolvent, or the consent by the Company or any Guarantor or any other Restricted Subsidiary to the entry of a decree or order for relief in respect thereof in an involuntary case or proceeding under the Federal Bankruptcy Code or any other applicable federal or state bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by the Company or any Guarantor or any other Restricted Subsidiary of a petition or consent seeking reorganization or relief under any applicable federal or state law, or the consent by it under any such law to the filing of any such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee or sequestrator (or other similar official) of the Company or any Guarantor or any other Restricted Subsidiary or of any substantial part of its consolidated assets, or the making by it of an assignment for the benefit of creditors under any such law, or the admission by it in writing of its inability to pay its debts generally as they become due or taking of corporate action by the Company or any Guarantor or any other Restricted Subsidiary in furtherance of any such action.

Section 3.2 Acceleration of Maturity; Rescission and Annulment.

If an Event of Default (other than an Event of Default specified in Section 3.1(h) or (i) hereof) occurs and is continuing, the Trustee or the Holders of not less than 25% in aggregate principal amount of the Securities then Outstanding, by written notice to the Company (and to the Trustee if such notice is given by the Holders), may, and the Trustee upon the request of the Holders of not less than 25% in aggregate principal amount of the Outstanding Securities shall, by a notice in writing to the Company, declare all unpaid principal of, premium, if any, and accrued and unpaid interest on all the Securities to be due and payable immediately, upon which declaration all amounts payable in respect of the Securities shall be immediately due and payable. If an Event of Default specified in Section 3.1(h) or (i) hereof occurs and is continuing, the amounts described above shall become and be immediately due and payable without any declaration, notice or other act on the part of the Trustee or any Holder.

Promptly after the occurrence of a declaration of acceleration, the Company shall notify each holder of Senior Indebtedness thereof, but failure to give any such notice shall not affect such declaration or its consequences.

At any time after a declaration of acceleration has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article provided, the Holders of a majority in aggregate principal amount of the Securities Outstanding, by written notice to the Company, the Guarantors and the Trustee, may rescind and annul such declaration and its consequences if

(a) the Company or any Guarantor has paid or deposited with the Trustee a sum sufficient to pay,

(1) all overdue interest on all Outstanding Securities,

(2) all unpaid principal of (and premium, if any, on) any Outstanding Securities which have become due otherwise than by such declaration of acceleration, including any Securities required to have been purchased on a Change of Control Date or a Purchase Date pursuant to a Change of Control Offer or a Prepayment Offer, as applicable, and interest on such unpaid principal at the rate borne by the Securities,

(3) to the extent that payment of such interest is lawful, interest on overdue interest and overdue principal at the rate borne by the Securities (without duplication of any amount paid or deposited pursuant to clauses (1) and (2) above), and

(4) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel;

(b) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction as certified to the Trustee by the Company; and

(c) all Events of Default, other than the non-payment of amounts of principal of (or premium, if any, on) or interest on Securities which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 3.13 hereof.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

Notwithstanding the foregoing, if an Event of Default specified in Section 3.1(e) hereof shall have occurred and be continuing, such Event of Default and any consequential acceleration shall be automatically rescinded if the Indebtedness that is the subject of such Event of Default has been repaid, or if the default relating to such Indebtedness is waived or cured and if such Indebtedness has been accelerated, then the holders thereof have rescinded their declaration of acceleration in respect of such Indebtedness (provided, in each case, that such repayment, waiver, cure or rescission is effected within a period of 10 days from the continuation of such

default beyond the applicable grace period or the occurrence of such acceleration), and written notice of such repayment, or cure or waiver and rescission, as the case may be, shall have been given to the Trustee by the Company and countersigned by the holders of such Indebtedness or a trustee, fiduciary or agent for such holders or other evidence satisfactory to the Trustee of such events is provided to the Trustee, within 30 days after any such acceleration in respect of the Securities, and so long as such rescission of any such acceleration of the Securities does not conflict with any judgment or decree as certified to the Trustee by the Company.

Section 3.3 Collection of Indebtedness and Suits for Enforcement by Trustee.

The Company covenants that if

(a) default is made in the payment of any installment of interest on any Security when such interest becomes due and payable and such default continues for a period of 30 days, or

(b) default is made in the payment of the principal of (or premium, if any, on) any Security at the Maturity thereof or with respect to any Security required to have been purchased by the Company on the Change of Control Purchase Date or the Purchase Date pursuant to a Change of Control Offer or Prepayment Offer, as applicable, then the Company will, upon demand of the Trustee, pay to the Trustee for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal (and premium, if any) and interest, and interest on any overdue principal (and premium, if any) and, to the extent that payment of such interest shall be legally enforceable, upon any overdue installment of interest, at the rate borne by the Securities, and, in addition thereto, 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.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company or any other obligor upon the Securities and collect the money adjudged or decreed to be payable in the manner provided by law out of the Property of the Company or any other obligor upon the Securities, wherever situated.

If an Event of Default occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Supplemental Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 3.4 Trustee May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company, any Guarantor or any other obligor upon the Securities, their creditors or the Property

of the Company, any Guarantor or of such other obligor, the Trustee (irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company, the Guarantors or such other obligor for the payment of overdue principal, premium, if any, or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(a) to file and prove a claim for the whole amount of principal (and premium, if any) and interest owing and unpaid in respect of the Securities and to file such other papers or documents and take any other actions including participation as a full member of any creditor or other committee 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 and counsel) and of the Holders allowed in such judicial proceeding, and

(b) to collect and receive any money or other Property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or similar official in any such judicial proceeding 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 the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Article VI of the Base Indenture.

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 Securities or the Guarantees 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 3.5 Trustee May Enforce Claims Without Possession of Securities.

All rights of action and claims under the Indenture or the Securities or the Guarantees may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name and as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

Section 3.6 Application of Money Collected.

Any money collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in the case of the distribution of such money on account of principal (or premium, if any) or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: to the payment of all amounts due the Trustee under Article VI of the Base Indenture;

SECOND: to the payment of the amounts then due and unpaid for principal of (and premium, if any, on) and interest on the Securities in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal (and premium, if any) and interest, respectively; and

THIRD: the balance, if any, to the Company, or to whomsoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

Section 3.7 Limitation on Suits.

No Holder of any Securities shall have any right to institute any proceeding, judicial or otherwise, with respect to this Supplemental Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(a) such Holder has previously given written notice to the Trustee of a continuing Event of Default;

(b) the Holders of not less than 25% in aggregate principal amount of the Outstanding Securities shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(c) such Holder or Holders have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred in compliance with such request;

(d) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(e) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority or more in aggregate principal amount of the Outstanding Securities;

it being understood and intended that no one or more Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of the Indenture to affect, disturb or prejudice the rights of any other Holders, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under the Indenture, except in the manner herein provided and for the equal and ratable benefit of all the Holders.

Section 3.8 Unconditional Right of Holders to Receive Principal, Premium and Interest.

Notwithstanding any other provision in the Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment, as provided herein (including, if applicable, Article VIII hereof) and in such Security of the principal of (and premium if any, on) and (subject to Section 2.11 hereof) interest on, such Security on the respective Stated Maturities expressed in such Security (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

Section 3.9 Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under the Indenture 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, subject to any determination in such proceeding, the Company, the Guarantors, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereunder and all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 3.10 Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 2.7 hereof, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 3.11 Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Security to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 3.12 Control by Holders.

The Holders of not less than a majority in aggregate principal amount of the Outstanding Securities 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 that

(a) such direction shall not be in conflict with any rule of law or with the Indenture,

(b) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction,

(c) the Trustee need not take any action which might involve it in personal liability, and

(d) the Trustee may decline to take any action that would benefit some Holders to the detriment of other Holders.

Prior to taking any such action under this Section, the Trustee shall be entitled to such reasonable security or indemnity as it may require against the costs, expenses and liabilities that may be incurred by it in taking or declining to take any such action hereunder.

Section 3.13 Waiver of Past Defaults.

The Holders of not less than a majority in aggregate principal amount of the Outstanding Securities may on behalf of the Holders of all the Securities waive any existing Default or Event of Default hereunder and its consequences, except a Default or Event of Default

(a) in respect of the payment of the principal of (or premium, if any, on) or interest on any Security, or

(b) in respect of a covenant or provision hereof which under Article V hereof cannot be modified or amended without the consent of the Holder of each Outstanding Security affected thereby.

Upon any such waiver, such Default or Event of Default shall cease to exist for every purpose under the Indenture, but no such waiver shall extend to any subsequent or other fault or Event of Default or impair any right consequent thereon.

Section 3.14 Waiver of Stay, Extension or Usury Laws.

Each of the Company and the Guarantors covenants (to the extent that each 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, extension, or usury law or other law wherever enacted, now or at any time hereafter in force, which would prohibit or forgive the Company or any Guarantor from paying all or any portion of the principal of (premium, if any, on) or interest on the Securities as contemplated herein, or which may affect the covenants or the performance of the Indenture; and (to the extent that it may lawfully do so) each of the Company and the Guarantors hereby expressly waives all benefit or advantage of any such law, and covenant that they 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.

ARTICLE IV.

CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

Section 4.1 Company May Consolidate, etc., Only on Certain Terms.

The Company shall not, in any single transaction or a series of related transactions, merge or consolidate with or into any other Person, or sell, assign, convey, transfer, lease or otherwise dispose of all or substantially all the Properties of the Company and its Restricted Subsidiaries on a consolidated basis to any Person or group of Affiliated Persons, and the Company shall not permit any of its Restricted Subsidiaries to enter into any such transaction or series of related transactions if such transaction or series of transactions, in the aggregate, would result in a sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the Properties of the Company and its Restricted Subsidiaries on a consolidated basis to any other Person or group of Affiliated Persons, unless at the time and after giving affect thereto:

(a) either (i) if the transaction is a merger or consolidation, the Company shall be the surviving Person of such merger or consolidation, or (ii) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or to which the Properties of the Company or its Restricted Subsidiaries, as the case may be, are sold, assigned, conveyed, transferred, leased or otherwise disposed of (any such surviving Person or transferee Person being called the "Surviving Entity") shall be a corporation organized and existing under the laws of the United States of America, any state thereof or the District of Columbia and shall, in either case, expressly assume by an indenture supplemental to this Supplemental Indenture executed and delivered to the Trustee, in form satisfactory to the Trustee, all the obligations of the Company under the Securities and this Supplemental Indenture, and, in each case, this Supplemental Indenture shall remain in full force and effect;

(b) immediately after giving effect to such transaction or series of related transactions on a pro forma basis (and treating any Indebtedness not previously an obligation of the Company or any of its Restricted Subsidiaries which becomes the obligation of the Company or any of its Restricted Subsidiaries in connection with or as a result of such transaction or transactions as having been incurred at the time of such transaction or transactions), no Default or Event of Default shall have occurred and be continuing;

(c) except in the case of the consolidation or merger of the Company with or into a Restricted Subsidiary or any Restricted Subsidiary with or into the Company or another Restricted Subsidiary, immediately before and immediately after giving effect to such transaction or transactions on a pro forma basis (assuming that the transaction or transactions occurred on the first day of the period of four full fiscal quarters ending immediately prior to the consummation of such transaction or transactions, with the appropriate adjustments with respect to the transaction or transactions being included in such pro forma calculation), the Company (or

the Surviving Entity if the Company is not the continuing obligor under this Supplemental Indenture) could incur $1.00 of additional Indebtedness (excluding Permitted Indebtedness) under Section 6.9(a) hereof;

(d) if the Company is not the continuing obligor under this Supplemental Indenture, then each Guarantor, unless it is the Surviving Entity, shall have by supplemental indenture confirmed that its Guarantee of the Securities shall apply to the Surviving Entity's obligations under this Supplemental Indenture and the Securities:

(e) if any of the Properties of the Company or any of its Restricted Subsidiaries would upon such transaction or series of related transactions become subject to any Lien (other than a Permitted Lien), the creation or imposition of such Lien shall have been in compliance with Section 6.12 hereof; and

(f) the Company (or the Surviving Entity if the Company is not the continuing obligor under this Supplemental Indenture) shall have delivered to the Trustee, in form and substance reasonably satisfactory to the Trustee, (i) an Officers' Certificate stating that such consolidation, merger, conveyance, transfer, lease or other disposition and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, comply with this Supplemental Indenture and (ii) an Opinion of Counsel stating that the requirements of Section 4.1(a) have been satisfied.

Section 4.2 Successor Substituted.

Upon any consolidation of the Company with or merger of the Company into any other corporation or any sale, assignment, lease, conveyance, transfer or other disposition of all or substantially all of the Properties of the Company and its Restricted Subsidiaries on a consolidated basis in accordance with Section 4.1 hereof, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Supplemental Indenture with the same effect as if such Surviving Entity had been named as the Company herein, and in the event of any such sale, assignment, lease, conveyance, transfer or other disposition, the Company (which term shall for this purpose mean the Person named as the "Company" in the first paragraph of this Supplemental Indenture or any successor Person which shall theretofore become such in the manner described in Section 4.1 hereof), except in the case of a lease, shall be discharged of all obligations and covenants under this Supplemental Indenture and the Securities, and the Company may be dissolved and liquidated and such dissolution and liquidation shall not cause a Change of Control under clause (e) of the definition thereof to occur unless the sale, assignment, lease, conveyance, transfer or other disposition of all or substantially all of the Properties of the Company and its Restricted Subsidiaries on a consolidated basis to any Person otherwise results in a Change of Control.

ARTICLE V.

SUPPLEMENTAL INDENTURES

Section 5.1 Supplemental Indentures Without Consent of Holders.

Without the consent of any Holders, the Company, when authorized by a Board Resolution, each of the Guarantors, when authorized by a Board Resolution, and the Trustee upon Company Request, at any time and from time to time, may enter into one or more indentures supplemental to this Supplemental Indenture, in form satisfactory to the Trustee, for any of the following purposes:

(a) to evidence the succession of another Person to the Company and the assumption by any such successor of the covenants of the Company contained in this Supplemental Indenture and in the Securities; or

(b) to add to the covenants of the Company for the benefit of the Holders or to surrender any right or power herein conferred upon the Company; or

(c) to comply with any requirement of the SEC in connection with qualifying this Supplemental Indenture under the TIA or maintaining such qualification thereafter; or

(d) to cure any ambiguity, to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Supplemental Indenture, provided that such action shall not adversely affect the interests of the Holders in any material respect; or

(e) to secure the Securities or the Guarantees pursuant to the requirements of Section 6.12 hereof or otherwise; or

(f) to add any Restricted Subsidiary as an additional Guarantor as provided in Sections 6.8 and 6.10(a) hereof or to evidence the succession of another Person to any Guarantor pursuant to Section 9.2(b) hereof and the assumption by any such successor of the covenants and agreements of such Guarantor contained herein, in the Securities and in the Guarantee of such Guarantor; or

(g) to release a Guarantor from its Guarantee pursuant to Section 9.3 hereof; or

(h) to provide for uncertificated Securities in addition to or in place of certificated Securities.

Section 5.2 Supplemental Indentures with Consent of Holders.

With the consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Securities, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, each of the Guarantors, when authorized

by a Board Resolution, and the Trustee upon Company Request may enter into an indenture or indentures supplemental to this Supplemental Indenture for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Supplemental Indenture or of modifying in any manner the rights of the Holders under this Supplemental Indenture; provided, however, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security affected thereby:

(a) change the Stated Maturity of the principal of, or any installment of interest on, any Security, or reduce the principal amount thereof or the rate of interest thereon or any premium thereon, or change the coin or currency in which principal of any Security or any premium or the interest on any Security is payable, or impair the right to institute suit for the enforcement of any such payment after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date); or

(b) reduce the percentage of aggregate principal amount of the Outstanding Securities, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver of compliance with certain provisions of this Supplemental Indenture or certain defaults hereunder or the consequences of a default provided for in this Supplemental Indenture; or

(c) modify any of the provisions of this Section or Sections 3.13 and 6.18 hereof, except to increase any such percentage or to provide that certain other provisions of this Supplemental Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby; or

(d) amend, change or modify the obligation of the Company to make and consummate a Change of Control Offer in the event of a Change of Control Triggering Event, or to make and consummate a Prepayment Offer with respect to any Asset Sale, or modify any of the provisions or definitions with respect thereto.

It shall not be necessary for any Act of the Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

Section 5.3 Execution of Supplemental Indentures.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Supplemental Indenture or the Base Indenture, the Trustee shall be entitled to receive, and shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by the Indenture. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Supplemental Indenture or the Base Indenture or otherwise.

Section 5.4 Effects of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article, this Supplemental Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Supplemental Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 5.5 Conformity with Trust Indenture Act.

Every supplemental indenture executed pursuant to this Article shall conform to the requirements of the Trust Indenture Act as then in effect.

Section 5.6 References in Securities to Supplemental Indentures.

Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company, and authenticated and delivered by the Trustee in exchange for Outstanding Securities.

Section 5.7 Notice of Supplemental Indentures.

Promptly after the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of Section 5.2 hereof, the Company shall give notice thereof to the Holders of each Outstanding Security affected, in the manner provided for in Section 10.3 hereof, setting forth in general terms the substance of such supplemental indenture.

ARTICLE VI.

COVENANTS

Section 6.1 Payment of Principal, Premium, if any, and Interest.

The Company covenants and agrees for the benefit of the Holders that it will duly and punctually pay the principal of (and premium, if any, on) and interest on the Securities in accordance with the terms of the Securities and the Indenture.

Section 6.2 Maintenance of Office or Agency.

The Company shall maintain an office or agency where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Securities, the Guarantees and the Indenture may be served. The New York office of the Trustee shall be such office or agency of the Company, unless the Company shall designate and maintain some

other office or agency for one or more of such purposes. The Company will give prompt written notice to the Trustee of any change in the location of any such office or agency. If at any time the Company 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 aforementioned office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

The Company may also from time to time designate one or more other offices or agencies where the Securities may be presented or surrendered for any or all such purposes and may from time to time rescind any such designation. Further, if at any time there shall be no such office or agency in The City of New York where the Securities may be presented or surrendered for payment, the Company shall forthwith designate and maintain such an office or agency in The City of New York, in order that the Securities shall at all times be payable in The City of New York. The Company will give prompt written notice to the Trustee of any such designation or rescission and any change in the location of any such other office or agency.

Section 6.3 Corporate Existence.

Except as expressly permitted by Article IV hereof, Section 6.14 hereof or other provisions of this Supplemental Indenture, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect the corporate existence, rights (charter and statutory) and franchises of the Company and each Restricted Subsidiary; provided, however, that the Company shall not be required to preserve any such existence of its Restricted Subsidiaries, rights or franchises, if the Board of Directors of the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Restricted Subsidiaries, taken as a whole, and that the loss thereof is not disadvantageous in any material respect to the Holders.

Section 6.4 Payment of Taxes; Maintenance of Properties; Insurance.

The Company shall pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (a) all material taxes, assessments and governmental charges levied or imposed upon the Company or any Restricted Subsidiary or upon the income, profits or Property of the Company or any Restricted Subsidiary and (b) all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a Lien upon the Property of the Company or any Restricted Subsidiary; provided, however, that the Company 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 proceedings and for which appropriate provision has been made in accordance with GAAP.

The Company shall cause all material Properties owned by the Company or any Restricted Subsidiary and used or held for use in the conduct of its business or the business of any Restricted Subsidiary to be maintained and kept in good condition, repair and working order (ordinary wear and tear excepted), all as in the judgment of the Company or such Restricted Subsidiary may be necessary so that its business may be properly and advantageously conducted at all times; provided, however, that nothing in this Section shall prevent the Company or any

Restricted Subsidiary from discontinuing the maintenance of any of such Properties if such discontinuance is, in the judgment of the Company or such Restricted Subsidiary, as the case may be, desirable in the conduct of the business of the Company or such Restricted Subsidiary and not disadvantageous in any material respect to the Holders. Notwithstanding the foregoing, nothing contained in this Section 6.4 shall limit or impair in any way the right of the Company and its Restricted Subsidiaries to sell, divest and otherwise to engage in transactions that are otherwise permitted by this Supplemental Indenture.

The Company shall at all times keep all of its, and cause its Restricted Subsidiaries to keep their, Properties which are of an insurable nature insured with insurers, believed by the Company to be responsible, against loss or damage to the extent that property of similar character and in a similar location is usually so insured by corporations similarly situated and owning like Properties.

The Company or any Restricted Subsidiary may adopt such other plan or method of protection, in lieu of or supplemental to insurance with insurers, whether by the establishment of an insurance fund or reserve to be held and applied to make good losses from casualties, or otherwise, conforming to the systems of self-insurance maintained by corporations similarly situated and in a similar location and owning like Properties, as may be determined by the Board of Directors of the Company or such Restricted Subsidiary.

Section 6.5 Statement by Officers as to Default.

(a) The Company shall deliver to the Trustee, within 100 days after the end of each fiscal year of the Company and within 45 days of the end of each of the first, second and third quarters of each fiscal year of the Company, an Officers' Certificate stating that a review of the activities of the Company and its Restricted Subsidiaries during the preceding fiscal quarter or fiscal year, as applicable, has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Supplemental Indenture, and further stating, as to each such Officer signing such certificate, that to the best of such Officer's knowledge the Company has kept, observed, performed and fulfilled each and every condition and covenant contained in this Supplemental Indenture and no Default or Event of Default has occurred and is continuing (or, if a Default or Event of Default shall have occurred to either such Officer's knowledge, describing all such Defaults or Events of Default of which such Officer may have knowledge and what action the Company is taking or proposes to take with respect thereto). Such Officers' Certificate shall comply with TIA Section 314(a)(4). For purposes of this Section 6.5(a), such compliance shall be determined without regard to any period of grace or requirement of notice under this Supplemental Indenture.

(b) The Company shall, so long as any of the Securities is outstanding, deliver to the Trustee, upon any of its Officers becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company proposes to take with respect thereto, within 10 days of its occurrence.

Section 6.6 Provision of Financial Information.

The Company (and the Guarantors, if applicable) shall file on a timely basis with the SEC, to the extent such filings are accepted by the Commission and whether or not the Company has a class of securities registered under the Exchange Act, the annual reports, quarterly reports and other documents that the Company would be required to file if it were subject to Section 13 or 15 of the Exchange Act. The Company (and the Guarantors, if applicable) shall also file with the Trustee (with exhibits), and provide to each Holder of Securities (without exhibits), without cost to such Holder, copies of such reports and documents within 15 days after the date on which the Company (and the Guarantors, if applicable) file such reports and documents with the Commission or the date on which the Company (and the Guarantors, if applicable) would be required to file such reports and documents if the Company were so required and, if filing such reports and documents with the Commission is not accepted by the Commission or is prohibited under the Exchange Act, the Company shall supply at its cost copies of such reports and documents (including any exhibits thereto) to any Holder of Securities promptly upon written request given in accordance with Section 10.2 hereof. The Company is obligated to make available, upon request, to any Holder of Securities the information required by Rule 144A(d)(4) under the Securities Act, during any period in which the Company is not subject to Section 13 or 15(d) of the Exchange Act.

Section 6.7 Limitation on Restricted Payments.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, take the following actions:

(i) declare or pay any dividend on, or make any distribution to holders of, any shares of Capital Stock of the Company or any Restricted Subsidiary (other than dividends or distributions payable solely in shares of Qualified Capital Stock of the Company or such Restricted Subsidiary or in options, warrants or other rights to purchase Qualified Capital Stock of the Company or such Restricted Subsidiary);

(ii) purchase, redeem or otherwise acquire or retire for value any Capital Stock of the Company or any Affiliate thereof (other than any Wholly Owned Restricted Subsidiary of the Company) or any options, warrants or other rights to acquire such Capital Stock (other than the purchase, redemption, acquisition or retirement of any Disqualified Capital Stock of the Company solely in shares of Qualified Capital Stock of the Company);

(iii) make any principal payment on or repurchase, redeem, defease or otherwise acquire or retire for value, prior to any scheduled principal payment, scheduled sinking fund payment or maturity, any Subordinated Indebtedness, except in any case out of the proceeds of Permitted Refinancing Indebtedness, or

(iv) make any Restricted Investment;

(such payments or other actions described in clauses (i) through (iv) being collectively referred to as "Restricted Payments"), unless at the time of and after giving effect to the proposed Restricted Payment (the amount of any such Restricted Payment, if other than cash, shall be the amount determined by the Board of Directors of the Company, whose determination shall be conclusive and evidenced by a Board Resolution), (A) no Default or Event of Default shall have occurred and be continuing, (B) the Company could incur $1.00 of additional Indebtedness (other than Permitted Indebtedness) in accordance with Section 6.9(a) hereof and (C) the aggregate amount of all Restricted Payments declared or made after the date of this Supplemental Indenture shall not exceed the sum (without duplication) of the following:

(1) 50% of the Consolidated Net Income of the Company accrued on a cumulative basis during the period beginning on February 1, 2004 and ending on the last day of the Company's last fiscal quarter ending prior to the date of such proposed Restricted Payment (or, if such Consolidated Net Income shall be a loss, minus 100% of such loss), plus

(2) the aggregate Net Cash Proceeds, or the Fair Market Value of Property other than cash, received after the date of this Supplemental Indenture by the Company from the issuance or sale (other than to any of its Restricted Subsidiaries) of shares of Qualified Capital Stock of the Company or any options, warrants or rights to purchase such shares of Qualified Capital Stock of the Company, plus

(3) the aggregate Net Cash Proceeds, or the Fair Market Value of Property other than cash, received after the date of this Supplemental Indenture by the Company (other than from any of its Restricted Subsidiaries) upon the exercise of any options, warrants or rights to purchase shares of Qualified Capital Stock of the Company, plus

(4) the aggregate Net Cash Proceeds received after the date of this Supplemental Indenture by the Company from the issuance or sale (other than to any of its Restricted Subsidiaries) of Indebtedness or shares of Disqualified Capital Stock that have been converted into or exchanged for Qualified Capital Stock of the Company, together with the aggregate cash received by the Company at the time of such conversion or exchange, plus

(5) to the extent not otherwise included in Consolidated Net Income, the net reduction in Investments in Unrestricted Subsidiaries resulting from dividends, repayments of loans or advances, or other transfers of assets, in each case to the Company or a Restricted Subsidiary after the date of this Supplemental Indenture from any Unrestricted Subsidiary or from the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary (valued in each case as provided in the definition of "Investment"), not to exceed in the case of any Unrestricted Subsidiary the total amount of Investments (other than Permitted Investments) in such Unrestricted Subsidiary made by the Company and its Restricted Subsidiaries in such Unrestricted Subsidiary after the date of this Supplemental Indenture.

(b) Notwithstanding paragraph (a) above, the Company and its Restricted Subsidiaries may take the following actions so long as (in the case of clauses (iii), (iv), (v) and (vii) below) no Default or Event of Default shall have occurred and be continuing:

(i) the payment of any dividend on any Capital Stock of the Company within 60 days after the date of declaration thereof, if at such declaration date such declaration complied with the provisions of paragraph (a) above (and such payment shall be deemed to have been paid on such date of declaration for purposes of any calculation required by the provisions of paragraph (a) above);

(ii) the payment of any dividend payable from a Restricted Subsidiary to the Company or any other Restricted Subsidiary of the Company;

(iii) the repurchase, redemption or other acquisition or retirement of any shares of any class of Capital Stock of the Company or any Restricted Subsidiary, in exchange for, or out of the aggregate Net Cash Proceeds of, a substantially concurrent issue and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of the Company;

(iv) the repurchase, redemption, repayment, defeasance or other acquisition or retirement for value of any Subordinated Indebtedness in exchange for, or out of the aggregate Net Cash Proceeds from, a substantially concurrent issue and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of the Company;

(v) the purchase, redemption, repayment, defeasance or other acquisition or retirement for value of Subordinated Indebtedness (other than Disqualified Capital Stock) in exchange for, or out of the aggregate net cash proceeds of, a substantially concurrent incurrence (other than to a Restricted Subsidiary) of Subordinated Indebtedness of the Company so long as (A) the principal amount of such new Indebtedness does not exceed the principal amount (or, if such Subordinated Indebtedness being refinanced provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration thereof, such lesser amount as of the date of determination) of the Subordinated Indebtedness being so purchased, redeemed, repaid, defeased, acquired or retired, plus the amount of any premium required to be paid in connection with such refinancing pursuant to the terms of the Indebtedness refinanced or the amount of any premium reasonably determined by the Company as necessary to accomplish such refinancing, plus the amount of expenses of the Company incurred in connection with such refinancing, (B) such new Indebtedness is subordinated to the Securities at least to the same extent as such Subordinated Indebtedness so purchased, redeemed, repaid, defeased, acquired or retired, and (C) such new Indebtedness has an Average Life to Stated Maturity that is longer than the Average Life to Stated Maturity of the Securities and such new Indebtedness has a Stated Maturity for its final scheduled principal payment that is at least 91 days later than the Stated Maturity for the final scheduled principal payment of the Securities;

(vi) loans made to officers, directors or employees of the Company or any Restricted Subsidiary approved by the Board of Directors of the Company in an aggregate amount not to exceed $1,000,000 outstanding at any one time, the proceeds of which are used solely (A) to purchase common stock of the Company in connection with a restricted stock or employee stock purchase plan, or to exercise stock options received pursuant to an employee or director stock option plan or other incentive plan, in a principal amount not to exceed the exercise price of such stock options or (B) to refinance loans, together with accrued interest thereon, made pursuant to item (A) of this clause (v); and

(vii) other Restricted Payments in an aggregate amount not to exceed $10,000,000.

The actions described in clauses (i), (iii), (iv) and (vi) of this paragraph (b) shall be Restricted Payments that shall be permitted to be made in accordance with this paragraph (b) but shall reduce the amount that would otherwise be available for Restricted Payments under clause (3) of paragraph (a) (provided that any dividend paid pursuant to clause (i) of this paragraph (b) shall reduce the amount that would otherwise be available under clause (3) of paragraph (a) when declared, but not also when subsequently paid pursuant to such clause (i)), and the actions described in clauses (ii), (v) and (vii) of this paragraph (b) shall be permitted to be taken in accordance with this paragraph and shall not reduce the amount that would otherwise be available for Restricted Payments under clause (3) of paragraph (a).

(c) In computing Consolidated Net Income under paragraph (a) above, (1) the Company shall use audited financial statements for the portions of the relevant period for which audited financial statements are available on the date of determination and unaudited financial statements and other current financial data based on the books and records of the Company for the remaining portion of such period and (2) the Company shall be permitted to rely in good faith on the financial statements and other financial data derived from the books and records of the Company that are available on the date of determination. If the Company makes a Restricted Payment which, at the time of the making of such Restricted Payment would in the good faith determination of the Company be permitted under the requirements of this Supplemental Indenture, such Restricted Payment shall be deemed to have been made in compliance with this Supplemental Indenture notwithstanding any subsequent adjustments made in good faith to the Company's financial statements affecting Consolidated Net Income of the Company for any period.

Section 6.8 Limitation on Guarantees by Restricted Subsidiaries.

The Company shall not cause or permit any Restricted Subsidiary to guarantee, assume or in any other manner become liable (whether directly or indirectly) with respect to any Indebtedness of the Company or any other Restricted Subsidiary unless such Restricted Subsidiary simultaneously executes and delivers an indenture supplemental to this Supplemental Indenture agreeing to be bound by its terms applicable to a Guarantor and providing for a Guarantee of the Securities on the same terms as the guarantee of such Indebtedness, except that (a) such Guarantee need not be secured unless required pursuant to Section 6.12 and (b) if such

Indebtedness is by its terms expressly subordinated to the Securities or the Subordinated Guarantees, any such guarantee, assumption or other liability of such Restricted Subsidiary with respect to such Indebtedness shall be subordinated to such Restricted Guarantor's Guarantee at least to the same extent as such Subordinated Indebtedness is subordinated to the Securities; provided, however, that this clause (b) shall not be applicable to any guarantee of any Restricted Subsidiary that (i) existed at the time such Person became a Subsidiary of the Company and (ii) was not incurred in connection with, or in contemplation of, such Person's becoming a Subsidiary of the Company.

Section 6.9 Limitation on Indebtedness and Disqualified Capital Stock.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, create, incur, assume, guarantee or in any manner become directly or indirectly liable for the payment of (collectively, "incur") any Indebtedness (including any Acquired Indebtedness), except for Permitted Indebtedness, and the Company shall not, and shall not permit any of its Restricted Subsidiaries to, issue any Disqualified Capital Stock (except for the issuance by the Company of Disqualified Capital Stock (A) which is redeemable at the Company's option in cash or Qualified Capital Stock and (B) the dividends on which are payable at the Company's option in cash or Qualified Capital Stock); provided however, that the Company and its Restricted Subsidiaries that are Guarantors may incur Indebtedness or issue shares of Disqualified Capital Stock if (i) at the time of such event and after giving effect thereto on a pro forma basis the Consolidated Fixed Charge Coverage Ratio for the four full quarters immediately preceding such event, taken as one period, would have been equal to or greater than 2.5 to 1.0 and (ii) no Default or Event of Default shall have occurred and be continuing at the time such additional Indebtedness is incurred or such Disqualified Capital Stock is issued or would occur as a consequence of the incurrence of the additional Indebtedness or the issuance of the Disqualified Capital Stock. For purposes of determining compliance with this Section 6.9(a), in the event that an item of Indebtedness meets the criteria of one or more of the categories of Permitted Indebtedness described in clauses (i) through (xi) of such definition or is entitled to be incurred (whether incurred under the Bank Credit Facility or otherwise) pursuant to the proviso of the foregoing sentence, the Company may, in its sole discretion, classify such item of Indebtedness in any manner that complies with this covenant and such item of Indebtedness will be treated as having been incurred pursuant too only one of such clauses of the definition of Permitted Indebtedness or the proviso of the foregoing sentence and an item of Indebtedness may be divided and classified in more than one of the types of Indebtedness permitted hereunder.

(b) The amount of any guarantee by the Company or any Restricted Subsidiary of any Indebtedness of the Company or one or more Restricted Subsidiaries shall not be deemed to be outstanding or incurred for purposes of this Section 6.9 hereof in addition to the amount of Indebtedness which it guarantees.

(c) For purposes of this Section 6.9, Indebtedness of any Person that becomes a Restricted Subsidiary by merger, consolidation or other acquisition shall be deemed to have been incurred by the Company and the Restricted Subsidiary at the time such Person becomes a Restricted Subsidiary.

Section 6.10 Additional Guarantors.

(a) The Company shall cause each Restricted Subsidiary that guarantees the payment of, assumes or in any other manner becomes liable (whether directly or indirectly) with respect to any Indebtedness of the Company or any other Restricted Subsidiary of the Company, including, without limitation, Indebtedness under the Bank Credit Facility, to execute and deliver an indenture supplemental to this Supplemental Indenture agreeing to be bound by its terms applicable to a Guarantor and providing for a Guarantee of the Securities by such Restricted Subsidiary.

(b) Notwithstanding the foregoing and the other provisions of this Supplemental Indenture, any Guarantee incurred by a Restricted Subsidiary pursuant to this Section 6.10 shall provide by its terms that it shall be automatically and unconditionally released and discharged upon the terms and conditions set forth in Section 9.3 hereof.

Section 6.11 Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries.

The Company (a) shall not permit any Restricted Subsidiary to issue or sell any Preferred Stock to any Person other than to the Company or one of its Wholly Owned Restricted Subsidiaries and (b) shall not permit any Person other than the Company or one of its Wholly Owned Restricted Subsidiaries to own any Preferred Stock of any other Restricted Subsidiary except, in each case, for (i) the Preferred Stock of a Restricted Subsidiary owned by a Person at the time such Restricted Subsidiary became a Restricted Subsidiary or acquired by such Person in connection with the formation of the Restricted Subsidiary, or transfers thereof or (ii) a sale of Preferred Stock in connection with the sale of all of the Capital Stock of a Restricted Subsidiary owned by the Company or its Subsidiaries effected in accordance with Section 6.14 hereof.

Section 6.12 Limitation on Liens.

The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create, incur, assume, affirm or suffer to exist or become effective any Lien of any kind, except for Permitted Liens, upon any of their respective Properties, whether now owned or acquired after the date of this Supplemental Indenture, or any income or profits therefrom, or assign or convey any right to receive income thereon, unless (a) in the case of any Lien securing Subordinated Indebtedness, the Securities are secured by a lien on such Property or proceeds that is senior in priority to such Lien and (b) in the case of any other Lien, the Securities are directly secured equally and ratably with the obligation or liability secured by such Lien.

Section 6.13 Purchase of Securities Upon Change of Control.

(a) Upon the occurrence of a Change of Control Triggering Event, the Company shall be obligated to make an offer to purchase (a "Change of Control Offer") all of the then Outstanding Securities, in whole or in part, from the Holders of such Securities in integral multiples of $1,000, at a purchase price (the "Change of Control Purchase Price") equal to 101% of the aggregate principal amount of such Securities, plus accrued and unpaid interest, if any, to

the Change of Control Purchase Date (as defined below), in accordance with the procedures set forth in paragraphs (b), (c) and (d) of this Section. The Company shall, subject to the provisions described below, be required to purchase all Securities properly tendered into the Change of Control Offer and not withdrawn. The Company will not be required to make a Change of Control Offer upon a Change of Control Triggering Event if another Person makes the Change of Control Offer at the same purchase price, at the same times and otherwise in substantial compliance with the requirements applicable to a Change of Control Offer to be made by the Company and purchases all Securities validly tendered and not withdrawn under such Change of Control Offer.

(b) The Change of Control Offer is required to remain open for at least 20 Business Days and until the close of business on the fifth Business Day prior to the Change of Control Purchase Date (as defined below).

(c) Not later than the 30th day following any Change of Control Triggering Event, the Company shall give to the Trustee in the manner provided in Section 10.2 and each Holder of the Securities in the manner provided in Section 10.3, a notice (the "Change of Control Notice") governing the terms of the Change of Control Offer and stating:

(1) that a Change in Control Triggering Event has occurred and that such Holder has the right to require the Company to repurchase such Holder's Securities, or portion thereof, at the Change of Control Purchase Price;

(2) any information regarding such Change of Control Triggering Event required to be furnished pursuant to Rule 13e-1 under the Exchange Act and any other securities laws and regulations thereunder;

(3) a purchase date (the "Change of Control Purchase Date") which shall be on a Business Day and no earlier than 30 days nor later than 60 days from the date the Change of Control Triggering Event occurred;

(4) that any Security, or portion thereof, not tendered or accepted for payment will continue to accrue interest:

(5) that unless the Company defaults in depositing money with the Paying Agent in accordance with the last paragraph of clause (d) of this Section 6.13, or payment is otherwise prevented, any Security, or portion thereof, accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest after the Change of Control Purchase Date; and

(6) the instructions a Holder must follow in order to have his Securities repurchased in accordance with paragraph (d) of this Section.

If any of the Securities subject to the Change of Control Offer is in the form of a Global Security, then the Company shall modify the Change of Control Notice to the extent necessary to accord with the procedures of the depository applicable thereto.

(d) Holders electing to have Securities purchased will be required to surrender such Securities to the Paying Agent at the address specified in the Change of Control Notice at least five Business Days prior to the Change of Control Purchase Date. Holders will be entitled to withdraw their election if the Paying Agent receives, not later than three Business Days prior to the Change of Control Purchase Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder and principal amount of the Securities delivered for purchase by the Holder as to which his election is to be withdrawn and a statement that such Holder is withdrawing his election to have such Securities purchased. Holders whose Securities are purchased only in part will be issued new Securities equal in principal amount to the unpurchased portion of the Securities surrendered.

On the Change of Control Purchase Date, the Company shall (i) accept for payment Securities or portions thereof validly tendered pursuant to a Change of Control Offer, (ii) deposit with the Paying Agent money sufficient to pay the purchase price of all Securities or portions thereof so tendered, and (iii) deliver or cause to be delivered to the Trustee the Securities so accepted. The Paying Agent shall promptly mail or deliver to Holders of the Securities so tendered payment in an amount equal to the purchase price for the Securities, and the Company shall execute and the Trustee shall authenticate and mail or make available for delivery to such Holders a new Security equal in principal amount to any unpurchased portion of the Security which any such Holder did not surrender for purchase. The Company shall announce the results of a Change of Control Offer on or as soon as practicable after the Change of Control Purchase Date. For purposes of this Section 6.13, the Trustee will act as the Paying Agent.

(e) The Company shall comply with Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable, in the event that a Change of Control Triggering Event occurs and the Company is required to purchase Securities as described in this Section 6.13.

Section 6.14 Limitation on Asset Sales.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, consummate any Asset Sale unless (i) the Company or such Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the Fair Market Value of the Property subject to such Asset Sale and (ii) all of the consideration paid to the Company or such Restricted Subsidiary in connection with such Asset Sale is in the form of cash, Cash Equivalents, Liquid Securities, Exchanged Properties or the assumption by the purchaser of liabilities of the Company (other than liabilities of the Company that are by their terms subordinated to the Securities) or liabilities of any Guarantor that made such Asset Sale (other than liabilities of a Guarantor that are by their terms subordinated to such Guarantor's Guarantee), in each case as a result of which the Company and its remaining Restricted Subsidiaries are no longer liable for such liabilities ("Permitted Consideration"); provided, however, that the Company and its Restricted Subsidiaries shall be permitted to receive Property other than Permitted Consideration, so long as the aggregate Fair Market Value of all such Property other than Permitted Consideration received from Asset Sales and held by the Company or any Restricted Subsidiary at any one time shall not exceed 10% of Adjusted Consolidated Net

Tangible Assets. The Net Available Cash from Asset Sales by the Company or a Restricted Subsidiary may be applied by the Company or such Restricted Subsidiary, to the extent the Company or such Restricted Subsidiary elects (or is required by the terms of any Senior Indebtedness of the Company or a Restricted Subsidiary), to (i) repay Indebtedness of the Company under the Bank Credit Facility, (ii) reinvest in Additional Assets (including by means of an Investment in Additional Assets by a Restricted Subsidiary with Net Available Cash received by the Company or another Restricted Subsidiary) or (iii) purchase Securities or purchase both Securities and one or more series or issues of other Senior Indebtedness on a pro rata basis (excluding Securities and Senior Indebtedness owned by the Company or an Affiliate of the Company). Pending any reinvestment pursuant to clause (ii) in the preceding sentence, the Company may temporarily prepay, repay or purchase Senior Indebtedness of the Company or a Guarantor.

(b) Any Net Available Cash from an Asset Sale not applied in accordance with the preceding paragraph within 365 days from the date of such Asset Sale shall constitute "Excess Proceeds." When the aggregate amount of Excess Proceeds exceeds $10,000,000, the Company shall be required to make an offer to purchase Securities having an aggregate principal amount equal to the aggregate amount of Excess Proceeds (the "Prepayment Offer") at a purchase price equal to 100% of the principal amount of such Securities plus accrued and unpaid interest, if any, to the Purchase Date (as defined) in accordance with the procedures (including prorating in the event of oversubscription) set forth herein. If the aggregate principal amount of Securities tendered by Holders thereof exceeds the amount of available Excess Proceeds, then such Excess Proceeds shall be allocated pro rata according to the principal amount of the Securities tendered and the Trustee shall select the Securities to be purchased in accordance herewith. To the extent that any portion of the amount of Excess Proceeds remains after compliance with the second sentence of this paragraph and provided that all Holders of Securities have been given the opportunity to tender their Securities for purchase as described in the following paragraph in accordance with this Supplemental Indenture, the Company and its Restricted Subsidiaries may use such remaining amount for purposes permitted by this Supplemental Indenture and the amount of Excess Proceeds shall be reset to zero.

(c) (1) Within 30 days after the 365th day following the date of an Asset Sale, the Company shall, if it is obligated to make an offer to purchase the Securities pursuant to the preceding paragraph, send a written Prepayment Offer notice, by first-class mail, to the Trustee and the Holders of the Securities (the "Prepayment Offer Notice"), accompanied by such information regarding the Company and its Subsidiaries as the Company believes shall enable such Holders of the Securities to make an informed decision with respect to the Prepayment Offer (which at a minimum shall include (i) the most recently filed Annual Report on Form 10-K (including audited consolidated financial statements) of the Company, the most recent subsequently filed Quarterly Report on Form 10-Q of the Company and any Current Report on Form 8-K of the Company filed subsequent to such Quarterly Report, other than Current Reports describing Asset Sales otherwise described in the offering materials, or corresponding successor reports (or, during any time that the Company is not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, corresponding reports prepared pursuant to Section 6.6), (ii) a description of material developments in the Company's business subsequent to the date of the latest of such reports and (iii) if material, appropriate pro forma financial

information). The Prepayment Offer Notice shall state, among other things, (i) that the Company is offering to purchase Securities pursuant to the provisions of this Supplemental Indenture, (ii) that any Security (or any portion thereof) accepted for payment (and duly paid on the Purchase Date) pursuant to the Prepayment Offer shall cease to accrue interest on the Purchase Date, (iii) that any Securities (or portions thereof) not properly tendered shall continue to accrue interest, (iv) the purchase price and purchase date, which shall be, subject to any contrary requirements of applicable law, no less than 30 days nor more than 60 days after the date the Prepayment Offer Notice is mailed (the "Purchase Date"), (v) the aggregate principal amount of Securities to be purchased, (vi) a description of the procedure which Holders of Securities must follow in order to tender their Securities and the procedures that Holders of Securities must follow in order to withdraw an election to tender their Securities for payment and (vii) all other instructions and materials necessary to enable Holders to tender Securities pursuant to the Prepayment Offer.

(2) Not later than the date upon which written notice of a Prepayment Offer is delivered to the Trustee as provided above, the Company shall deliver to the Trustee an Officers' Certificate as to (i) the amount of the Prepayment Offer (the "Offer Amount"), (ii) the allocation of the Net Available Cash from the Asset Sales pursuant to which such Prepayment Offer is being made and (iii) the compliance of such allocation with the provisions of Section 6.14(a). On such date, the Company shall also irrevocably deposit with the Trustee or with the Paying Agent (or, if the Company is the Paying Agent, shall segregate and hold in trust) in cash an amount equal to the Offer Amount to be held for payment in accordance with the provisions of this Section. Upon the expiration of the period for which the Prepayment Offer remains open (the "Offer Period"), the Company shall deliver to the Trustee for cancellation the Securities or portions thereof which have been properly tendered to and are to be accepted by the Company. The Trustee or the Paying Agent shall, on the Purchase Date, mail or deliver payment to each tendering Holder in the amount of the purchase price. In the event that the aggregate purchase price of the Securities delivered by the Company to the Trustee is less than the Offer Amount, the Trustee or the Paying Agent shall deliver the excess to the Company immediately after the expiration of the Offer Period for application in accordance with this Section.

(3) Holders electing to have a Security purchased shall be required to surrender the Security, with an appropriate form duly completed, to the Company or its agent at the address specified in the notice at least three Business Days prior to the Purchase Date. Holders shall be entitled to withdraw their election if the Trustee or the Company receives not later than one Business Day prior to the Purchase Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Security which was delivered for purchase by the Holder and a statement that such Holder is withdrawing his election to have such Security purchased. If at the expiration of the Offer Period the aggregate principal amount of Securities surrendered by Holders exceeds the Offer Amount, the Company shall select the Securities to be purchased on a pro rata basis (with such adjustments as may be deemed appropriate by the Company so that only Securities in denominations of $1,000, or integral multiples thereof, shall be purchased). Holders whose Securities are purchased only in part shall be

issued new Securities equal in principal amount to the unpurchased portion of the Securities surrendered.

(4) At the time the Company delivers Securities to the Trustee which are to be accepted for purchase, the Company shall also deliver an Officers' Certificate stating that such Securities are to be accepted by the Company pursuant to and in accordance with the terms of this Section 6.14. A Security shall be deemed to have been accepted for purchase at the time the Trustee or the Paying Agent mails or delivers payment therefor to the surrendering Holder.

(d) The Company shall comply, to the extent applicable, with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws or regulations thereunder to the extent such laws and regulations are applicable in connection with the purchase of Securities as described above. To the extent that the provisions of any securities laws or regulations conflict with the provisions relating to the Prepayment Offer, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations described above by virtue thereof.

Section 6.15 Limitation on Transactions with Affiliates.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into or suffer to exist any transaction or series of related transactions (including, without limitation, the sale, purchase, exchange or lease of Property or the rendering of any services) with, or for the benefit of, any Affiliate of the Company (other than the Company or a Wholly Owned Restricted Subsidiary), unless (a) such transaction or series of related transactions is on terms that are no less favorable to the Company or such Restricted Subsidiary, as the case may be, than would be available in a comparable transaction in arm's-length dealings with an unrelated third party, (b) with respect to a transaction or series of related transactions involving aggregate payments in excess of $5,000,000, the Company delivers an Officers' Certificate to the Trustee certifying that such transaction or series of related transactions complies with clause (a) above and that such transaction or series of related transactions has been approved by a majority of the Disinterested Directors of the Company, and (c) with respect to any one transaction or series of related transactions involving aggregate payments in excess of $20,000,000, the Officers' Certificate referred to in clause (b) above also certifies that the Company has obtained a written opinion from an independent nationally recognized investment banking firm or appraisal firm specializing or having a specialty in the type and subject matter of the transaction or series of related transactions at issue, which opinion shall be to the effect set forth in clause (a) above or shall state that such transaction or series of related transactions is fair from a financial point of view to the Company or such Restricted Subsidiary; provided, however, that the foregoing restriction shall not apply to (i) loans or advances to officers, directors and employees of the Company or any Restricted Subsidiary made in the ordinary course of business in an aggregate amount not to exceed $1,000,000 outstanding at any one time, (ii) indemnities of officers, directors, employees and other agents of the Company or any Restricted Subsidiary permitted by corporate charter or other organizational document, bylaw or statutory provisions, (iii) the payment of reasonable and customary fees to directors of the Company or any of its Restricted Subsidiaries who are not employees of the Company or any Affiliate, (iv) the

Company's employee compensation and other benefit arrangements, (v) transactions exclusively between or among the Company and any of the Restricted Subsidiaries or exclusively between or among such Restricted Subsidiaries, provided such transactions are not otherwise prohibited by this Supplemental Indenture, and (vi) any Restricted Payment permitted to be paid pursuant Section 6.7.

Section 6.16 Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries.

The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create or suffer to exist or allow to become effective any consensual encumbrance or restriction of any kind on the ability of any Restricted Subsidiary to (a) pay dividends, in cash or otherwise, or make any other distributions on or in respect of its Capital Stock, or make payments on any Indebtedness owed, to the Company or any other Restricted Subsidiary, (b) to make loans or advances to the Company or any other Restricted Subsidiary or (c) to transfer any of its Property to the Company or any other Restricted Subsidiary (any such restrictions being collectively referred to herein as a "Payment Restriction"), except for such encumbrances or restrictions existing under or by reason of (i) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Company or any Restricted Subsidiary, or customary restrictions in licenses relating to the Property covered thereby and entered into in the ordinary course of business, (ii) any instrument governing Indebtedness of a Person acquired by the Company or any Restricted Subsidiary at the time of such acquisition, which encumbrance or restriction is not applicable to any other Person, other than the Person, or the Property of the Person, so acquired, provided that such Indebtedness was not incurred in anticipation of such acquisition, (iii) any instrument governing Indebtedness or Disqualified Capital Stock of a Restricted Subsidiary that is not a Guarantor, provided that such Indebtedness or Disqualified Capital Stock is permitted under Section 6.9 or (iv) the Bank Credit Facility as in effect on the date of this Supplemental Indenture or any agreement that amends, modifies, supplements, restates, extends, renews, refinances or replaces the Bank Credit Facility, provided that the terms and conditions of any Payment Restriction thereunder are not materially less favorable to the Holders of the Securities than those under the Bank Credit Facility as in effect on the date of this Supplemental Indenture.

Section 6.17 Limitation on Sale and Leaseback Transactions.

The Company will not, and will not permit any of its Restricted Subsidiaries to, enter into any Sale/Leaseback Transaction unless (i) the Company or such Restricted Subsidiary, as the case may be, would be able to incur Indebtedness in an amount equal to the Attributable Indebtedness with respect to such Sale/Leaseback Transaction or (ii) the Company or such Restricted Subsidiary receives proceeds from such Sale/Leaseback Transaction at least equal to the fair market value thereof (as determined in good faith by the Company's Board of Directors, whose determination in good faith, evidenced by a resolution of such Board shall be conclusive) and such proceeds are applied in the same manner and to the same extent as Net Available Cash and Excess Proceeds from an Asset Sale.

Section 6.18 Covenant Suspension.

Following any day (a "Suspension Date") that (a) the Securities have a rating equal to or higher than BBB- by S&P and a rating equal to or higher than Baa3 by Moody's ("Investment Grade Ratings"), (b) follows a date on which the Securities do not have Investment Grade Ratings, and (c) no Default or Event of Default has occurred and is continuing under this Supplemental Indenture, the Company and its Restricted Subsidiaries shall not be subject to the covenants described in Sections 4.1(c), 6.7, 6.8, 6.9, 6.14 and 6.15 (collectively, the "Suspended Covenants"). In the event that the Company and its Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the preceding sentence, and on any subsequent date the Securities fail to have Investment Grade Ratings, or a Default or Event of Default occurs and is continuing, then immediately after such date (a "Reversion Date"), the Suspended Covenants will again be in effect with respect to future events, unless and until a subsequent Suspension Date occurs. The period between a Suspension Date and a Reversion Date is referred to in this Supplemental Indenture as a "Suspension Period." Notwithstanding that the Suspended Covenants may be reinstated, no Default or Event of Default will be deemed to have occurred as a result of a failure to comply with the Suspended Covenants during any Suspension Period. Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 6.7 will be made as though the covenants described under Section 6.7 had been in effect since the Issue Date and throughout the Suspension Period.

ARTICLE VII.

REDEMPTION OF SECURITIES

Section 7.1 Notice to Trustee.

If the Company elects to redeem Securities pursuant to paragraph 5 of the Securities, it shall notify the Trustee in writing of the redemption date, the principal amount of Securities to be redeemed and that such redemption is being made pursuant to paragraph 5 of the Securities.

The Company shall give each notice to the Trustee provided for in this Section at least 60 days before the Redemption Date unless the Trustee consents to a shorter period. Such notice shall be accompanied by an Officers' Certificate and an Opinion of Counsel from the Company to the effect that such redemption will comply with the conditions herein. Any election to redeem Securities shall be revocable until the Company gives a notice of redemption pursuant to Section 7.2 to the Holders of Securities to be redeemed.

Section 7.2 Selection by Trustee of Securities to Be Redeemed.

If less than all the Securities are to be redeemed, the particular Securities to be redeemed shall be selected not less than 30 days nor more than 60 days prior to the Redemption Date by the Trustee, from the Outstanding Securities not previously called for redemption, pro rata, by lot or by any other method as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of portions of the principal of Securities; provided, however, that any such partial redemption shall be in integral multiples of $1,000.

The Trustee shall promptly notify the Company in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed.

For all purposes of this Supplemental Indenture, unless the context otherwise requires, all provisions relating to redemption of Securities shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security which has been or is to be redeemed.

Section 7.3 Notice of Redemption.

Notice of redemption shall be given in the manner provided for in Section 10.3 hereof not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed.

All notices of redemption shall state:

(a) the Redemption Date;

(b) the Redemption Price;

(c) if less than all Outstanding Securities are to be redeemed, the identification (and, in the case of a partial redemption, the principal amounts) of the particular Securities to be redeemed;

(d) that on the Redemption Date the Redemption Price (together with accrued interest, if any, to the Redemption Date payable as provided in Section 7.5 hereof) will become due and payable upon each such Security, or the portion thereof, to be redeemed, and that, unless the Company shall default in the payment of the Redemption Price and any applicable accrued interest, interest thereon will cease to accrue on and after said date; and

(e) the place or places where such Securities are to be surrendered for payment of the Redemption Price.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company. Failure to give such notice by mailing to any Holder of Securities or any defect therein shall not affect the validity of any proceedings for the redemption of other Securities.

Section 7.4 Deposit of Redemption Price.

On or before 10:00 a.m., Eastern time, on any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 10.3 of the Base Indenture) an amount

of money sufficient to pay the Redemption Price of, and accrued and unpaid interest on, all the Securities which are to be redeemed on such Redemption Date.

Section 7.5 Securities Payable on Redemption Date.

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified (together with accrued and unpaid interest, if any, to the Redemption Date), and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued and unpaid interest) such Securities shall cease to bear interest. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the Redemption Price, together with accrued and unpaid interest, if any, to the Redemption Date.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate borne by the Securities.

Section 7.6 Securities Redeemed in Part.

Any Security which is to be redeemed only in part shall be surrendered at the office or agency of the Company maintained for such purpose pursuant to Section 6.2 hereof (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing), and the Company shall execute, and the Trustee shall authenticate and deliver to the Holder of such Security without service charge, a new Security or Securities, of any authorized denomination as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal amount of the Security so surrendered.

ARTICLE VIII.

DEFEASANCE AND COVENANT DEFEASANCE

Section 8.1 Company's Option to Effect Defeasance or Covenant Defeasance.

The Company may, at its option by Board Resolution, at any time, with respect to the Securities, elect to have either Section 8.2 or Section 8.3 hereof be applied to all Outstanding Securities upon compliance with the conditions set forth below in this Article VIII.

Section 8.2 Defeasance and Discharge.

Upon the Company's exercise under Section 8.1 hereof of the option applicable to this Section 8.2, the Company and the Guarantors shall be deemed to have been discharged from their respective obligations with respect to all Outstanding Securities on the date the conditions set forth in Section 8.4 hereof are satisfied (hereinafter, "legal defeasance"). For this purpose,

such legal defeasance means that the Company and the Guarantors shall be deemed (i) to have paid and discharged their respective obligations under the Outstanding Securities; provided, however, that the Securities shall continue to be deemed to be "Outstanding" for purposes of Section 8.5 hereof and the other Sections of this Supplemental Indenture referred to in clauses (A) and (B) below, and (ii) to have satisfied all their other obligations with respect to such Securities and this Supplemental Indenture (and the Trustee, at the expense and direction of the Company, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (A) the rights of Holders of Outstanding Securities to receive, solely from the trust fund described in Section 8.4 hereof and as more fully set forth in such Section, payments in respect of the principal of (and premium if any, on) and interest on such Securities when such payments are due (or at such time as the Securities would be subject to redemption at the option of the Company in accordance with this Supplemental Indenture), (B) the respective obligations of the Company and the Guarantors under Sections 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 3.8, 3.14, 6.2, 9.1 (to the extent it relates to the foregoing Sections and this Article VIII), 9.4 and 9.5 hereof, (C) the rights, powers, trusts, duties and immunities of the Trustee hereunder, and (D) the obligations of the Company and the Guarantors under this Article VIII. Subject to compliance with this Article VIII, the Company may exercise its option under this Section 8.2 notwithstanding the prior exercise of its option under Section 8.3 hereof with respect to the Securities.

Section 8.3 Covenant Defeasance.

Upon the Company's exercise under Section 8.1 hereof of the option applicable to this Section 8.3, the Company and each Guarantor shall be released from their respective obligations under any covenant contained in Article IV, in Sections 6.4 through 6.17 and in Section 9.2 hereof with respect to the Outstanding Securities on and after the date the conditions set forth below are satisfied (hereinafter, "covenant defeasance"), and the Securities shall thereafter be deemed not to be "Outstanding" for the purposes of any direction, waiver, consent or declaration or Act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "Outstanding" for all other purposes hereunder. For this purpose, such covenant defeasance means that, with respect to the Outstanding Securities, the Company and each Guarantor may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 3.1(c) or 3.1(d) hereof, but, except as specified above, the remainder of this Supplemental Indenture and such Securities shall be unaffected thereby.

Section 8.4 Conditions to Defeasance or Covenant Defeasance.

The following shall be the conditions to application of either Section 8.2 or Section 8.3 hereof to the Outstanding Securities:

(a) The Company or any Guarantor shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Article VI of the

Base Indenture who shall agree to comply with the provisions of this Article VIII applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of such Securities, (A) cash in United States dollars in an amount, or (B) U.S. Government Obligations which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, money in an amount, or (C) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge, and which shall be applied by the Trustee (or other qualifying trustee) to pay and discharge, the principal of (and premium, if any, on) and interest on the Outstanding Securities on the Stated Maturity thereof (or Redemption Date, if applicable), provided that the Trustee shall have been irrevocably instructed in writing by the Company to apply such money or the proceeds of such U.S. Government Obligations to said payments with respect to the Securities. Before such a deposit, the Company may give to the Trustee, in accordance with Section 7.1 hereof, a notice of its election to redeem all of the Outstanding Securities at a future date in accordance with Article VII hereof, which notice shall be irrevocable. Such irrevocable redemption notice, if given, shall be given effect in applying the foregoing. For this purpose, "U.S. Government Obligations" means securities that are (x) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged or (y) 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 by 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 depository 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 Obligation or a specific payment of principal of or interest on any such U.S. Government Obligation held by such custodian for the account of the holder of such depository 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 depository receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of principal of or interest on the U.S. Government Obligation evidenced by such depository receipt.

(b) No Default or Event of Default with respect to the Securities shall have occurred and be continuing on the date of such deposit or, insofar as Sections 3.1(h) and 3.1(i) are concerned, at any time during the period ending on the 91st day after the date of such deposit.

(c) Such legal defeasance or covenant defeasance shall not cause the Trustee to have a conflicting interest under this Supplemental Indenture or the Trust Indenture Act with respect to any securities of the Company or any Guarantor.

(d) Such legal defeasance or covenant defeasance shall not result in a breach or violation of, or constitute a default under, any other material agreement or instrument to which the Company or any Guarantor is a party or by which it is bound, as evidenced to the Trustee in an Officers' Certificate delivered to the Trustee concurrently with such deposit.

(e) In the case of an election under Section 8.2 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel stating that (i) the Company has received from, or there has been published by, the Internal Revenue Service a ruling, or (ii) since the date of this Supplemental Indenture there has been a change in the applicable federal income tax laws, in either case providing that the Holders of the Outstanding Securities will not recognize income, gain or loss for federal income tax purposes as a result of such legal defeasance and will be subject to 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 (it being understood that (x) such Opinion of Counsel shall also state that such ruling or applicable law is consistent with the conclusions reached in such Opinion of Counsel and (y) the Trustee shall be under no obligation to investigate the basis or correctness of such ruling).

(f) In the case of an election under Section 8.3 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of the Outstanding Securities will not recognize income, gain or loss for federal income tax purposes as a result of such covenant defeasance and will be subject to 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.

(g) The Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, which, taken together, state that all conditions precedent provided for relating to either the legal defeasance under Section 8.2 hereof or the covenant defeasance under Section 8.3 (as the case may be) have been complied with.

Section 8.5 Deposited Money and U.S. Government Obligations to Be Held in Trust; Other Miscellaneous Provisions.

Subject to the provisions of the last paragraph of Section 10.3 of the Base Indenture, all money and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee--collectively for purposes of this Section 8.5, the "Trustee") pursuant to Section 8.4 hereof in respect of the Outstanding Securities shall be held in trust and applied by the Trustee, in accordance with the provisions of such Securities and this Supplemental Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Holders of such Securities of all sums due and to become due thereon in respect of principal (and premium, if any) and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against all taxes, fees or other charges imposed on or assessed against the U.S. Governmental Obligations deposited pursuant to Section 8.4 hereof 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 the Outstanding Securities.

Anything in this Article VIII to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon Company Request any money or U.S. Government Obligations held by it as provided in Section 8.4 hereof which, in the opinion of a nationally

recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, are in excess of the amount thereof which would then be required to be deposited to effect an equivalent legal defeasance or covenant defeasance, as applicable, in accordance with this Article.

Section 8.6 Reinstatement.

If the Trustee or any Paying Agent is unable to apply any money in accordance with Section 8.5 hereof by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's and the Guarantors' obligations under this Supplemental Indenture and the Securities shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.2 or 8.3 hereof, as the case may be, until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.5 hereof; provided, however, that if the Company or any Guarantor makes any payment of principal of (or premium, if any, on) or interest on any Security following the reinstatement of its obligations, the Company or such Guarantor shall be subrogated to the rights of the Holders of such Securities to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE IX.

GUARANTEES

Section 9.1 Unconditional Guarantee.

Each Guarantor hereby unconditionally, jointly and severally, guarantees (each such guarantee being referred to herein as this "Guarantee," with all such guarantees being referred to herein as the "Guarantees") to each Holder of Securities authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, the full and prompt performance of the Company's obligations under the Indenture and the Securities and that:

(a) the principal of (and premium, if any, on) and interest on the Securities will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Securities, if any, to the extent lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will 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 Securities or of any such other obligations, the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise; subject, however, in the case of clauses (a) and (b) above, to the limitations set forth in Section 9.4 hereof.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the

same immediately. Each Guarantor hereby agrees that its obligations hereunder shall, to the extent permitted by law, be unconditional, irrespective of the validity, regularity or enforceability of the Securities or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Securities with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Guarantor hereby waives, to the extent permitted by law, diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenants that its Guarantee will not be discharged except by complete performance of the obligations contained in the Securities, the Indenture and in this Guarantee. If any Holder or the Trustee is required by any court or otherwise to return to the Company, any Guarantor, or any custodian, trustee, liquidator or other similar official acting in relation to the Company or any Guarantor, any amount paid by the Company or any Guarantor to the Trustee or such Holder, this Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect. Each Guarantor agrees it shall not be entitled to enforce any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between each Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article III hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any acceleration of such obligations as provided in Article III hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by each Guarantor for the purpose of this Guarantee.

Section 9.2 Guarantors May Consolidate, etc., on Certain Terms.

(a) Except as set forth in Article IV hereof, nothing contained in this Supplemental Indenture or in any of the Securities shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor or shall prevent any sale, conveyance or other disposition of all or substantially all the Properties of a Guarantor to the Company or another Guarantor.

(b) Except as set forth in Article IV hereof, nothing contained in this Supplemental Indenture or in any of the Securities shall prevent any consolidation or merger of a Guarantor with or into a Person other than the Company or another Guarantor (whether or not Affiliated with the Guarantor), or successive consolidations or mergers in which a Guarantor or its successor or successors shall be a party or parties, or shall prevent any sale, conveyance or other disposition of all or substantially all the Properties of a Guarantor to a Person other than the Company or another Guarantor (whether or not Affiliated with the Guarantor) authorized to acquire and operate the same; provided, however, that (i) immediately after such transaction, and giving effect thereto, no Default or Event of Default shall have occurred as a result of such transaction and be continuing, (ii) such transaction shall not violate any of the covenants of Sections 6.1 through 6.17 hereof, and (iii) each Guarantor hereby covenants and agrees that, upon any such consolidation, merger, sale, conveyance or other disposition, such Guarantor's

Guarantee set forth in this Article IX, and the due and punctual performance and observance of all of the covenants and conditions of this Supplemental Indenture to be performed by such Guarantor, shall be expressly assumed (in the event that the Guarantor is not the surviving corporation in a merger), by supplemental indenture satisfactory in form to the Trustee, executed and delivered to the Trustee, by such Person formed by such consolidation, or into which the Guarantor shall have merged, or by the Person that shall have acquired such Property (except to the extent the following Section 9.3 would result in the release of such Guarantee, in which case such surviving Person or transferee of such Property shall not have to execute any such supplemental indenture and shall not have to assume such Guarantor's Guarantee). In the case of any such consolidation, merger, sale, conveyance or other disposition and upon the assumption by the successor Person, by supplemental indenture executed and delivered to the Trustee and satisfactory in form to the Trustee of the due and punctual performance of all of the covenants and conditions of this Supplemental Indenture to be performed by the Guarantor, such successor Person shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as the initial Guarantor.

Section 9.3 Release of Guarantors.

Upon the sale or disposition (by merger or otherwise) of a Guarantor (or all or substantially all of its Properties) to a Person other than the Company or another Guarantor and pursuant to a transaction that is otherwise in compliance with the terms of this Supplemental Indenture, including but not limited to the provisions of Section 9.2 hereof or pursuant to Article IV hereof, such Guarantor shall be deemed released from its Guarantee and all related obligations under this Supplemental Indenture; provided, however, that any such release shall occur only to the extent that all obligations of such Guarantor under all of its guarantees of, and under all of its pledges of assets or other security interests which secure, other Indebtedness of the Company or any other Restricted Subsidiary shall also be released upon such sale or other disposition. The Trustee shall deliver an appropriate instrument evidencing such release upon receipt of a Company Request accompanied by an Officers' Certificate and an Opinion of Counsel certifying that such sale or other disposition was made by the Company in accordance with the provisions of this Supplemental Indenture. In addition, in the event that any Guarantor ceases to guarantee payment of, or in any other manner to remain liable (whether directly or indirectly) with respect to any and all other Indebtedness of the Company or any other Restricted Subsidiary of the Company, including, without limitation, Indebtedness under the Bank Credit Facility, such Guarantor shall also be released from its Guarantee and the related obligations under this Supplemental Indenture for so long as it remains not liable with respect to all such other Indebtedness. The Trustee shall deliver an appropriate instrument evidencing such release upon receipt of a Company Request accompanied by an Officers' Certificate and an Opinion of Counsel certifying that such Guarantor has ceased to guarantee or otherwise be liable with respect to such other Indebtedness of the Company and the other Restricted Subsidiaries. Each Guarantor that is designated as an Unrestricted Subsidiary in accordance with the provisions of this Supplemental Indenture shall be released from its Guarantee and all related obligations under this Supplemental Indenture for so long as it remains an Unrestricted Subsidiary. The Trustee shall deliver an appropriate instrument evidencing such release upon its receipt of the Board Resolution designating such Unrestricted Subsidiary. Any Guarantor not released in

accordance with this Section 9.3 shall remain liable for the full amount of principal of (and premium, if any, on) and interest on the Securities as provided in this Article IX.

Section 9.4 Limitation of Guarantors' Liability.

Each Guarantor, and by its acceptance hereof each Holder, hereby confirm that it is the intention of all such parties that the guarantee by such Guarantor pursuant to its Guarantee not constitute a fraudulent transfer or conveyance for purposes of the Federal Bankruptcy Code, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law. To effectuate the foregoing intention, the Holders and each Guarantor hereby irrevocably agree that the obligations of such Guarantor under its Guarantee shall be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Guarantee or pursuant to Section 9.5 hereof, result in the obligations of such Guarantor under its Guarantee not constituting such a fraudulent conveyance or fraudulent transfer. This Section 9.4 is for the benefit of the creditors of each Guarantor.

Section 9.5 Contribution.

In order to provide for just and equitable contribution among the Guarantors, the Guarantors agree, inter se, that in the event any payment or distribution is made by any Guarantor (a "Funding Guarantor") under its Guarantee, such Funding Guarantor shall be entitled to a contribution from each other Guarantor (if any) in a pro rata amount based on the Adjusted Net Assets of each Guarantor (including the Funding Guarantor) for all payments, damages and expenses incurred by that Funding Guarantor in discharging the Company's obligations with respect to the Securities or any other Guarantor's obligations with respect to its Guarantee.

Section 9.6 Severability.

In case any provision of this Guarantee shall be invalid, illegal or unenforceable, that portion of such provision that is not invalid, illegal or unenforceable shall remain in effect, and the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

ARTICLE X.

MISCELLANEOUS

Section 10.1 Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Supplemental Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agents duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are

delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Supplemental Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership, principal amount and serial numbers of Securities held by any Person, and the date of holding the same, shall be proved by the Security Register.

(d) If the Company shall solicit from the Holders of Securities any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. Notwithstanding TIA Section 316(c), such record date shall be the record date specified in or pursuant to such Board Resolution, which shall be a date not earlier than the date 30 days prior to the first solicitation of Holders generally in connection therewith and not later than the date such solicitation is completed. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of Outstanding Securities have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the Outstanding Securities shall be computed as of such record date, provided that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Supplemental Indenture not later than eleven months after the record date.

(e) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

Section 10.2 Notices, etc. to Trustee, Company and Guarantors.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Supplemental Indenture to be made upon, given or furnished to or filed with,

(1) the Trustee by any Holder, the Company, any Guarantor or any holder of Senior Indebtedness shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing (in the English language) and delivered in person or mailed by certified or registered mail (return receipt requested) to the Trustee at its Corporate Trust Office; or

(2) the Company or any Guarantor by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing (in the English language) and delivered in person or mailed by certified or registered mail (return receipt requested) to the Company or such Guarantor, as applicable, addressed to it at the Company's offices located at 5300 Town and Country Boulevard, Suite 500, Frisco, Texas 75034, Attention: Chief Financial Officer, or at any other address otherwise furnished in writing to the Trustee by the Company.

Section 10.3 Notice to Holders; Waiver.

Where this Supplemental Indenture provides for notice of any event to Holders by the Company or the Trustee, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing (in the English language) and mailed, first-class postage prepaid, to each Holder affected by such event, at his address as it appears in the Security Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Any notice mailed to a Holder in the manner herein prescribed shall be conclusively deemed to have been received by such Holder, whether or not such Holder actually receives such notice. Where this Supplemental Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case by reason of the suspension of or irregularities in regular mail service or by reason of any other cause, it shall be impracticable to mail notice of any event to Holders when such notice is required to be given pursuant to any provision of this Supplemental Indenture, then any manner of giving such notice as shall be satisfactory to the Trustee shall be deemed to be a sufficient giving of such notice for every purpose hereunder.

Section 10.4 Effect of Headings and Table of Contents.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 10.5 Successors and Assigns.

All covenants and agreements in this Supplemental Indenture by the Company and the Guarantors shall bind their respective successors and assigns, whether so expressed or not. All agreements of the Trustee in this Supplemental Indenture shall bind its successor.

Section 10.6 Severability.

In case any provision in this Supplemental Indenture or in the Securities or the Guarantees shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and a Holder shall have no claim therefor against any party hereto.

Section 10.7 Benefits of Supplemental Indenture.

Nothing in this Supplemental Indenture or in the Securities, express or implied, shall give to any Person (other than the parties hereto, any Paying Agent, any Registrar and their successors hereunder, the Holders and, to the extent set forth in Section 9.4 hereof, creditors of Guarantors and the holders of Senior Indebtedness) any benefit or any legal or equitable right, remedy or claim under this Supplemental Indenture.

Section 10.8 Governing Law; Trust Indenture Act Controls.

(a) THIS SUPPLEMENTAL INDENTURE, THE GUARANTEES AND THE SECURITIES SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY. THE COMPANY AND EACH GUARANTOR IRREVOCABLY SUBMIT TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SUPPLEMENTAL INDENTURE, THE SECURITIES OR THE GUARANTEES, AND THE COMPANY AND EACH GUARANTOR IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED BY ANY SUCH COURT.

(b) The Indenture is subject to the provisions of the Trust Indenture Act that are required to be part of the Indenture and shall, to the extent applicable, be governed by such provisions. If and to the extent that any provision of this Supplemental Indenture limits, qualifies or conflicts with the duties imposed by operation of Section 318(c) of the Trust

Indenture Act, or conflicts with any provision (an "incorporated provision") required by or deemed to be included in the Indenture by operation of such Trust Indenture Act section, such imposed duties or incorporated provision shall control.

Section 10.9 No Recourse Against Others.

A director, officer, employee, stockholder, incorporator or Affiliate, as such, past, present or future, of the Company or any Guarantor shall not have any personal liability under the Securities or this Supplemental Indenture by reason of his or its status as a director, officer, employee, stockholder, incorporator or Affiliate or any liability for any obligations of the Company or any Guarantor under the Securities or this Supplemental Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. Each Holder, by accepting any of the Securities, waives and releases all such liability to the extent permitted by applicable law.

Section 10.10 Duplicate Originals.

The parties may sign any number of copies or counterparts of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

Section 10.11 Conflict with Base Indenture.

This Supplemental Indenture constitutes a supplemental indenture in respect of the Base Indenture, to the extent related to the Securities, and to the extent specifically related to the Securities this Supplemental Indenture supersedes the Base Indenture to the extent inconsistent therewith. In the event of any conflict between the provisions of this Supplemental Indenture and the provisions of the Base Indenture, the provisions of this Supplemental Indenture shall control. For avoidance of doubt, (a) Articles V, VIII, X, XI, XIII and XIV of the Base Indenture are, solely with respect to the Securities, superseded and replaced in their entirety by Articles IV, V, VII, VIII, IX and X of this Supplemental Indenture, respectively, and (b) Article XV of the Base Indenture shall be inapplicable in its entirety to the Securities.

Section 10.12 No Adverse Interpretation of Other Agreements.

This Supplemental Indenture may not be used to interpret another indenture, loan or debt agreement of the Company or any of its Subsidiaries. Any such indenture, loan or debt agreement may not be used to interpret this Supplemental Indenture.

[Remainder of Page Intentionally Left Blank; Signature Pages Follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the day and year first above written.

ISSUER:

COMSTOCK RESOURCES, INC.

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

GUARANTORS:

COMSTOCK OIL & GAS, INC.

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

COMSTOCK OIL & GAS-LOUISIANA, LLC

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

COMSTOCK OFFSHORE, LLC

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

COMSTOCK OIL & GAS HOLDINGS, INC.

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

TRUSTEE:

THE BANK OF NEW YORK TRUST COMPANY, N.A.

By: /s/ PATRICK T. GIORDANO

Name: Patrick T. Giordano
Title: Vice President

EXHIBIT 10.6

FIFTH AMENDMENT TO CREDIT AGREEMENT

This Fifth Amendment to Credit Agreement (this "FIFTH AMENDMENT") dated as of January 30, 2004, to be effective as set forth in Section 4 hereof, is among Comstock Resources, Inc., a Nevada corporation ("BORROWER"), certain of the Lenders from time to time party to the Credit Agreement (as defined below) comprising not less than the Majority Lenders, Toronto Dominion (Texas), Inc., ("ADMINISTRATIVE AGENT"), and The Toronto-Dominion Bank ("ISSUING BANK").

PRELIMINARY STATEMENT

A. The Borrower, the Lenders, the Administrative Agent and the Issuing Bank have entered into that certain Credit Agreement dated as of December 17, 2001, as amended by the First Amendment to Credit Agreement dated as of December 26, 2001, and as further amended by the Second Amendment to Credit Agreement dated as of February 4, 2002, and as further amended by the Third Amendment to Credit Agreement dated as of April 15, 2002, and as further amended by the Fourth Amendment to Credit Agreement dated as of May 13, 2003 (such Credit Agreement, as so amended and as otherwise amended, restated or supplemented from time to time until the date hereof, the "CREDIT AGREEMENT").

B. The Borrower has requested that the Administrative Agent, the Issuing Bank and the Lenders enter into this Fifth Amendment for the purpose of amending certain provisions of the Credit Agreement as more particularly set forth herein.

C. The Borrower, the Administrative Agent, the Issuing Bank and the Lenders party hereto have agreed, on the terms and subject to the conditions set forth herein, to amend certain provisions of the Credit Agreement as more particularly set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements set forth herein, the parties agree as follows:

Section 1. DEFINITIONS. Unless otherwise defined in this Fifth Amendment, each capitalized term used in this Fifth Amendment (including in the preliminary statement above) has the meaning assigned to such term in the Credit Agreement.

Section 2. AMENDMENT OF CREDIT AGREEMENT.

(a) The definitions of "Optional Indenture Payment" and "Permitted Redemption" in Section 1.1 of the Credit Agreement are hereby deleted in their entirety.

(b) Clause (e) of Section 7.6 of the Credit Agreement is hereby amended and restated in its entirety to provide as follows:

"(e) other Restricted Payments that do not exceed $10,000,000 in aggregate amount since the Closing Date; provided

that both before and after giving effect to such Restricted Payment, as applicable, (on a pro forma basis acceptable to the Administrative Agent) no Default or Event of Default shall have occurred and be continuing and all representations and warranties contained in Article V hereof shall be true and correct in all material respects as if made at the time of such Restricted Payment;"

(c) Subclause (i) of Section 7.12(a) of the Credit Agreement is hereby deleted in its entirety and replaced with the words "[Intentionally Omitted].".

Section 3. RATIFICATION. The Borrower hereby ratifies and confirms all of the Obligations under the Credit Agreement and the other Loan Documents.

Section 4. EFFECTIVENESS. This Fifth Amendment shall become effective as of the date first written above upon satisfaction of each of the conditions set forth in this Section 4:

(a) The Administrative Agent shall have received duly executed counterparts of this Fifth Amendment from the Borrower, the Issuing Bank and the Majority Lenders, together with a duly executed consent of each Guarantor to this Fifth Amendment and a ratification of each Loan Document to which such Guarantor is a party.

(b) The Borrower shall have confirmed and acknowledged to the Administrative Agent, the Issuing Bank and the Lenders, and by its execution and delivery of this Fifth Amendment the Borrower does hereby confirm and acknowledge to the Administrative Agent, the Issuing Bank and the Lenders, that (i) the execution, delivery and performance of this Fifth Amendment has been duly authorized by all requisite corporate action on the part of the Borrower; (ii) the Credit Agreement and each other Loan Document to which it is a party constitute valid and legally binding agreements enforceable against the Borrower in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other similar laws relating to or affecting the enforcement of creditors' rights generally and by general principles of equity, (iii) the representations and warranties by the Borrower contained in the Credit Agreement and in the other Loan Documents are true and correct on and as of the date hereof in all material respects as though made as of the date hereof, and (iv) no Default or Event of Default exists under the Credit Agreement or any of the other Loan Documents.

Section 5. GOVERNING LAW. This Fifth Amendment shall be governed by, and construed in accordance with, the laws of the State of New York (without giving effect to the principles thereof relating to conflicts of law except section 5-1401 of the New York General Obligations Law).

Section 6. MISCELLANEOUS. (a) On and after the effectiveness of this Fifth Amendment, each reference in each Loan Document to "this Agreement", "this Note", "this

Mortgage", "hereunder", "hereof" or words of like import, referring to such Loan Document, and each reference in each other Loan Document to "the Credit Agreement", "the Notes", "the Mortgages", "thereunder", "thereof" or words of like import referring to the Credit Agreement, the Notes, or the Mortgage or any of them, shall mean and be a reference to such Loan Document, the Credit Agreement, the Notes, the Mortgage or any of them, as amended or otherwise modified by this Fifth Amendment; (b) the execution, delivery and effectiveness of this Fifth Amendment shall not, except as expressly provided herein, operate as a waiver of any default of the Borrower or any other Loan Party or any right, power or remedy of the Administrative Agent, the Issuing Bank and the Lenders under any of the Loan Documents, nor constitute a waiver of any provision of any of the Loan Documents; (c) this Fifth Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement; and (d) delivery of an executed counterpart of a signature page to this Fifth Amendment by telecopier shall be effective as delivery of a manually executed counterpart of this Fifth Amendment.

Section 7. FINAL AGREEMENT. THE CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS WHEREOF, the parties hereto have caused this Fifth Amendment to be executed by its officers thereunto duly authorized as of the date first above written.

BORROWER:

COMSTOCK RESOURCES, INC.,
a Nevada corporation

By: /s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

ADMINISTRATIVE AGENT, ISSUING BANK
AND LENDERS:

TORONTO DOMINION (TEXAS), INC.
as Administrative Agent and Lender

By:/s/ NEVA NESBITT

Name: Neva Nesbitt
Title: Vice President

THE TORONTO-DOMINION BANK,
as Issuing Bank

By:/s/ NEVA NESBITT

Name: Neva Nesbitt
Title: Manager Syndications & Credit
Administration

BANK OF MONTREAL,
as Syndication Agent and Lender

By:/s/ JAMES V. DUCOTE

Name: James V. Ducote
Title: Director

FORTIS CAPITAL CORP.

By:/s/ DAVID MONTGOMERY

Name: David Montgomery
Title: Senior Vice President

By:/s/ DARRELL W. HOLLEY

Name: Darrell W. Holley
Title: Managing Director

BANK OF SCOTLAND

By:/s/ JOSEPH FRATUS

Name: Joseph Fratus
Title: First Vice President

WASHINGTON MUTUAL BANK, FA

By:/s/ MARK ISENSEE

Name: Mark Isensee
Title: Vice Pesident

CIBC INC.

By:/s/ JOHN P. BURKE

Name: John P. Burke
Title: Executive Director

COMERICA BANK-TEXAS

By:/s/ PETER L. SEFZIK

Name: Peter L. Sefzik
Title: Assistant Vice Pesident

COMPASS BANK

By:/s/ DOROTHY MARCHAND

Name: Dorothy Marchand
Title: Senior Vice President

PNC BANK, NATIONAL ASSOCIATION

By:/s/ JOHN WATTINGER

Name: John Wattinger
Title: Vice President

UNION BANK OF CALIFORNIA, N.A.

By:/s/ SEAN MURPHY

Name: Sean Murphy
Title: Vice President

HIBERNIA NATIONAL BANK

By:/s/ DARIA MAHONEY

Name: Daria Mahoney
Title: Vice President

NATEXIS BANQUES POPULAIRES

By:/s/ DONOVAN C. BROUSSARD

Name: Donovan C. Broussard
Title: Vice President and Manager

ACKNOWLEDGMENT BY GUARANTORS

Each of the undersigned Guarantors hereby (i) consents to the terms and conditions of that certain Fifth Amendment to Credit Agreement dated as of January 30, 2004 (the "Fifth Amendment"), (ii) acknowledges and agrees that its consent is not required for the effectiveness of the Fifth Amendment, (iii) ratifies and acknowledges its respective Obligations under each Loan Document to which it is a party, and (iv) represents and warrants that (a) no Default or Event of Default has occurred and is continuing, (b) it is in full compliance with all covenants and agreements pertaining to it in the Loan Documents, and (c) it has reviewed a copy of the Fifth Amendment.

COMSTOCK OIL & GAS, INC.
COMSTOCK OIL & GAS HOLDINGS, INC.
COMSTOCK OIL & GAS - LOUISIANA, LLC
COMSTOCK OFFSHORE, LLC

By:/s/ M. JAY ALLISON

Name: M. Jay Allison
Title: President and Chief Executive Officer

EXHIBIT 10.7

AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of February 25, 2004

among

COMSTOCK RESOURCES, INC.,
as the Borrower,

BANK OF MONTREAL,
as Administrative Agent and Issuing Bank,

BANK OF AMERICA, N.A.,
as Syndication Agent

COMERICA BANK, FORTIS CAPITAL CORP.,
and UNION BANK OF CALIFORNIA, N.A.,
as Co-Documentation Agents

The Other Lenders Party Hereto,

HARRIS NESBITT CORP.
as Arranger

AMENDED AND RESTATED CREDIT AGREEMENT

This AMENDED AND RESTATED CREDIT AGREEMENT is entered into as of February 25, 2004, among COMSTOCK RESOURCES, INC., a Nevada corporation ("Borrower"), each lender from time to time party hereto (collectively, the "Lenders" and each individually, a "Lender"), BANK OF MONTREAL, as Administrative Agent and Issuing Bank, BANK OF AMERICA, N.A., as syndication agent, and COMERICA BANK, FORTIS CAPITAL CORP., and UNION BANK OF CALIFORNIA, N.A., as co-documentation agents.

PRELIMINARY STATEMENTS

Borrower, Toronto Dominion (Texas), Inc., as administrative agent (the "Prior Administrative Agent"), The Toronto-Dominion Bank, as issuing bank, and certain lenders party thereto (the "Prior Lenders") have heretofore entered into a Credit Agreement dated as of December 17, 2001, as amended, modified or supplemented (the "Existing Credit Facility").

Borrower desires to amend and restate the Existing Credit Facility in order to restructure, rearrange, renew, extend and continue all indebtedness evidenced by and outstanding under the Existing Credit Facility (the "Existing Indebtedness"), and to modify the commitments from the Lenders pursuant to which Loans will be made by the Lenders to the Borrower from time to time prior to the Maturity Date and Letters of Credit will be issued by the Issuing Bank under the several responsibilities of the Lenders for the account of the Borrower from time to time prior to the Letter of Credit Availability Expiration Date.

Borrower has delivered to Prior Administrative Agent certain collateral documents to secure the repayment of the Existing Indebtedness to the Prior Lenders, which collateral documents are being assigned to the Administrative Agent in connection with, and concurrently with, the restructuring, rearrangement, renewal, extension and continuation of the Existing Indebtedness pursuant to this Agreement.

The Administrative Agent, the Lenders and the Issuing Bank are willing, on the terms and subject to the conditions hereinafter set forth (including Article IV), to amend and restate the Existing Credit Facility in order to restructure, rearrange, renew, extend and continue all Existing Indebtedness and to modify the commitments and make such Loans to the Borrower and issue and participate in such Letters of Credit for the account of the Borrower.

It is in the best interest of each of the Guarantors to execute and deliver a Guaranty as each Guarantor will receive substantial benefits as a result of the Borrower entering into the borrowing base, revolving credit facility with the Lenders.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I.
DEFINITIONS AND ACCOUNTING TERMS

SECTION 1.1 DEFINED TERMS. As used in this Agreement, the following terms shall have the meanings set forth below:

"1999 Senior Notes" means those certain 11 1/4% senior unsecured notes due 2007, issued by the Borrower in an aggregate principal amount of $220,000,000 under the 1999 Senior Notes Indenture.

"1999 Senior Notes Indenture" means that certain Indenture among Borrower, any guarantors and trustee party thereto, dated as of April 29, 1999, as supplemented by the First Supplemental Indenture dated as of March 7, 2002, and as further amended, modified or supplemented from time to time, and relating to the 1999 Senior Notes, together with all guarantees and all other documents executed in connection therewith at any time.

"2004 Senior Notes" means those certain 67/8% senior unsecured notes due 2012, issued by the Borrower in an aggregate principal amount of $175,000,000 on the date of issuance thereof under the 2004 Senior Notes Indenture.

"2004 Senior Notes Indenture" means that certain Indenture dated as of February 25, 2004, by and between Borrower and The Bank of New York Trust Company, N.A., as trustee, as supplemented by the First Supplemental Indenture dated as of February 25, 2004, and related documentation entered into in connection therewith pursuant to which the 2004 Senior Notes shall have been issued, as the same may be amended, restated, modified or supplemented from time to time.

"Adjusted LIBO Rate" means, with respect to each particular Borrowing comprised of LIBO Rate Loans and the associated LIBO Rate and Reserve Percentage, the rate per annum calculated by the Administrative Agent (rounded upwards, if necessary, to the next higher 1/100%) determined on a daily basis pursuant to the following formula:

$$\text{Adjusted LIBO Rate} = \frac{\text{LIBO Rate}}{(1.00\% - \text{Reserve Percentage})}$$

"Administrative Agent" means Bank of Montreal in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"Administrative Agent's Office" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 10.2, or such other address or account as the Administrative Agent may from time to time designate to the Borrower, the Issuing Bank, and the Lenders.

"Affiliate" means, as to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with, such Person. A Person shall be deemed to be "controlled by" any other Person if such other Person possesses, directly or indirectly, the power (a) to vote 10% or more of the securities (on a fully diluted basis) having ordinary voting power for the election of directors or managing general partners; or (b) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Agent and Arranger Fee Letter" has the meaning set forth in Section 2.10(b).

"Agent-Related Persons" means the Administrative Agent (including any successor administrative agent), together with its Affiliates (including, in the case of BMO in its capacity as the Administrative Agent, the Issuing Bank and the Arranger), and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

"Aggregate Commitments" means, as of any date, the sum of the Commitments of all the Lenders.

"Agreement" means this Amended and Restated Credit Agreement, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Arranger" means Harris Nesbitt Corp. in its capacity as sole arranger.

"Assignment of Secured Indebtedness" means that certain Assignment of Secured Indebtedness and Authorization to Assign Liens substantially in the form of Exhibit J hereto, dated as of the date hereof, among the Prior Administrative Agent, the Prior Lenders, the Administrative Agent, the Lenders and the Loan Parties, pursuant to which the Prior Administrative Agent and the Prior Lenders assign all their right, title and interest in and to the Existing Indebtedness, the Prior Credit Agreement and the other Loan Documents (defined in the Prior Credit Agreement) to the Administrative Agent and the Lenders.

"Attorney Costs" means and includes all reasonable fees and disbursements of any law firm or other external counsel.

"Attributable Indebtedness" means, on any date, (a) in respect of any capital lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease.

"Base Rate" means, on any date and with respect to all Base Rate Loans, a fluctuating rate of interest per annum equal to the higher of (a) the rate of interest most recently announced by Bank of Montreal at its Chicago, Illinois office as its base rate for dollar advances made in the United States or (b) the Federal Funds Rate most recently determined by the Administrative Agent plus 1/2% (0.5%) per annum. The Base Rate is not necessarily intended to be the lowest rate of interest determined by Bank of Montreal or any Lender in connection with extensions of credit. Changes in the rate of interest on that portion of any Loans maintained as Base Rate Loans will take effect simultaneously with each change in the Base Rate. The Administrative Agent will give notice to the Borrower of changes in the Base Rate promptly upon receipt of notice of any such change from Bank of Montreal.

"Base Rate Loan" means a Loan that bears interest based on the Base Rate.

"Base Rate Spread" means, with respect to any Base Rate Loan for any time prior to the Maturity Date, the percentage per annum set forth below under the caption "Base Rate Spread", determined by reference to the percentage of the Borrowing Base that the sum of all Loans outstanding plus all L/C Obligations represents at that time.

Percentage of Borrowing Base Usage	Base Rate Spread
(Greater Than Or Equal) 75%	0.500%
(Greater Than Or Equal) 50% but (Less Than) 75%	0.250%
(Less Than) 50%	0.000%

"BMO" means Bank of Montreal and its successors and assigns.

"Board" means the Board of Governors of the Federal Reserve System of the United States of America.

"Borrower" has the meaning set forth in the introductory paragraph hereto.

"Borrowing" means a borrowing consisting of simultaneous Loans of the same Type and having the same Interest Period made by Lenders pursuant to Section 2.1.

"Borrowing Base" means, at the particular time in question, either the amount provided for in Section 2.7 or the amount determined by the Administrative Agent and approved by the Majority Lenders or all of the Lenders, as applicable, in accordance with the provisions of Section 2.8; provided, however, that in no event shall the Borrowing Base ever exceed the Maximum Loan Amount.

"Borrowing Base Deficiency" has the meaning set forth in Section 2.4.2(ii).

"Business Day" means any day other than a Saturday, Sunday, or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, Chicago, Illinois or Houston, Texas and, if such day relates to any LIBO Rate Loan, means any such day on which dealings in Dollar deposits are conducted in London, England.

"Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Issuing Bank and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances pursuant to documentation in form and substance satisfactory to the Administrative Agent and the Issuing Bank (which documents are hereby consented to by the Lenders). Derivatives of such term shall have corresponding meaning. The Borrower hereby grants the Administrative Agent, for the benefit of the Issuing Bank and the Lenders, a Lien on all such cash and deposit account balances. Cash collateral shall be maintained in a blocked account at BMO or other institutions satisfactory to BMO.

"Change of Control" means, with respect to any Person, an event or series of events by which:

(a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such Person or its subsidiaries, or any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person shall be deemed to have "beneficial ownership" of all securities that such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of 50% or more of the equity interests of such Person; or

(b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of such Person cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body.

"Closing Date" means the first date all the conditions precedent in Section 4.1 are satisfied or waived in accordance with Section 4.1 (or, in the case of Section 4.1(b), waived by the Person entitled to receive the applicable payment).

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated thereunder.

"COGI" means Comstock Oil & Gas, Inc., a Nevada corporation, or after the COGI Reorganization, Comstock Oil & Gas, LP, a Nevada limited partnership, successor-by-conversion to Comstock Oil & Gas, Inc.

"COGI GP" means Comstock Oil & Gas GP, LLC, a Nevada limited liability company.

"COGI LP" means Comstock Oil & Gas Investments, LLC, a Nevada limited partnership.

"COGI Reorganization" means, collectively, the formation of COGI GP and COGI LP as wholly-owned Subsidiaries of the Borrower, the contribution by Borrower to COGI GP of a portion of Borrower's shares of common stock in COGI, the contribution by Borrower to COGI LP of a portion of Borrower's shares of common stock in COGI (provided that COGI GP and COGI LP shall hold, after giving effect to such contributions, 100% of the shares of COGI's common stock in the aggregate), and the conversion under applicable of Nevada law of COGI from a corporation into a limited partnership. For purposes of this Agreement, the date of the consummation of the COGI Reorganization shall be the effective date of the conversion in accordance with Nevada law.

"COGH" means Comstock Oil & Gas Holdings, Inc., a Nevada corporation.

"COGLA" means Comstock Oil & Gas - Louisiana, LLC, a Nevada limited liability company, successor-by-conversion to Comstock Oil & Gas - Louisiana, Inc., a Nevada corporation.

"COL" means Comstock Offshore, LLC, a Nevada limited liability company.

"Commitment" means, as to each Lender, its obligation to (a) make Loans to the Borrower pursuant to Section 2.1, and (b) purchase participations in L/C Obligations, in an aggregate principal amount at any one time outstanding not to exceed the lesser of (x) the amount set forth opposite such Lender's name on Schedule 2.1, as such amount may be reduced or adjusted from time to time in accordance with this Agreement and (y) such Lender's Percentage Share of (1) the Borrowing Base minus (2) the aggregate principal amount of all 1999 Senior Notes then outstanding.

"Commitment Fee Rate" means for any time prior to the Maturity Date, the percentage per annum set forth below under the caption "Commitment Fee Rate", determined by reference to the percentage of the Borrowing Base that the sum of all Loans outstanding plus all L/C Obligations represents at that time.

Percentage of Borrowing Base Usage	Commitment Fee Rate
(Greater Than Or Equal) 75%	0.375%
(Greater Than Or Equal) 50% but (Less Than) 75%	0.375%
(Less Than) 50%	0.375%

"Compliance Certificate" means a certificate substantially in the form of Exhibit C.

"Consolidated Net Income" means, for any period, for Borrower and its Subsidiaries on a consolidated basis, the net income of Borrower and its Subsidiaries from continuing operations after extraordinary items (excluding gains or losses from Dispositions of assets) for that period.

"Consolidated Tangible Net Worth" means, as of any date of determination, for Borrower and its Subsidiaries on a consolidated basis, Shareholders' Equity of Borrower and its Subsidiaries on that date minus the Intangible Assets of Borrower and its Subsidiaries on that date.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Credit Extension" means each of the following: (a) a Borrowing, and (b) an L/C Credit Extension.

"Current Assets" and "Current Liabilities" shall mean all assets or liabilities of Borrower and its Subsidiaries on a consolidated basis, respectively, that should be classified as current assets and current liabilities in accordance with GAAP; provided that the calculation of Current Assets shall not include receivables of the Borrower owing by any Affiliate in excess of 120 days or subject to any dispute or offset, advances by the Borrower to any Affiliate or any asset classified as a Current Asset

solely because it is held for sale; and provided further that Current Liabilities shall not include the current maturities of any Indebtedness of the Borrower for borrowed money that by its terms has a final maturity more than one year from the date of any calculation of Current Liabilities.

"Debtor Relief Laws" means the Bankruptcy Code of the United States of America, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States of America or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Default" means any event that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

"Default Rate" means an interest rate equal to (a) the Base Rate plus (b) the Base Rate Spread, if any, applicable to Base Rate Loans plus (c) 2% per annum; provided, however, that with respect to a LIBO Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any LIBOR Spread) otherwise applicable to such Loan plus 2% per annum, in each case to the fullest extent permitted by applicable Laws.

"Determination Date" has the meaning set forth in Section 2.8.

"Disqualified Stock" means any capital stock that, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part.

"Disposition" or "Dispose" means the sale, transfer, license or other disposition (including any sale and leaseback transaction) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

"Dollar" and "$" means lawful money of the United States of America.

"Eligible Assignee" has the meaning specified in Section 10.7.6.

"Engineering Report" means the Initial Engineering Report and each engineering report delivered pursuant to Section 6.2(g).

"Environmental Laws" means all Laws relating to environmental, health, safety and land use matters applicable to any property.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any regulations issued pursuant thereto.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Borrower or any Guarantor within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

"Evaluation Date" means each of the following:

(a) Each date which either the Borrower or the Majority Lenders, at their respective options, specify as a date as of which the Borrowing Base is to be redetermined (provided that neither the Borrower nor the Majority Lenders shall be entitled to request any such redetermination more than once between any two consecutive dates described in clause (b) of this definition of "Evaluation Dates"); and

(b) May 1 and November 1 of each year occurring prior to the Final Maturity Date, beginning November 1, 2004.

"Event of Default" means any of the events or circumstances specified in Article VIII.

"Existing Credit Facility" is defined in the first preliminary statement hereto.

"Existing Indebtedness" is defined in the second preliminary statement hereto.

"Federal Funds Rate" means, for any day, the rate per annum (rounded upwards to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate charged to BMO on such day on such transactions as determined by the Administrative Agent.

"Foreign Lender" has the meaning specified in Section 3.8.

"GAAP" means generally accepted accounting principles and practices that are recognized as such by the Financial Accounting Standards Board (or any generally recognized successor). If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and the Borrower or the Majority Lenders or the Administrative Agent shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in

GAAP; provided that, until so amended, (a) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (b) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

"Governmental Requirements" means all judgment, orders, writs, injunctions, decrees, awards, laws, ordinances, statutes, regulations, rules, franchises, permits, certificates, licenses, authorizations and the like and any other requirements of any government or any commission, board, court, agency, instrumentality or political subdivision thereof.

"Guarantors" means each of the Subsidiaries listed in Part (b) of Schedule 5.13 and each other Subsidiary of the Borrower that shall have executed and delivered a Guaranty to the Administrative Agent for the benefit of the Lenders.

"Guaranty" means (a) each Amended and Restated Subsidiary Guaranty dated as of the date hereof made by each of the Guarantors in favor of the Administrative Agent on behalf of the Lenders, substantially in the form of Exhibit E and (b) each other guaranty (which shall also be substantially in the form of Exhibit E) in favor of the Administrative Agent on behalf of the Lenders delivered in accordance with this Agreement.

"Guaranty Obligation" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guarantying or having the economic effect of guarantying any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligees in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligees against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person; provided, however, that the term "Guaranty Obligation" shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guaranty Obligation shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guaranty Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guarantying Person in good faith.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Hedging Agreement" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Highest Lawful Rate" has the meaning given to it in Section 10.10.

"Honor Date" has the meaning set forth in Section 2.3.3(i).

"Hydrocarbon Interest" means all rights, titles, interests and estates now or hereafter acquired in and to oil and gas leases, oil, gas and mineral leases or other liquid or gaseous hydrocarbon leases, mineral fee interests, overriding royalty and royalty interests, operating rights, net profit interests, production payment interests and other similar types of interests, including any reserved or residual interest of whatever nature.

"Hydrocarbons" means oil, gas, casinghead gas, drip gasoline, natural gasoline, condensate, distillate, liquid hydrocarbons, gaseous hydrocarbons and all products refined or separated therefrom.

"ICC" has the meaning set forth in Section 2.3.7.

"Indebtedness" means, as to any Person at a particular time, all of the following:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) any direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), banker's acceptances, bank guaranties, surety bonds and similar instruments;

(c) net obligations under any Hedging Agreement in an amount equal to (i) if such Hedging Agreement has been closed out, the termination value thereof, or (ii) if such Hedging Agreement has not been closed out, the mark-to-market value thereof determined on the basis of readily available quotations provided by any recognized dealer in such Hedging Agreement;

(d) whether or not so included as liabilities in accordance with GAAP, all obligations of such Person to pay the deferred purchase price of property or services, and indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(e) capital leases and Synthetic Lease Obligations; and

(f) all Guaranty Obligations of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person except for customary exceptions acceptable to the Majority Lenders. The amount of any capital lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date. "Indemnified Liabilities" has the meaning set forth in Section 10.5.

"Indemnitees" has the meaning set forth in Section 10.5.

"Indenture Debt" means all present and future Indebtedness and other liabilities owing pursuant to the Indenture Debt Documents.

"Indenture Debt Documents" means (a) the 1999 Senior Notes Indenture and any documents related to or delivered in connection with any refinancings, refundings, renewals or extensions of the facilities described in the 1999 Senior Notes Indenture, and (b) the 2004 Senior Notes Indenture and any documents related to or delivered in connection with any refinancings, refundings, renewals or extensions of the facilities described in the 2004 Senior Notes Indenture.

"Initial Audited Financial Statements" means each of the audited consolidated balance sheet of the Borrower and its Subsidiaries as of December 31, 2002 and the related consolidated statements of income and cash flows of the Borrower for the fiscal year ended December 31, 2002.

"Initial Engineering Report" means, collectively, the engineering report dated as of January 1, 2004 concerning Oil and Gas Properties of the Borrower, COGI, COGH, COGLA and COL, prepared by Lee Keeling & Associates.

"Intangible Assets" means assets that are considered to be intangible assets under GAAP, including customer lists, goodwill, computer software, copyrights, trade names, trademarks, patents, unamortized deferred charges, unamortized debt discount and capitalized research and development costs.

"Interest Payment Date" means, (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan; provided, however, that if any Interest Period for a LIBO Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date.

"Interest Period" means as to each LIBO Rate Loan, the period commencing on the date such LIBO Rate Loan is disbursed or (in the case of any Base Rate Loan) converted to or continued as a LIBO Rate Loan and ending on the date one, two, three or six months thereafter, as selected by the Borrower in its Notice of Advance; provided that:

(i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a LIBO Rate Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period pertaining to a LIBO Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(iii) no Interest Period shall extend beyond the scheduled Maturity Date.

"Investment" means, as to any Person, any acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of capital stock or other securities of another Person, (b) a loan, advance or capital contribution to, guaranty of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"IRS" means the United States Internal Revenue Service.

"Issuing Bank" means Bank of Montreal in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

"Laws" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"L/C Advance" means, with respect to any Lender, such Lender's participation in any L/C Borrowing in accordance with its Percentage Share.

"L/C Borrowing" means an extension of credit resulting from a drawing under any Letter of Credit that has not been reimbursed on the date when made or refinanced as a Borrowing.

"L/C Collateral" has the meaning set forth in Section 2.3.11.

"L/C Credit Extension" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the renewal or increase of the amount thereof.

"L/C Obligations" means, as at any date of determination, the aggregate undrawn face amount of all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings.

"Lender" has the meaning set forth in the introductory paragraph hereto and, as the context requires, includes the Issuing Bank.

"Lender Assignment" means a Lender Assignment substantially in the form of Exhibit D.

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such on Schedule 10.2, or such other office or offices as a Lender may from time to time designate to the Borrower and the Administrative Agent.

"Letter of Credit" means any standby or commercial letter of credit issued hereunder.

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a letter of credit in the form from time to time in use by the Issuing Bank.

"Letter of Credit Availability Expiration Date" means the day that is seven days prior to the Maturity Date (or, if such day is not a Business Day, the next preceding Business Day).

"Letter of Credit Sublimit" means an amount equal to the lowest of (x) the Aggregate Commitments, (y) $50,000,000, and (z) the Borrowing Base. The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Commitments.

"LIBO Rate" shall mean, with respect to any LIBO Rate Loan within a Borrowing and with respect to the related Interest Period, the rate of interest per annum equal to the offered quotation appearing on Telerate Page 3750 at approximately 11:00 a.m. (London time) on the date which is two Business Days prior to the beginning of the relevant Interest Period (or if such Telerate Page shall not be available, the rate per annum determined by the Administrative Agent by reference to the British Bankers' Association Interest Settlement Rate for deposits in U.S. dollars as set forth by any service which has been nominated by the British Bankers' Association as an authorized information vendor for the purpose of displaying such rates) for a period most closely approximating such Interest Period, provided that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provision of this definition, the "LIBO Rate" shall be the interest rate per annum, determined by the Administrative Agent to be the average of the rates per annum at which deposits in U.S. dollars are offered for such relevant Interest Period to major banks in the London interbank market in London, England by the Administrative Agent at approximately 11:00 a.m. (London time) on the date which is two Business Days prior to the beginning of such Interest Period.

"LIBO Rate Loan" means a Loan that bears interest at the Adjusted LIBO Rate.

"LIBOR Spread" means with respect to any LIBO Rate Loan for any time prior to the Maturity Date, the percentage per annum set forth below under the caption "LIBOR Spread," determined by reference to the percentage of the Borrowing Base that the sum of all Loans outstanding plus all L/C Obligations represents at that time.

Percentage of Borrowing Base Usage	LIBOR Spread
(Greater Than Or Equal) 75%	1.750%
(Greater Than Or Equal) 50% but (Less Than) 75%	1.500%
(Less Than) 50%	1.250%

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the Uniform Commercial Code or comparable Laws of any jurisdiction), including the interest of a purchaser of accounts receivable.

"Loan" has the meaning set forth in Section 2.1.

"Loan Documents" means this Agreement, each Note, the Agent and Arranger Fee Letter, each Notice of Advance, each Letter of Credit Application, each Letter of Credit, each of the Security Documents, each Compliance Certificate, each Guaranty, each Subordination Agreement and all other written agreements, certificates, documents, instruments and writings at any time delivered in connection herewith or therewith and any Hedging Agreement now or hereafter existing between the Borrower or any Guarantor and any Lender or any Affiliate of any Lender.

"Loan Parties" means, collectively, the Borrower and each Guarantor.

"Majority Lenders" means, as of any date of determination, Lenders whose Voting Percentages aggregate to 66-2/3% or more.

"Mandatory Prepayment Amount" has the meaning set forth in Section 2.4.2(ii).

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, or condition (financial or otherwise) of the Borrower and its Subsidiaries taken as a whole; (b) a material impairment of the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party or upon the rights and remedies of the Administrative Agent, the Issuing Bank, or any Lender under any Loan Document.

"Matured L/C Obligations" means all amounts paid by Issuing Bank on drafts or demands for payment drawn or made under or purported to be under any Letter of Credit (or under or in connection with any L/C Application) that have not been repaid to the Issuing Bank (with the proceeds of a Loan or otherwise).

"Maturity Date" means (a) February 25, 2008, or (b) such earlier date upon which the Commitments may be terminated in accordance with the terms hereof.

"Maximum Loan Amount" means $400,000,000 as such amount may be reduced from time to time pursuant to Section 2.5.

"Mortgage" means (i) each Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing dated as December 17, 2001 described in the Security Schedule as (or as intended to be) assigned and amended pursuant to the Assignment of Secured Indebtedness and the Mortgage Assignment and Amendment, (ii) each Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing dated as February 25, 2004 described in the Security Schedule, and (iii) any mortgage, deed of trust or similar document delivered pursuant to this Agreement, in each case as amended, supplemented, restated or otherwise modified from time to time.

"Mortgage Assignment and Amendment" means each Assignment and Amendment of Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing dated as of the date hereof among Administrative Agent, Prior Administrative Agent, and a Loan Party, in each case, delivered pursuant to Section 4.1, as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms of this Agreement and the other Loan Documents]

"Mortgaged Property" has the meaning set forth in the Mortgage.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding three calendar years, has made or been obligated to make contributions.

"Net Sales Proceeds" means, with respect to any sale, lease, transfer or other disposition of any asset by the Borrower or any Subsidiary, the aggregate amount of cash or cash equivalents received by or paid to or for the account of the Borrower or such Subsidiary from time to time (whether as initial consideration or through payment or disposition of deferred consideration) by or on behalf of such Person in connection with such transaction after deducting therefrom only (without duplication) (a) reasonable out-of-pocket costs and fees, (b) the amount of taxes payable in connection with or as a result of such transaction and (c) the amount of any Indebtedness permitted by Section 7.3 hereof secured by a Lien on such asset permitted by Section 7.1 hereof that, by the terms of the agreement or instrument governing such Indebtedness, is required to be repaid or may be prepaid upon such disposition, in each case to the extent, but only to the extent, that the amounts so deducted are, at the time of receipt of such cash, actually paid to a Person that is not an Affiliate of the Borrower or such Subsidiary and are properly attributable to such transaction or to the asset that is the subject thereof.

"Note" means a promissory note made by the Borrower in favor of a Lender evidencing Loans made by such Lender, substantially in the form of Exhibit B.

"Notice of Advance" means a notice, which, if in writing, shall be substantially in the form of Exhibit A, of (a) a Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Loans as the same Type, pursuant to Section 2.2(a),.

"Obligations" means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document, whether direct or indirect (including those

acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest that accrues after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding.

"Oil and Gas Properties" means Hydrocarbon Interests; the properties now or hereafter pooled or unitized with Hydrocarbon Interests; all presently existing or future unitization, pooling agreements and declarations of pooled units and the units created thereby (including without limitation all units created under orders, regulations and rules of any Governmental Authority have jurisdiction) that may affect all or any portion of the Hydrocarbon Interests; all operating agreements, contracts and other agreements that relate to any of the Hydrocarbon Interests or the production, sale, purchase, exchange or processing of Hydrocarbons from or attributable to such Hydrocarbon Interest; all Hydrocarbons in and under and which may be produced and saved or attributable to the Hydrocarbon Interests, the lands covered thereby and all oil in tanks and all rents, issues, profits, proceeds, products, revenues and other income from or attributable to the Hydrocarbon Interests; all tenements, hereditaments, appurtenances and properties in any manner appertaining, belonging, affixed or incidental to the Hydrocarbon Interests, properties, rights, titles, interests and estates described or referred to above, including any and all property, real or personal, now owned or hereinafter acquired and situated upon, used, held for use or useful in connection with the operating, working or development of any of such Hydrocarbon Interests or property (excluding drilling rigs, automotive equipment or other personal property which may be on such premises for the purpose of drilling a well or for other similar temporary uses) and including any and all oil wells, gas wells, injection wells or other wells, buildings, structures, fuel separators, liquid extraction plants, plant compressors, pumps, pumping units, field gathering systems, tanks and tank batteries, fixtures, valves, fittings, machinery and parts, engines, boilers, meters, apparatus, equipment, appliances, tools, implements, cables, wires, towers, casing, tubing and rods, surface leases, rights-of-way, easements and servitudes together with all additions, substitutions, replacements, accessions and attachments to any and all of the foregoing.

"Optional Indebtedness Payment" has the meaning set forth in Section 7.12.

"Organization Documents" means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws; (b) with respect to any limited liability company, the articles of formation and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation with the secretary of state or other department in the state of its formation, in each case as amended from time to time.

"Outstanding Amount" means (i) with respect to Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any Borrowings and prepayments or repayments of Loans occurring on such date; and (ii) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements of outstanding unpaid drawings under any Letters of Credit or any reductions in the maximum amount available for drawing under Letters of Credit taking effect on such date.

"Participant" has the meaning set forth in Section 10.7.3.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Plan" means any "employee pension benefit plan" (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer plan (as described in Section 4064(a) of ERISA) has made contributions at any time during the immediately preceding five plan years.

"Percentage Share" means, with respect to each Lender, the percentage (carried out to the ninth decimal place) set forth opposite the name of such Lender on Schedule 2.1 or on the relevant Lender Assignment, as the case may be, as such percentage share may be adjusted as provided herein.

"Person" means any individual, trustee, corporation, general partnership, limited partnership, limited liability company, joint stock company, trust, unincorporated organization, bank, business association, firm, joint venture or Governmental Authority.

"Plan" means any "employee benefit plan" (as such term is defined in Section 3(3) of ERISA) established by the Borrower or any ERISA Affiliate.

"Pledge Agreement" means an Amended and Restated Pledge Agreement and Irrevocable Proxy dated as of the date hereof in favor of the Administrative Agent for the benefit of the Lenders in the form of Exhibit H and each other pledge agreement in substantially the same form in favor of the Administrative Agent for the benefit of the Lenders delivered in accordance with Section 6.16 of this Agreement.

"Pledged Note" mean each Pledged Note described in a Pledge Agreement pledged to the Administrative Agent for the benefit of the Lenders and the Issuing Bank.

"Prior Administrative Agent" is defined in the first preliminary statement hereto.

"Prior Lenders" is defined in the first preliminary statement hereto.

"Register" has the meaning set forth in Section 10.7.2(b).

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

"Reserve Percentage" means, on any day with respect to each particular Borrowing comprised of LIBO Rate Loans, the maximum reserve requirement as determined by the Administrative Agent (including without limitation any basic, supplemental, marginal, emergency or similar reserves and taking into account any transitional adjustments or other scheduled changes in reserve requirements), expressed as a percentage, which would then apply under Regulation D with respect to "Eurocurrency liabilities" (as such term is defined in Regulation D) equal in amount to each Lender's LIBO Rate Loan in such Borrowing, were such Lender to have any such "Eurocurrency liabilities". If such reserve requirement shall change after the date hereof, the

Reserve Percentage shall be automatically increased or decreased, as the case may be, from time to time as of the effective time of each such change in such reserve requirement.

"Responsible Officer" means the president, chief financial officer, treasurer or assistant treasurer of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock of the Borrower, any Guarantor or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or of any option, warrant or other right to acquire any such capital stock.

"Security Agreement" means (a) each Amended and Restated Security Agreement dated as of the date hereof in favor of the Administrative Agent for the benefit of the Lenders substantially in the form of Exhibit I, and (b) each other security agreement (which shall also be substantially in the form of Exhibit I) in favor of the Administrative Agent on behalf of the Lender delivered in accordance with this Agreement.

"Security Documents" means the instruments listed in the Security Schedule and any other security agreements, deeds of trust, mortgages, chattel mortgages, pledges, guaranties, financing statements, continuation statements, extension agreements and other agreements or instruments now, heretofore, or hereafter delivered by any Person to the Administrative Agent in connection with this Agreement or any transaction contemplated hereby to secure or guarantee the payment of all or any part of the Obligations.

"Security Schedule" means Schedule 4.1 hereto.

"Shareholders' Equity" means, as of any date of determination for the Borrower and its Subsidiaries on a consolidated basis, shareholders' equity as of that date determined in accordance with GAAP.

"Subordinate Mortgage Amendment" means each Amendment of Subordinate Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing, in each case, among the Administrative Agent, Prior Administrative Agent, Borrower and one or more other Loan Parties, delivered pursuant to Section 4.1 by the Borrower and such Loan Party, as amended, supplemented, restated or otherwise modified from time to time in accordance with the terms of this Agreement and the other Loan Documents.

"Subordinate Mortgages" means each Subordinate Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing delivered by a Guarantor in favor of the Borrower to secure any Indebtedness of such Guarantor owing to the Borrower outstanding from time to time including, without limitation, (i) each Subordinate Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing dated as December 17, 2001, described in the Security Schedule as (or as intended to be) assigned and amended pursuant to the Assignment of Secured Indebtedness and the Subordinate Mortgage Assignment and Amendment, and (ii) each Subordinate Mortgage, Deed of Trust, Assignment,

Security Agreement, Financing Statement and Fixture Filing dated as February 25, 2004 described in the Security Schedule.

"Subordination Agreement" means the Amended and Restated Intercompany Subordination Agreement dated the date hereof and substantially in the form of Exhibit G, as the same may be amended, modified, supplemented or restated from time to time.

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Borrower.

"Synthetic Lease Obligation" means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

"Type" means with respect to a Loan, its character as a Base Rate Loan or a LIBO Rate Loan.

"Unfunded Pension Liability" means the excess of a Pension Plan's benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan's assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

"Unreimbursed Amount" has the meaning set forth in Section 2.3.3(i).

"Voting Percentage" means, as to any Lender, (a) at any time when the Commitments are in effect, such Lender's Percentage Share and (b) at any time after the termination of the Commitments, the percentage (carried out to the ninth decimal place) which (i) the sum of (A) the Outstanding Amount of such Lender's Loans, plus (B) such Lender's Percentage Share of the Outstanding Amount of L/C Obligations, then constitutes of (ii) the sum of Outstanding Amount of all Loans and L/C Obligations.

SECTION 1.2 OTHER INTERPRETIVE PROVISIONS.

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) (i) The words "herein" and "hereunder" and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

(ii) Unless otherwise specified herein, Article, Section, Exhibit and Schedule references are to this Agreement.

(iii) The term "including" is by way of example and not limitation.

(iv) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced.

(c) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(d) Section headings herein and the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(e) Pronouns in masculine, feminine and neuter genders shall be construed to include any other gender, and words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

SECTION 1.3 ACCOUNTING TERMS. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Initial Audited Financial Statements, except as otherwise specifically prescribed herein.

SECTION 1.4 ROUNDING. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 1.5 REFERENCES TO AGREEMENTS AND LAWS. Unless otherwise expressly provided herein, (a) references to agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

ARTICLE II.
THE COMMITMENTS AND CREDIT EXTENSIONS

SECTION 2.1 LOANS. Subject to the terms and conditions set forth herein, each Lender severally agrees to make loans (each such loan, a "Loan") to the Borrower from time to time on any Business Day during the period from the Closing Date to the Maturity Date, in an aggregate amount not to exceed at any time outstanding the lesser of (x) such Lender's Percentage Share of the

aggregate amount of the Loans requested by the Borrower on such day and (y) the amount of such Lender's Commitment; provided, however, that after giving effect to any borrowing, (i) the aggregate Outstanding Amount of all Loans and L/C Obligations shall not exceed the lesser of (A) the Aggregate Commitments on such date and (B) the Borrowing Base then in effect minus the aggregate principal amount of all 1999 Senior Notes then outstanding, and (ii) the aggregate Outstanding Amount of the Loans of any Lender, plus such Lender's Percentage Share of the Outstanding Amount of all L/C Obligations shall not exceed such Lender's Commitment or such Lender's Percentage Share of (x) the Borrowing Base minus (y) the aggregate principal amount of all 1999 Senior Notes then outstanding. Within the limits of each Lender's Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.1, prepay under Section 2.4 and reborrow under this Section 2.1.

SECTION 2.2 BORROWINGS, CONVERSIONS AND CONTINUATIONS OF LOANS.

(a) Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Loans as the same Type shall be made upon the Borrower's irrevocable prior written notice to the Administrative Agent in the form of a Notice of Advance. Each such notice must be received by the Administrative Agent not later than 12:00 p.m., central time, (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of LIBO Rate Loans or of any conversion of LIBO Rate Loans to Base Rate Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans. Each Notice of Advance shall be appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of, conversion to or continuation of LIBO Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $1,000,000 in excess thereof. Each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each Notice of Advance shall specify (i) whether the Borrower is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Loans as the same Type, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Loan in a Notice of Advance or if the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made or continued as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable LIBO Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of LIBO Rate Loans in any such Notice of Advance, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Notice of Advance, the Administrative Agent shall promptly notify each Lender of its Percentage Share of the applicable Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in the preceding subsection. Each Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 2:00 p.m. central time, on the Business Day specified in the applicable Notice of Advance. Upon satisfaction of the applicable conditions set forth in Section 4.2 (and, if such Borrowing is the initial Credit Extension, Section 4.1), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower

on the books of BMO with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to the Administrative Agent by the Borrower; provided, however, that if, on the date of the Borrowing there are L/C Borrowings outstanding, then the proceeds of such Borrowing shall be applied, first, to the payment in full of any such L/C Borrowings, and second, to the Borrower as provided above. Unless the Administrative Agent shall have received prompt notice from a Lender that such Lender will not make available to the Administrative Agent such Lender's Loans, the Administrative Agent may in its discretion assume that such Lender has made such Loans available to the Administrative Agent in accordance with this section and the Administrative Agent may if it chooses, in reliance upon such assumption, make such Loan available to the Borrower. If and to the extent such Lender shall not so make its Loan available to the Administrative Agent, such Lender and the Borrower severally agree to pay or repay to the Administrative Agent within two Business Days after demand the amount of such Loan together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is paid or repaid to the Administrative Agent, to be calculated as to such Lender at the Federal Funds Rate, and to be calculated as to the Borrower at the interest rate applicable at the time to the other Loans made on such date. If any Lender fails to make such payment to the Administrative Agent within such two Business Day period, such Lender shall in addition to such amount pay interest thereon, for each day from the date such Loan is made available to the Borrower until the date such amount is paid or repaid to the Administrative Agent, at the interest rate applicable at the time to the other Loans made on such date. The failure of any Lender to make any Loan to be made by it hereunder shall not relieve any other Lender of its obligation hereunder, if any, to make its Loan, but no Lender shall be responsible for the failure of any other Lender to make any Loan to be made by such other Lender.

(c) Except as otherwise provided herein, a LIBO Rate Loan may be continued or converted only on the last day of the Interest Period for such LIBO Rate Loan. During the existence of a Default, Event of Default or Borrowing Base Deficiency, no Loans may be requested as, converted to or continued as LIBO Rate Loans.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any LIBO Rate Loan upon determination of such interest rate. The determination of the LIBO Rate by the Administrative Agent shall be conclusive in the absence of manifest error. The Administrative Agent shall notify the Borrower and the Lenders of any change in BMO's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten (10) LIBO Interest Periods in effect with respect to Loans.

SECTION 2.3 LETTERS OF CREDIT.

2.3.1 The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) the Issuing Bank agrees, in reliance upon the agreements of the other Lenders set forth in this Section 2.3, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Availability Expiration Date, to issue Letters of Credit for the account of the Borrower or certain Subsidiaries, and to amend or renew Letters of Credit previously issued by it, in accordance with subsection 2.3.2 below, and (2) to honor drafts under the Letters of Credit; and (B) the Lenders severally agree to participate in Letters of Credit issued for the account of the

Borrower; provided that the Issuing Bank shall not be obligated to make any L/C Credit Extension with respect to any Letter of Credit, and no Lender shall be obligated to participate in, any Letter of Credit if as of the date of such L/C Credit Extension, (x) the Outstanding Amount of all L/C Obligations and all Loans would exceed the lesser of (A) the Aggregate Commitments on such date and (B) the Borrowing Base then in effect minus the aggregate principal amount of all 1999 Senior Notes then outstanding, and, (y) the aggregate Outstanding Amount of the Loans of any Lender, plus such Lender's Percentage Share of the Outstanding Amount of all L/C Obligations would exceed such Lender's Commitment or such Lender's Percentage Share of (x) the Borrowing Base minus (y) the aggregate principal amount of all 1999 Senior Notes then outstanding, or (z) the Outstanding Amount of the L/C Obligations would exceed the Letter of Credit Sublimit. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(ii) The Issuing Bank shall be under no obligation to issue any Letter of Credit if:

(A) the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last renewal, unless the Majority Lenders acting in their sole discretion have approved in writing such expiry date;

(B) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Availability Expiration Date, unless all the Lenders acting in their sole discretion have approved in writing such expiry date;

(C) the issuance of such Letter of Credit would violate one or more policies of the Issuing Bank;

(D) such Letter of Credit is in a face amount less than $100,000, or denominated in a currency other than Dollars, unless all the Lenders acting in their sole discretion have approved in writing the issuance of Letters of Credit denominated in a currency other than Dollars; or

(E) such Letter of Credit is to be used directly or indirectly to assure payment of or otherwise support any Person's Indebtedness for borrowed money;

(F) the issuance of such Letter of Credit is not in compliance with all applicable governmental restrictions, policies, and guidelines (whether or not having the force of law) or it subjects the Issuing Bank to any cost not anticipated by the Issuing Bank on the date hereof;

(G) the form and terms of such Letter of Credit are not acceptable to the Administrative Agent and Issuing Bank in their sole and absolute discretion; and

(H) any other condition in this Agreement to the issuance of such Letter of Credit has not been satisfied.

(iii) The Issuing Bank shall be under no obligation to amend any Letter of Credit if (A) the Issuing Bank would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

2.3.2 Procedures for Issuance and Amendment of Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the Issuing Bank (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application must be received by the Issuing Bank and the Administrative Agent not later than 12:00 p.m., central time at least two Business Days (or such later date and time as the Issuing Bank may agree in a particular instance in its sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the Issuing Bank: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; and (G) such other matters as the Issuing Bank may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the Issuing Bank (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as the Issuing Bank may require.

(ii) Promptly after receipt of any Letter of Credit Application, the Issuing Bank will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the Issuing Bank will provide the Administrative Agent with a copy thereof. Upon receipt by the Issuing Bank of confirmation from the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof, then, subject to the terms and conditions hereof, the Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be, in each case in accordance with the Issuing Bank's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to and hereby does, purchase from the Issuing Bank a participation in such Letter of Credit in an amount equal to the product of such Lender's Percentage Share times the amount of such Letter of Credit.

2.3.3 Drawings and Reimbursements; Funding of Participations.

(i) Upon any drawing under any Letter of Credit, the Issuing Bank shall notify the Borrower and the Administrative Agent thereof. Not later than 12:00 p.m., central time, on the date of any payment by the Issuing Bank under a Letter of Credit (each such date, an "Honor Date"), the Borrower shall reimburse the Issuing Bank through the Administrative Agent in an amount equal to the amount of such drawing. If the Borrower fails to so reimburse the Issuing Bank by such time, the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and such Lender's Percentage Share thereof. In such event, the Borrower shall be deemed to have requested a Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.2 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the lesser of (x) the Aggregate Commitments and (y) the Borrowing Base then in effect and the conditions set forth in Section 4.2 (other than the delivery of a Notice of Advance). Any notice given by the Issuing Bank or the Administrative Agent pursuant to this Section 2.3.3(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender (including the Lender acting as Issuing Bank) shall upon any notice from the Administrative Agent pursuant to Section 2.3.3(i) make funds available to the Administrative Agent for the account of the Issuing Bank at the Administrative Agent's Office in an amount equal to such Lender's Percentage Share of the Unreimbursed Amount not later than 1:00 p.m., central time, on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.3.3(iii), each Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the Issuing Bank.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Borrowing of Base Rate Loans because the conditions set forth in Section 4.2 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the Issuing Bank an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Lender's payment to the Administrative Agent for the account of the Issuing Bank pursuant to Section 2.3.3(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.3.3.

(iv) Until each Lender funds its Loan or L/C Advance pursuant to this Section 2.3.3 to reimburse the Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender's Percentage Share of such amount shall be solely for the account of the Issuing Bank.

(v) Each Lender's obligation to make Loans or L/C Advances to reimburse the Issuing Bank for amounts drawn under Letters of Credit, as contemplated by this Section

2.3.3, shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against the Issuing Bank, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default or Event of Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing. Any such reimbursement shall not relieve or otherwise impair the obligation of the Borrower to reimburse the Issuing Bank for the amount of any payment made by the Issuing Bank under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Administrative Agent for the account of the Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.3.3 by the time specified in Section 2.3.3(ii), the Issuing Bank shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Issuing Bank at a rate per annum equal to (1) for the first two Business Days immediately following the date such payment is required, the Federal Funds Rate from time to time in effect, and (2) for each day thereafter, the Base Rate from time to time in effect. A certificate of the Issuing Bank submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

2.3.4 Repayment of Participations.

(i) At any time after the Issuing Bank has made a payment under any Letter of Credit and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.3.3, if the Administrative Agent receives for the account of the Issuing Bank any payment related to such Letter of Credit (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), or any payment of interest thereon, the Administrative Agent will distribute to such Lender its Percentage Share thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the Issuing Bank pursuant to Section 2.3.3 is required to be returned, each Lender shall pay to the Administrative Agent for the account of the Issuing Bank its Percentage Share thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to (1) with respect to the first two Business Days immediately following such demand, the Federal Funds Rate from time to time in effect, and (2) with respect to each day thereafter, the Base Rate from time to time in effect.

2.3.5 Obligations Absolute. The obligation of the Borrower to reimburse the Issuing Bank for each drawing under each Letter of Credit, and to repay each L/C Borrowing and each drawing under a Letter of Credit that is refinanced by a Borrowing of Loans, shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;

(ii) the existence of any claim, counterclaim, set-off, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the Issuing Bank or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the Issuing Bank under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the Issuing Bank under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will promptly notify the Issuing Bank. The Borrower shall be conclusively deemed to have waived any such claim against the Issuing Bank and its correspondents unless such notice is given as aforesaid.

2.3.6 Role of Issuing Bank; Indemnity. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the Issuing Bank shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. No Agent-Related Person nor any of the respective correspondents, participants or assignees of the Issuing Bank shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Majority Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Letter of Credit Application. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit. No Agent-Related Person, nor any of the respective correspondents, participants or assignees of the Issuing Bank, shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.3.5. The Borrower agrees to

hold Issuing Bank and each Lender harmless and indemnified against any liability or claim in connection with or arising out of the subject matter of this section, WHICH INDEMNITY SHALL APPLY WHETHER OR NOT ANY SUCH LIABILITY OR CLAIM IS IN ANY WAY OR TO ANY EXTENT CAUSED, IN WHOLE OR IN PART, BY ANY NEGLIGENT ACT OR OMISSION OF ANY KIND BY ISSUING BANK OR ANY LENDER, provided only that the Issuing Bank or such Lender shall not be entitled to indemnification for that portion, if any, of any liability or claim which is proximately caused by its own individual gross negligence or willful misconduct as determined in a final judgment. In furtherance and not in limitation of the foregoing, the Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the Issuing Bank shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. If any Letter of Credit provides that it is transferable, the Issuing Bank shall have no duty to determine the proper identity of anyone appearing as transferee of such Letter of Credit, nor shall the Issuing Bank be charged with responsibility of any nature or character for the validity or correctness of any transfer or successive transfers, and payment by the Issuing Bank to any purported transferee or transferees as determined by the Issuing Bank is hereby authorized and approved, and the Borrower further agrees to hold the Issuing Bank and each Lender harmless and indemnified against any liability or claim in connection with or arising out of the foregoing, WHICH INDEMNITY SHALL APPLY WHETHER OR NOT ANY SUCH LIABILITY OR CLAIM IS IN ANY WAY OR TO ANY EXTENT CAUSED, IN WHOLE OR IN PART, BY ANY NEGLIGENT ACT OR OMISSION OF ANY KIND BY THE ISSUING BANK OR ANY LENDER, provided only that the Issuing Bank or such Lender shall not be entitled to indemnification for that portion, if any, of any liability or claim which is caused by its own individual gross negligence or willful misconduct. All of Borrower's Obligations under this Section 2.3.6 shall survive termination of the Commitments or of this Agreement and repayment in full of the Obligations.

2.3.7 Applicability of ISP98 and UCP. Unless otherwise expressly agreed by the Issuing Bank and the Borrower when a Letter of Credit is issued, (i) the rules of the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance) shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce (the "ICC") at the time of issuance (including the ICC decision published by the Commission on Banking Technique and Practice on April 6, 1998 regarding the European single currency (euro)) shall apply to each commercial Letter of Credit.

2.3.8 Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Percentage Share a Letter of Credit fee for each Letter of Credit equal to the LIBOR Spread then in effect with respect to Loans after giving effect to the L/C Obligations incurred with respect to such Letter of Credit times the actual daily maximum amount available to be drawn under such Letter of Credit. Such fee for each Letter of Credit shall be due and payable on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, and on the Letter of Credit Availability Expiration Date. If there is any change in the LIBOR Spread during any quarter, the actual daily amount of each Letter of Credit shall be computed and multiplied by the

LIBOR Spread with respect to Letters of Credit separately for each period during such quarter that such LIBOR Spread was in effect.

2.3.9 Letter of Credit Fronting Fee and Documentary and Processing Charges Payable to Issuing Bank. The Borrower shall pay directly to the Issuing Bank for its own account a fronting fee in an amount equal to 0.1875% per annum on the daily maximum amount available to be drawn thereunder, due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, and on the Letter of Credit Availability Expiration Date; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. In addition, the Borrower shall pay directly to the Issuing Bank for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the Issuing Bank relating to letters of credit as from time to time in effect. Such fees and charges are due and payable on demand and are nonrefundable. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

2.3.10 Conflict with Letter of Credit Application. In the event of any conflict between the terms hereof and the terms of any Letter of Credit Application, the terms hereof shall control.

2.3.11 L/C Collateral.

(a) L/C Obligations in Excess of Borrowing Base or upon Termination of Commitments. (i) If, after the making of all mandatory prepayments required under Section 2.4.2, the aggregate amount of all Loans outstanding plus all L/C Obligations outstanding excluding L/C Obligations secured by cash collateral pursuant to this Section 2.3.11 will exceed the Borrowing Base, then the Borrower will immediately pay to the Issuing Bank an amount in cash equal to such excess, or (ii) should any L/C Obligations remain outstanding on the Maturity Date, then the Borrower will immediately pay the Issuing Bank an amount in cash equal to the aggregate amount of such Issuing Bank's L/C Obligations. The Issuing Bank will hold such amount as security for the remaining L/C Obligations ("L/C Collateral") until such L/C Obligations become Matured L/C Obligations, at which time such L/C Collateral may be applied to such Matured L/C Obligations. Neither this subsection nor the following subsection shall, however, limit or impair any rights which the Issuing Bank may have under any other document or agreement relating to any Letter of Credit or L/C Obligation, including any Letter of Credit Application, or any rights which the Issuing Bank or Lenders may have to otherwise apply any payments by the Borrower and L/C Collateral under Section 2.3.11.

(b) Acceleration of L/C Obligations. If the Obligations or any part thereof become immediately due and payable pursuant to Section 8.2 then, unless the Majority Lenders otherwise specifically elect to the contrary (which election may thereafter be retracted by the Majority Lenders at any time), all L/C Obligations shall become immediately due and payable without regard to whether or not actual drawings or payments on the Letters of Credit have occurred, and the Borrower shall be obligated to pay to the Issuing Bank immediately an amount equal to the aggregate L/C Obligations which are then outstanding. All amounts so paid shall first be applied to Matured L/C Obligations and then held by the Issuing Bank as L/C Collateral until such L/C Obligations become

Matured L/C Obligations, at which time such L/C Collateral shall be applied to such Matured L/C Obligations.

(c) Investment of L/C Collateral. Pending application thereof, all L/C Collateral shall be invested by the Issuing Bank in such blocked account as the Issuing Bank may choose in its sole discretion reasonably exercised. All interest on such investments shall be reinvested or applied to Matured L/C Obligations. When all Obligations have been satisfied in full, including all L/C Obligations, all Letters of Credit have expired or been terminated, and all of the Borrower's reimbursement obligations in connection therewith have been satisfied in full, the Issuing Bank shall release any remaining L/C Collateral. The Borrower hereby assigns and grants to the Issuing Bank a continuing security interest in all L/C Collateral paid by it to the Issuing Bank, all investments purchased with such L/C Collateral, and all proceeds thereof to secure its Matured L/C Obligations and its Obligations under this Agreement, the Notes, and the other Loan Documents, and the Borrower agrees that such L/C Collateral and investments shall be subject to all of the terms and conditions of the Borrower's Security Agreement. The Borrower further agrees that the Issuing Bank shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State of New York with respect to such security interest and that an Event of Default under this Agreement shall constitute a default for purposes of such security interest.

2.3.12 Calculations. A written advice setting forth in reasonable detail the amounts owing under this section, submitted by the Issuing Bank to the Borrower or any Lender from time to time, shall be conclusive, absent manifest error, as to the amounts thereof.

SECTION 2.4 PREPAYMENTS.

2.4.1 Voluntary Prepayments. The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Administrative Agent not later than 12:00 p.m., central time, (A) three Business Days prior to any date of prepayment of LIBO Rate Loans, and (B) on the date of prepayment of Base Rate Loans; (ii) any prepayment of LIBO Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $1,000,000 in excess thereof; and (iii) any prepayment of Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of such Lender's Percentage Share of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a LIBO Rate Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to Section 3.5. Each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Percentage Shares.

2.4.2 Mandatory Prepayments. The Borrower shall make the following prepayments of the Loans:

(i) Outstandings Exceed Commitments. If for any reason the Outstanding Amount of all Loans and L/C Obligations at any time exceeds the Aggregate Commitments then in effect, the Borrower shall first immediately prepay Loans and second following

repayment of the Loans, Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess.

(ii) Borrowing Base Deficiency.

(A) If at any time the aggregate unpaid principal balance of the Loans plus the aggregate amount of L/C Obligations exceeds the Borrowing Base (a "Borrowing Base Deficiency"), the Borrower shall, within thirty (30) days after the Administrative Agent sends written notice of such fact to the Borrower, (1) prepay the principal of the Loans (and, upon prepayment of all Loans, shall, to the extent required, provide L/C Collateral as set forth in Section 2.3.11) in an aggregate amount at least equal to such Borrowing Base Deficiency (in this section, a "Mandatory Prepayment Amount"), or (2) give notice to the Administrative Agent electing to prepay such Mandatory Prepayment Amount in six (6) (or fewer) monthly installments. Each such installment shall equal or exceed one-sixth of such Borrowing Base Deficiency; the first such installment shall be paid within thirty (30) days of the giving of such notice of the Borrowing Base Deficiency by the Administrative Agent to the Borrower and the five (or fewer) subsequent installments shall be due and payable at one month intervals thereafter until such Borrowing Base Deficiency has been eliminated.

(B) If (1) at any time during the existence or continuation of a Borrowing Base Deficiency, the Borrower or any Guarantor makes a Disposition of assets (other than those described in clauses (a) through (d) of Section 7.5 hereof), or (2) a Disposition of assets included in the Borrowing Base results in a reduction of the Borrowing Base in accordance with Section 7.5(e) such that a Borrowing Base Deficiency occurs, then, in either case, the Borrower shall, or shall cause such Guarantor to, use the Net Sale Proceeds from such Disposition (whether or not such assets are included in the Borrowing Base) to prepay the Loans and, upon prepayment of all Loans, shall provide L/C Collateral as set forth in Section 2.3.11, within one (1) Business Day of such Disposition in an amount equal to 100% of the Borrowing Base Deficiency then existing or occurring as a result of such disposition. Application of such Net Sales Proceeds shall be applied to the principal amount of the Loans until the Loans are paid in full and then shall be held as L/C Collateral in an amount equal to the aggregate amount of L/C Obligations pursuant to Section 2.3.11.

SECTION 2.5 REDUCTION OR TERMINATION OF COMMITMENTS AND MAXIMUM LOAN AMOUNT. The Borrower may, upon notice to the Administrative Agent, terminate the Aggregate Commitments and Maximum Loan Amount, or permanently reduce the Aggregate Commitments and Maximum Loan Amount to an amount not less than the then Outstanding Amount of all Loans and L/C Obligations; provided that (i) any such notice shall be received by the Administrative Agent not later than 12:00 p.m., central time three (3) Business Days prior to the date of termination or reduction, and (ii) any such partial reduction shall be in an aggregate amount of $5,000,000 or any whole multiple of $1,000,000 in excess thereof. The Administrative Agent shall promptly notify the Lenders of any such notice of reduction or termination of the Aggregate Commitments and

Maximum Loan Amount. Once reduced in accordance with this Section, the Commitments may not be increased. Any reduction of the Aggregate Commitments shall be applied to the Commitment of each Lender according to its Percentage Share. All commitment fees accrued until the effective date of any termination of the Aggregate Commitments shall be paid on the effective date of such termination.

SECTION 2.6 REPAYMENT OF LOANS. The Borrower shall repay to the Lenders on the Maturity Date the aggregate principal amount of Loans outstanding on such date.

SECTION 2.7 INITIAL BORROWING BASE. On any date during the period from the Closing Date to the first Evaluation Date, the Borrowing Base shall be an amount equal to (i) $300,000,000.

SECTION 2.8 SUBSEQUENT DETERMINATIONS OF BORROWING BASE.

(a) By each Evaluation Date, the Borrower shall furnish to the Administrative Agent and each Lender all information, reports and data which the Administrative Agent has then reasonably requested concerning the Borrower's and the Guarantors' businesses and properties (including Borrower's and the Guarantors' Oil and Gas Properties and interests and the reserves and production relating thereto), together with the Engineering Report described in Section 6.2(g), if an Engineering Report is then due. Within thirty (30) days after receiving such information, reports and data, or as promptly thereafter as practicable, the Administrative Agent shall recommend a redetermined Borrowing Base to the Lenders. Such recommended Borrowing Base shall become effective upon the receipt by the Administrative Agent of the approval of the Majority Lenders. The failure of a Lender to respond or object to the recommended Borrowing Base within fifteen (15) days after notice thereof is given to such Lender by the Administrative Agent shall be deemed an acceptance and approval of such recommended Borrowing Base by such Lender. If such recommended Borrowing Base is not approved by Majority Lenders within fifteen (15) days after the Administrative Agent submits the recommended Borrowing Base to the Lenders, then each Lender shall submit in writing to the Administrative Agent, on or within fifteen (15) days after the Administrative Agent notifies the Lenders that the Lenders have not approved any such recommended Borrowing Base, such Lender's determination of the redetermined Borrowing Base; in such case, the redetermined Borrowing Base shall be the highest amount approved by the Majority Lenders. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, WITHOUT THE PRIOR WRITTEN APPROVAL OF ALL OF THE LENDERS, SUCH APPROVAL TO BE IN EACH LENDER'S SOLE DISCRETION, THE REDETERMINED BORROWING BASE SHALL NOT BE INCREASED ABOVE THE AMOUNT OF THE BORROWING BASE IN EFFECT IMMEDIATELY PRIOR TO SUCH REDETERMINATION. The Administrative Agent shall by notice to the Borrower and the Lenders designate the amount of the Borrowing Base (determined by the Majority Lenders or all of the Lenders, as applicable, in accordance with the foregoing procedures) available to the Borrower hereunder, which designation shall take effect immediately on the date such notice is sent (a "Determination Date") and shall remain in effect until but not including the next date as of which the Borrowing Base is redetermined. If the Borrower does not furnish all such information, reports and data by the date specified in the first sentence of this section, the Administrative Agent may nonetheless designate the Borrowing Base at any amount which the Lenders determine, and may redesignate the Borrowing Base from time to time thereafter at any amount which all Lenders redetermine, until each Lender receives all such information, reports and data, whereupon Lenders shall designate a new Borrowing Base as described above. The Lenders shall determine the amount of the Borrowing Base based upon the loan collateral value which they, in their sole discretion and in

accordance with their respective normal practices and standards for oil and gas loans as such practices and standards exist at the particular time, assign to the various Oil and Gas Properties of the Borrower or the Guarantors at the time in question and based upon such other factors (including without limitation the assets, liabilities, fixed charges, cash flow, business, properties, prospects, management and ownership of any of the Borrower or the Guarantors or any Subsidiary of any of the Borrower or the Guarantors) as they, in their sole discretion and in accordance with their respective normal practices and standards for oil and gas loans as such practices and standards exist at the particular time, deem significant. It is expressly understood that Lenders and the Administrative Agent have no obligation to agree upon or designate the Borrowing Base at any particular amount, whether in relation to the Maximum Loan Amount or otherwise, and that the Lenders' commitments to advance funds hereunder is determined by reference to the Borrowing Base from time to time in effect, which Borrowing Base shall be used for calculating commitment fees under Section 2.10(a). Additional redeterminations at the request of the Lenders, the Administrative Agent or the Borrower shall be subject to a $5,000 engineering fee payable by Borrower to the Administrative Agent for its own account.

(b) The Borrower may include additional Oil and Gas Properties of the Borrower or the Guarantors acquired from time to time as Collateral for the Obligations, which may then be included in the calculation of the Borrowing Base, by the Borrower (A) giving written notice to the Administrative Agent of such properties to be included, (B) subjecting such properties to Liens securing the Obligations (pursuant to Security Documents satisfactory to the Administrative Agent) if necessary to comply with the provisions of Section 6.16, (C) including such properties in an Engineering Report submitted to the Administrative Agent and (D) delivering to the Administrative Agent title opinions covering at least 80% of the additional value of such properties addressed to the Administrative Agent for the benefit of the Lenders covering all of such properties and other legal opinions from counsel acceptable to the Administrative Agent, in its sole discretion, in form, scope and substance acceptable to the Administrative Agent opining favorably as to, among such other matters as may be required by the Administrative Agent, (1) the Borrower's or the appropriate Guarantor's ownership of such properties and (2) matters of the type covered by the opinions delivered pursuant to Section 4.1(a)(vi).

(c) In addition to the any scheduled determination or discretionary determination of the Borrowing Base, the Borrowing Base shall be automatically reduced from time to time as set forth in Section 7.5(e).

SECTION 2.9 INTEREST.

(a) Subject to the provisions of subsection (b) below, (i) each LIBO Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Adjusted LIBO Rate for such Interest Period plus the LIBOR Spread; and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Base Rate Spread.

(b) While any Event of Default or Borrowing Base Deficiency exists or after acceleration, the Borrower shall pay interest on the principal amount of all outstanding Obligations at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Law. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

SECTION 2.10 FEES. In addition to certain fees described in Sections 2.3.8 and 2.3.9:

(a) Commitment Fee. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Percentage Share, a commitment fee equal to the Commitment Fee Rate times the actual daily amount by which the Aggregate Commitments exceed the sum of (i) the Outstanding Amount of Loans and (ii) the Outstanding Amount of L/C Obligations; provided, however, that so long as there remains outstanding any 1999 Senior Notes, the Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Percentage Share, a commitment fee equal to the Commitment Fee Rate times the actual daily amount by which the Borrowing Base exceeds the sum of (i) the Outstanding Amount of Loans and (ii) the Outstanding Amount of L/C Obligations. The commitment fee shall accrue at all times from the Closing Date until the Maturity Date and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the Maturity Date. The commitment fee shall be calculated quarterly in arrears, and if there is any change in the Commitment Fee Rate with respect to Commitment fees during any quarter, the actual daily amount shall be computed and multiplied by the Commitment Fee Rate with respect to Commitment fees separately for each period during such quarter that such Commitment Fee Rate was in effect. The commitment fee shall accrue at all times, including at any time during which one or more of the conditions in Article IV is not met.

(b) Arrangement and Agency Fees. The Borrower shall pay an arrangement fee to the Arranger for the Arranger's own account, and shall pay an agency fee to the Administrative Agent for the Administrative Agent's own account, in the amounts and at the times specified in the letter agreement, dated February 9, 2004 (the "Agent and Arranger Fee Letter"), among the Borrower, the Arranger and the Administrative Agent. Such fees shall be fully earned when paid and shall be nonrefundable for any reason whatsoever.

SECTION 2.11 COMPUTATION OF INTEREST AND FEES. Computation of interest on Base Rate Loans and Commitment Fees shall be calculated on the basis of a year of 365 or 366 days, as the case may be, and the actual number of days elapsed. Computation of all other types of interest and all fees shall be calculated on the basis of a year of 360 days and the actual number of days elapsed, which results in a higher yield to the payee thereof than a method based on a year of 365 or 366 days. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall bear interest for one day.

SECTION 2.12 NOTES AND OTHER EVIDENCE OF DEBT.

(a) The obligation of the Borrower to repay to each Lender the aggregate amount of all Loans made by such Lender (such Lender's "Loan"), together with interest accruing in connection therewith, shall be evidenced by a single promissory note (such Lender's "Note") made by the Borrower in the amount of such Lender's Percentage Share of the Maximum Loan Amount payable

to the order of such Lender substantially in the form of Exhibit B with appropriate insertions. Each Lender may record the date, Type (if applicable), amount and maturity of the applicable Loans and payments with respect thereto in one or more schedules to its Note or on one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure so to record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Loans and L/C Obligations.

(b) In addition to the accounts and records referred to in subsection (a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control.

SECTION 2.13 PAYMENTS GENERALLY.

(a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 12:00 noon, central time, on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Percentage Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 12:00 noon, central time, shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) Subject to the definition of "Interest Period," if any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(c) Unless the Borrower or any Lender has notified the Administrative Agent prior to the date any payment is required to be made by it to the Administrative Agent hereunder, that the Borrower or such Lender, as the case may be, will not make such payment, the Administrative Agent may assume that the Borrower or such Lender, as the case may be, has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to the Person entitled thereto. If and to the extent that such payment was not in fact made to the Administrative Agent in immediately available funds, then:

(i) if the Borrower failed to make such payment, each Lender shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender in immediately available funds, together with interest thereon (1) in respect of each of the first two Business Days from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is

repaid to the Administrative Agent in immediately available funds, at the Federal Funds Rate from time to time in effect, and (2) in respect of each day after the first two Business Days from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in immediately available funds, at the Base Rate from time to time in effect; and

(ii) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in immediately available funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrower to the date such amount is recovered by the Administrative Agent (the "Compensation Period") at a rate per annum equal to (1) for the first two Business Days of any Compensation Period, the Federal Funds Rate from time to time in effect, and (2) for each other day of any Compensation Period, the interest rate applicable to the applicable Borrowing. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent may make a demand therefor upon the Borrower, and the Borrower shall pay such amount to the Administrative Agent, together with interest thereon for the Compensation Period at a rate per annum equal to the rate of interest applicable to the applicable Borrowing. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights that the Administrative Agent or the Borrower may have against any Lender as a result of any default by such Lender hereunder.

A notice of the Administrative Agent to any Lender with respect to any amount owing under this subsection (c) shall be conclusive, absent manifest error.

(d) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) The obligations of the Lenders hereunder to make Loans and to fund participations in Letters of Credit are several and not joint. The failure of any Lender to make any Loan or to fund any such participation on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

(f) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

SECTION 2.14 SHARING OF PAYMENTS. If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Loans made by it, or the participations in L/C Obligations held by it, any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b)

purchase from the other Lenders such participations in the Loans made by them and/or such subparticipations in the participations in L/C Obligations held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loan or such participations, as the case may be, pro rata with each of them; provided, however, that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender, such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by law, exercise all its rights of payment (including the right of set-off, but subject to Section 10.9) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

ARTICLE III.
TAXES, YIELD PROTECTION AND ILLEGALITY

SECTION 3.1 TAXES.

(a) Any and all payments by the Borrower to or for the account of the Administrative Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and all liabilities with respect thereto, excluding, in the case of the Administrative Agent and each Lender, taxes imposed on or measured by its net income, and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the Laws of which the Administrative Agent or such Lender, as the case may be, is organized or maintains a lending office (all such non-excluded taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and liabilities being hereinafter referred to as "Taxes"). If the Borrower shall be required by any Laws to deduct any Taxes from or in respect of any sum payable under any Loan Document to the Administrative Agent or any Lender, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section), the Administrative Agent and such Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions, (iii) the Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable Laws, and (iv) within 30 days after the date of such payment, the Borrower shall furnish to the Administrative Agent (which shall forward the same to such Lender) the original or a certified copy of a receipt evidencing payment thereof.

(b) In addition, the Borrower agrees to pay any and all present or future stamp, court or documentary taxes and any other excise or property taxes or charges or similar levies which arise

from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document (hereinafter referred to as "Other Taxes").

(c) If the Borrower shall be required to deduct or pay any Taxes or Other Taxes from or in respect of any sum payable under any Loan Document to the Administrative Agent or any Lender, the Borrower shall also pay to the Administrative Agent (for the account of such Lender) or to such Lender, at the time interest is paid, such additional amount that such Lender specifies as necessary to preserve the after-tax yield (after factoring in all taxes, including taxes imposed on or measured by net income) such Lender would have received if such Taxes or Other Taxes had not been imposed.

(d) The Borrower agrees to indemnify the Administrative Agent and each Lender for (i) the full amount of Taxes and Other Taxes (including any Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable under this Section) paid by the Administrative Agent and such Lender, (ii) amounts payable under Section 3.1(c) and (iii) any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, in each case whether or not such Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Payment under this subsection (d) shall be made within 30 days after the date the Lender or the Administrative Agent makes a demand therefor.

SECTION 3.2 ILLEGALITY. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund LIBO Rate Loans, or materially restricts the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the applicable offshore Dollar market, or to determine or charge interest rates based upon the LIBO Rate, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender to make or continue LIBO Rate Loans or to convert Base Rate Loans to LIBO Rate Loans shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all LIBO Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period thereof, if such Lender may lawfully continue to maintain such LIBO Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such LIBO Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay interest on the amount so prepaid or converted. Each Lender agrees to designate a different Lending Office if such designation will avoid the need for such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender.

SECTION 3.3 INABILITY TO DETERMINE RATES. If the Administrative Agent determines in connection with any request for a LIBO Rate Loan or a conversion to or continuation thereof that (a) Dollar deposits are not being offered to banks in the applicable offshore Dollar market for the applicable amount and Interest Period of such LIBO Rate Loan, (b) adequate and reasonable means do not exist for determining the LIBO Rate for such LIBO Rate Loan, or (c) the Adjusted LIBO Rate for such LIBO Rate Loan does not adequately and fairly reflect the cost to the Lenders of funding such LIBO Rate Loan, the Administrative Agent will promptly notify the Borrower and all Lenders. Thereafter, the obligation of the Lenders to make or maintain LIBO Rate Loans shall be suspended until the Administrative Agent revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing, conversion or continuation of LIBO Rate Loans or,

failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

SECTION 3.4 INCREASED COST AND REDUCED RETURN; CAPITAL ADEQUACY.

(a) If any Lender determines that, as a result of the introduction of, or any change in, or in the interpretation of any Law, or such Lender's compliance therewith, there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining LIBO Rate Loans or (as the case may be) issuing or participating in Letters of Credit, or a reduction in the amount received or receivable by such Lender in connection with any of the foregoing (excluding for purposes of this subsection (a) any such increased costs or reduction in amount resulting from (i) Taxes or Other Taxes (as to which Section 3.1 shall govern), (ii) changes in the basis of taxation of overall net income or overall gross income by the United States or any foreign jurisdiction or any political subdivision of either thereof under the Laws of which such Lender is organized or has its Lending Office, and (iii) reserve requirements utilized, as to LIBO Rate Loans, in the determination of the Adjusted LIBO Rate), then from time to time upon demand of such Lender (with a copy of such demand to the Administrative Agent), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such increased cost or reduction.

(b) If any Lender determines that the introduction of any Law regarding capital adequacy or any change therein or in the interpretation thereof, or compliance by such Lender (or its Lending Office) therewith, has the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of such Lender's obligations hereunder (taking into consideration its policies with respect to capital adequacy and such Lender's desired return on capital), then from time to time upon demand of such Lender (with a copy of such demand to the Administrative Agent), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such reduction.

SECTION 3.5 FUNDING LOSSES. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise); or

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a LIBO Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 3.9;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.5, each Lender shall be deemed to have funded each LIBO Rate Loan made by it at the LIBO Rate for such Loan by a matching deposit or other borrowing in the applicable offshore Dollar interbank market for a comparable amount and for a comparable period, whether or not such LIBO Rate Loan was in fact so funded.

SECTION 3.6 MATTERS APPLICABLE TO ALL REQUESTS FOR COMPENSATION.

(a) A certificate of the Administrative Agent or any Lender claiming compensation under this Article III and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error. In determining such amount, the Administrative Agent or such Lender may use any reasonable averaging and attribution methods.

(b) Upon any Lender's making a claim for compensation under Section 3.1 or 3.4, the Borrower may remove or replace such Lender in accordance with Section 3.9; provided that the Borrower shall have the right to replace such Lender only if they also replace any other Lender who has made or is making a similar claim for compensation under Section 3.1 or 3.4.

SECTION 3.7 SURVIVAL. All of the Borrower's obligations under this Article III shall survive termination of the Commitments and of this Agreement and payment in full of all the other Obligations.

SECTION 3.8 FOREIGN LENDERS. Each Lender that is a "foreign corporation, partnership or trust" within the meaning of the Code (a "Foreign Lender") shall deliver to the Administrative Agent, prior to receipt of any payment subject to withholding under the Code (or after accepting an assignment of an interest herein), two duly signed completed copies of either IRS Form W-8BEN or any successor thereto (relating to such Person and entitling it to an exemption from, or reduction of, withholding tax on all payments to be made to such Person by the Borrower pursuant to this Agreement) or IRS Form W-8ECI or any successor thereto (relating to all payments to be made to such Person by the Borrower pursuant to this Agreement) or such other evidence satisfactory to the Borrower and the Administrative Agent that such Person is entitled to an exemption from, or reduction of, U.S. withholding tax. Thereafter and from time to time, each such Person shall (a) promptly submit to the Administrative Agent such additional duly completed and signed copies of one of such forms (or such successor forms as shall be adopted from time to time by the relevant United States taxing authorities) as may then be available under then current United States laws and regulations to avoid, or such evidence as is satisfactory to the Borrower and the Administrative Agent of any available exemption from or reduction of, United States withholding taxes in respect of all payments to be made to such Person by the Borrower pursuant to this Agreement, (b) promptly notify the Administrative Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction, and (c) take such steps as shall not be materially disadvantageous to it, in the reasonable judgment of such Lender, and as may be reasonably necessary (including the re-designation of its Lending Office) to avoid any requirement of applicable Laws that the Borrower make any deduction or withholding for taxes from amounts payable to such Person. If such Person fails to deliver the above forms or other documentation, then the Administrative Agent may withhold from any interest payment to such Person an amount equivalent to the applicable withholding tax imposed by Sections 1441 and 1442 of the Code, without reduction. If any Governmental Authority asserts that the Administrative Agent did not properly withhold any tax or other amount from payments made in respect of such Person, such Person shall indemnify the

Administrative Agent therefor, including all penalties and interest, any taxes imposed by any jurisdiction on the amounts payable to the Administrative Agent under this Section, and costs and expenses (including Attorney Costs) of the Administrative Agent. The obligation of the Lenders under this Section shall survive the payment of all Obligations and the resignation or replacement of the Administrative Agent.

SECTION 3.9 REMOVAL AND REPLACEMENT OF LENDERS.

(a) Under any circumstances set forth herein providing that the Borrower shall have the right to remove or replace a Lender as a party to this Agreement, the Borrower may, upon notice to such Lender and the Administrative Agent, (i) remove such Lender by terminating such Lender's Commitment or (ii) replace such Lender by causing such Lender to assign its Commitment (without payment of any assignment fee) pursuant to Section 10.7.2(a) to one or more other Lenders or Eligible Assignees procured by the Borrower; provided, however, that if the Borrower elects to exercise such right with respect to any Lender pursuant to Section 3.6(b), it shall be obligated to remove or replace, as the case may be, all Lenders that have made similar requests for compensation pursuant to Section 3.1 or 3.4. The Borrower shall (x) pay in full all principal, interest, fees and other amounts owing to such Lender through the date of termination or assignment (including any amounts payable pursuant to Section 3.5), (y) provide appropriate assurances and indemnities (which may include letters of credit) to the Issuing Bank as may reasonably be required with respect to any continuing obligation to purchase participation interests in any L/C Obligations then outstanding, and (z) release such Lender from its obligations under the Loan Documents. Any Lender being replaced shall execute and deliver an Lender Assignment with respect to such Lender's Commitment and outstanding Credit Extensions. The Administrative Agent shall distribute an amended Schedule 2.1, which shall be deemed incorporated into this Agreement, to reflect changes in the identities of the Lenders and adjustments of their respective Commitments and/or Percentage Shares resulting from any such removal or replacement.

(b) In order to make all the Lenders' interests in any outstanding Credit Extensions ratable in accordance with any revised Percentage Shares after giving effect to the removal or replacement of a Lender, the Borrower shall pay or prepay, if necessary, on the effective date thereof, all outstanding Loans of all Lenders, together with any amounts due under Section 3.5. The Borrower may then request Loans from the Lenders in accordance with their revised Percentage Shares. The Borrower may net any payments required hereunder against any funds being provided by any Lender or Eligible Assignee replacing a terminating Lender. The effect for purposes of this Agreement shall be the same as if separate transfers of funds had been made with respect thereto.

(c) This section shall supersede any provision in Section 10.1 to the contrary.

ARTICLE IV.
CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

SECTION 4.1 CONDITIONS OF INITIAL CREDIT EXTENSION. The obligation of each Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(a) Unless waived by all the Lenders (or by the Administrative Agent with respect to immaterial matters or items specified in clause (v) or (vi) below with respect to which the Borrower

has given assurances satisfactory to the Administrative Agent that such items shall be delivered promptly following the Closing Date), the Administrative Agent's receipt of the following, each of which shall be originals or facsimiles (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to the Administrative Agent and its legal counsel:

(i) executed counterparts of this Agreement, an Amended and Restated Subsidiary Guaranty substantially in the form of Exhibit E from each of the Guarantors, the Amended and Restated Subordination Agreement substantially in the form of Exhibit G from each of the Guarantors, an Amended and Restated Security Agreement substantially in the form of Exhibit I from each of the Loan Parties, the Amended and Restated Pledge Agreement and Irrevocable Proxy substantially in the form of Exhibit H from each Loan Party (other than COL), the Assignment of Secured Indebtedness executed by each of the parties thereto, and each Mortgage dated as of the date hereof and each of the Mortgage Assignments and Amendments and Subordinate Mortgage Amendments described in the Security Schedule, sufficient in number for distribution to the Administrative Agent, each Lender and the Borrower, and, in the case of the Security Documents, in form and in sufficient number of counterparts for the prompt completion of all recording and filing of the Security Documents as may be necessary or, in the opinion of the Administrative Agent, desirable to create or continue, as appropriate, a valid perfected first Lien against the collateral covered by such Security Documents, and together with stock certificates, membership interest certificates or such other certificated security as may be part of the collateral covered by the Security Documents and with stock powers or other transfer powers or instruments executed in blank for each such certificate, interest or security;

(ii) Notes executed by the Borrower in favor of each Lender, each in a principal amount equal to such Lender's Percentage Share of the Maximum Loan Amount;

(iii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require to establish the identities of and verify the authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;

(iv) such evidence as the Administrative Agent may reasonably require to verify that each Loan Party is duly organized or formed, validly existing, in good standing and qualified to engage in business in each jurisdiction in which it is required to be qualified to engage in business, including certified copies of each Loan Party's Organization Documents, certificates of good standing and/or qualification to engage in business and tax clearance certificates;

(v) a certificate signed by a Responsible Officer of the Borrower certifying (A) that the conditions specified in Sections 4.2(a) and (b) have been satisfied, and (B) that there has been no event or circumstance since the date of the Initial Audited Financial Statements which has or could be reasonably expected to have a Material Adverse Effect;

(vi) an opinion of counsel to each Loan Party substantially in the form of Exhibits F-1, F-2, F-3, F-4 and F-5;

(vii) evidence satisfactory to the Administrative Agent that the Existing Credit Facility and the other "Loan Documents" defined therein have been or concurrently with the Closing Date are being assigned to the Lenders pursuant to the Assignment of Secured Indebtedness and the Mortgage Assignment and Amendment, and all Liens securing obligations under the Existing Credit Facility have been, or concurrently with the Closing Date are being, assigned to the Administrative Agent;

(viii) a certificate of insurance of the Borrower and its Subsidiaries evidencing that the Borrower and its Subsidiaries are carrying insurance in accordance with Section 6.7 and that such insurance is in full force and effect;

(ix) the Initial Engineering Report;

(x) the Initial Audited Financial Statements;

(xi) Evidence satisfactory to the Administrative Agent that, concurrently with the effectiveness of this Agreement, the Borrower shall have issued the 2004 Senior Notes in accordance with the 2004 Senior Notes Indenture and shall have received gross proceeds of at least $175,000,000 of such issuance (prior to any costs, expenses and discounts relate to the issuance thereof);

(xii) proper financing statements (form UCC-1), to be filed on or promptly after the date of the initial Borrowing, naming the Borrower as debtor and the Administrative Agent as secured party, describing all of the Collateral in which the Borrower has granted or purported to grant an interest, filed in the appropriate jurisdictions; proper financing statements (form UCC-1), to be filed on or promptly after the date of the initial Borrowing, naming one or more of the Guarantors as debtor(s) and the Administrative Agent as secured party, describing all of the Collateral in which the Guarantor or Guarantors have granted or purported to grant an interest, filed in the appropriate jurisdictions; together with copies of search reports in such jurisdictions as the Administrative Agent may reasonably request, listing all effective financing statements that name any of the Borrower or the Guarantors as debtor and any other documents or instruments as may be necessary or desirable (in the opinion of the Administrative Agent) to perfect the Administrative Agent's interest in the Collateral; and

(xiii) such other assurances, certificates, documents, consents or opinions as the Administrative Agent, the Issuing Bank or the Majority Lenders reasonably may require.

(b) Any fees required to be paid on or before the Closing Date pursuant to any of the Loan Documents shall have been paid.

(c) Unless waived by the Administrative Agent, the Borrower shall have paid all costs and expenses payable to the Administrative Agent pursuant to Section 10.4 to the extent invoiced prior to or on the Closing Date, plus such additional amounts of costs and expenses as shall constitute the Administrative Agent's reasonable estimate of the costs and expenses described in Section 10.4

incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

SECTION 4.2 CONDITIONS TO ALL CREDIT EXTENSIONS. The obligation of each Lender to honor any Notice of Advance or Letter of Credit Application (other than a Notice of Advance requesting only a conversion of Loans to the other Type, or a continuation of Loans as the same Type) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower contained in Article V, or which are contained in any document furnished at any time under or in connection herewith, shall be true and correct on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date.

(b) No Default or Event of Default shall exist, or would result from such proposed Credit Extension.

(c) The Administrative Agent or, if applicable, the Issuing Bank shall have received a Notice of Advance or Letter of Credit Application in accordance with the requirements hereof.

(d) The Administrative Agent shall have received, in form and substance satisfactory to it, such other assurances, certificates, documents or consents related to the foregoing as the Administrative Agent or the Majority Lenders reasonably may require.

Each Notice of Advance or Letter of Credit Application (other than a Notice of Advance requesting only a conversion of Loans to the other Type or a continuation of Loans as the same Type) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Section 4.2 have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V.
REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

SECTION 5.1 EXISTENCE, QUALIFICATION AND POWER; COMPLIANCE WITH LAWS. Each Loan Party (a) is a corporation, partnership or limited liability company duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all governmental licenses, authorizations, consents and approvals to own its assets, carry on its business and to execute, deliver, and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and is licensed and in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license, and (d) is in compliance with all Laws, except in each case referred to in clause (c) or this clause (d), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

SECTION 5.2 AUTHORIZATION; NO CONTRAVENTION. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a)

contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, any Contractual Obligation to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its property is subject; or (c) violate any Law.

SECTION 5.3 GOVERNMENTAL AUTHORIZATION; CONSENTS. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person or entity (including, without limitation, any creditor or stockholder of the Borrower or any Guarantor) is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document.

SECTION 5.4 BINDING EFFECT. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is a party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is a party thereto in accordance with its terms except as such enforceability may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally and by general principles of equity.

SECTION 5.5 FINANCIAL STATEMENTS; NO MATERIAL ADVERSE EFFECT.

(a) The Initial Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness in accordance with GAAP consistently applied throughout the period covered thereby.

(b) Since the date of the Initial Audited Financial Statements, there has been no event or circumstance that has or could reasonably be expected to have a Material Adverse Effect.

SECTION 5.6 LITIGATION. Except as specifically disclosed in Schedule 5.6, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of its Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) if determined adversely, could reasonably be expected to have a Material Adverse Effect.

SECTION 5.7 NO DEFAULT. Neither the Borrower nor any Subsidiary is in default under or with respect to any Contractual Obligation that could be reasonably expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

SECTION 5.8 OWNERSHIP OF PROPERTY; LIENS. The Borrower and each Subsidiary has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as would not, individually or in the aggregate, have a Material Adverse Effect. As of the Closing Date, the property of the Borrower and its Subsidiaries is subject to no Liens, other than Liens permitted by Section 7.1.

SECTION 5.9 ENVIRONMENTAL MATTERS. The Borrower and its Subsidiaries conduct in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and as a result thereof the Borrower has reasonably concluded that, except as would not have a Material Adverse Effect (or with respect to (c), (d) and (e) below, where the failure to take such actions would not have a Material Adverse Effect):

(a) neither any property of any Loan Party or any Subsidiary, nor the operations conducted thereon violate any Environmental Laws;

(b) without limitation of clause (a) above, no property of any Loan Party or any Subsidiary, nor the operations currently conducted thereon or, to the best knowledge of the Borrower, by any prior owner or operator of such property or operation, are in violation of or subject to any existing, pending or, to the Borrower's knowledge, threatened action, suit, investigation, inquiry or proceeding by or before any Governmental Authority or to any remedial obligations under Environmental Laws;

(c) all notices, permits, licenses or similar authorizations, if any, required pursuant to Environmental Laws to be obtained or filed in connection with the operation or use of the property of any Loan Party and each Subsidiary have been duly obtained or filed, and the Loan Party and each Subsidiary are in compliance with the terms and conditions of all such notices, permits, licenses and similar authorizations;

(d) all Hazardous Materials, solid waste, and oil and gas exploration and production wastes, if any, generated at the property of any Loan Party or any Subsidiary have in the past been transported, treated and disposed of in accordance with Environmental Laws and so as not to pose an imminent and substantial endangerment to public health or welfare or the environment, and, to the best knowledge of the Borrower, all such transport carriers and treatment and disposal facilities have been and are operating in compliance with Environmental Laws and so as not to pose an imminent and substantial endangerment to public health or welfare or the environment, and are not the subject of any existing, pending or, to the Borrower's knowledge, threatened action, investigation or inquiry by any Governmental Authority in connection with any Environmental Laws;

(e) the Loan Parties and their Subsidiaries have taken all steps reasonably necessary to determine and have determined that no Hazardous Materials, solid waste, or oil and gas exploration and production wastes, have been disposed of or otherwise released and there has been no threatened release of any Hazardous Materials on or to any property of the Loan Parties or any Subsidiary except, in each case, in compliance with Environmental Laws and so as not to pose an imminent and substantial endangerment to public health or welfare or the environment; and

(f) none of the Loan Parties nor any Subsidiary has any known contingent liability in connection with any release or threatened release of any oil, Hazardous Materials or solid waste into the environment.

SECTION 5.10 INSURANCE. The properties of the Borrower and its Subsidiaries are insured with financially sound and reputable insurance companies that are not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or its Subsidiaries operate.

SECTION 5.11 TAXES. The Borrower and its Subsidiaries have filed all Federal, state and other material tax returns and reports required to be filed, and have paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the Borrower or any Subsidiary that would, if made, have a Material Adverse Effect.

SECTION 5.12 ERISA COMPLIANCE.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state Laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter is currently being processed by the IRS with respect thereto and, to the best knowledge of the Borrower, nothing has occurred which would prevent, or cause the loss of, such qualification. The Borrower and each ERISA Affiliate of the Borrower have made all required contributions to each Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

(b) There are no pending or, to the best knowledge of the Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could be reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could be reasonably expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) neither the Borrower nor any ERISA Affiliate of the Borrower has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) neither the Borrower nor any ERISA Affiliate of the Borrower has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (v) neither the Borrower nor any ERISA Affiliate of the Borrower has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA.

SECTION 5.13 SUBSIDIARIES.

(a) The Borrower has no Subsidiaries other than those specifically disclosed in Part (a) of Schedule 5.13. All Subsidiaries of Borrower are duly organized, validly existing and in good standing under the laws of their respective jurisdictions of organization and are duly qualified to do business in each jurisdiction where failure to so qualify would have an Material Adverse Effect. All outstanding shares of stock of each class of each Subsidiary of Borrower have been and will be validly issued and are and will be fully paid and nonassessable and are and will be owned, beneficially and of record, by Borrower or a wholly-owned Subsidiary of Borrower free and clear of any Liens (other than Liens permitted by Section 7.1).

(b) Part (b) of Schedule 5.13 sets forth each of the Subsidiaries of the Borrower that shall have delivered a Guaranty on the Closing Date. Each such Guarantor is and will remain a wholly-owned Subsidiary of the Borrower.

(c) The Borrower has no equity investments in any other corporation or entity other than those specifically disclosed in Part (c) of Schedule 5.13.

SECTION 5.14 MARGIN REGULATIONS; INVESTMENT COMPANY ACT; PUBLIC UTILITY HOLDING COMPANY ACT.

(a) The Borrower is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board), or extending credit for the purpose of purchasing or carrying margin stock.

(b) None of the Borrower, any Person controlling the Borrower, or any Subsidiary (i) is a "holding company," or a "subsidiary company" of a "holding company," or an "affiliate" of a "holding company" or of a "subsidiary company" of a "holding company," within the meaning of the Public Utility Holding Company Act of 1935, or (ii) is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

SECTION 5.15 DISCLOSURE. No statement, information, report, representation, or warranty made in writing by any Loan Party in any Loan Document or furnished to the Administrative Agent or any Lender by or on behalf of any Loan Party in connection with any Loan Document contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. There is no fact known to the Borrower which has caused, or which likely would in the future in the reasonable judgment of the Borrower cause, a Material Adverse Effect (except for any economic conditions which affect generally the industry in which the Borrower and its Subsidiaries conduct business), that has not been set forth in this Agreement or in the other documents, certificates, statements, reports and other information furnished in writing to the Lenders by or on behalf of the Borrower or any other Loan Party in connection with the transactions contemplated hereby.

SECTION 5.16 INTELLECTUAL PROPERTY; LICENSES, ETC. The Borrower and its Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other rights that are reasonably necessary for the

operation of their respective businesses, without conflict with the rights of any other Person. To the best knowledge of the Borrower, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Borrower or any Subsidiary infringes upon any rights held by any other Person. No claim or litigation regarding any of the foregoing is pending or, to the best knowledge of the Borrower, threatened, and no patent, invention, device, application, principle or any statute, law, rule, regulation, standard or code is pending or, to the knowledge of the Borrower, proposed, which, in either case, could reasonably be expected to have a Material Adverse Effect.

SECTION 5.17 DIRECT BENEFIT. The initial Loans and Letters of Credit hereunder and all additional Loans and Letters of Credit hereunder are for the direct benefit of the Borrower, or in the case of any initial or additional Letters of Credit, one or more of the Guarantors, and the initial Loans and Letters of Credit hereunder are used to refinance and replace indebtedness owning, directly or indirectly, by the Borrower and certain of the Guarantors to the Lenders under the Existing Credit Facility. The Borrower and the Guarantors are engaged as an integrated group in the business of oil and gas exploration and related fields, and any benefits to the Borrower or any Guarantor is a benefit to all of them, both directly or indirectly, inasmuch as the successful operation and condition of the Borrower and the Guarantors is dependent upon the continued successful performance of the functions of the integrated group as a whole.

SECTION 5.18 SOLVENCY. Each of the following is true for the Borrower, each Guarantor and the Borrower and the Guarantors on a consolidated basis: (a) the fair saleable value of its or their property is (i) greater than the total amount of its liabilities (including contingent liabilities), and (ii) greater than the amount that would be required to pay its probable aggregate liability on its then existing debts as they become absolute and matured; (b) its or their property is not unreasonable in relation to its business or any contemplated or undertaken transaction; and (c) it or they do not intend to incur, or believe that it or they will incur, debts beyond its or their ability to pay such debts as they become due.

SECTION 5.19 INDENTURE DEBT DOCUMENTS. Before and after giving effect to all the Credit Extensions contemplated hereunder, all representations and warranties of the Borrower or any Guarantor contained in any Indenture Debt Document are true and correct in all material respects (except to the extent such representations or warranties relate or refer to a specified, earlier date). Before and after giving effect to all the Credit Extensions contemplated hereunder, there is no event of default or event or condition that could become an event of default with notice or lapse of time or both, under the Indenture Debt Documents and each of the Indenture Debt Documents is in full force and effect.

ARTICLE VI.
AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.1, 6.2, 6.3 and 6.11) cause each of its Subsidiaries to:

SECTION 6.1 FINANCIAL STATEMENTS. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Majority Lenders:

(a) as soon as available, but in any event within 90 days after the end of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail, audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Majority Lenders, which report and opinion shall be prepared in accordance with GAAP and shall not be subject to any qualifications or exceptions as to the scope of the audit nor to any qualifications and exceptions not reasonably acceptable to the Majority Lenders; and

(b) as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income and cash flows for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Officer of the Borrower as fairly presenting the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.

SECTION 6.2 CERTIFICATES; OTHER INFORMATION. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Majority Lenders: (a) concurrently with the delivery of the financial statements referred to in Section 6.1(a), a certificate of its independent certified public accountants certifying such financial statements and stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default or, if any such Default or Event of Default shall exist, stating the nature and status of such event;

(b) concurrently with the delivery of the financial statements referred to in Sections 6.1(a) and (b), a duly completed Compliance Certificate signed by a Responsible Officer of the Borrower;

(c) promptly after requested by the Administrative Agent or any Lender, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of the Borrower by independent accountants in connection with the accounts or books of the Borrower or any Subsidiary, or any audit of any of them;

(d) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of the Borrower, and copies of all annual, regular, periodic and special reports and registration statements which the Borrower may file or be required to file with the Securities and Exchange Commission under Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(e) upon the reasonable request of the Majority Lenders or the Administrative Agent, a schedule of all oil, gas, and other mineral production attributable to all material Oil and Gas Properties of the Borrower and the Guarantors, and in any event all such Oil and Gas Properties included in the Borrowing Base;

(f) promptly, all title or other information received after the Closing Date by the Borrower or any Guarantor which discloses any material defect in the title to any material asset included in the Borrowing Base;

(g) (A) as soon as available and in any event within 90 days after each January 1, commencing with January 1, 2005, an annual reserve report as of each such January 1 with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Borrower and the Guarantors prepared by an independent engineering firm of recognized standing acceptable to the Majority Lenders in accordance with accepted industry practices and otherwise acceptable and in form and substance satisfactory to the Majority Lenders, and including without limitation all assets included in the Borrowing Base, and (B) within 90 days after each July 1 commencing with July 1, 2004, a reserve report as of such July 1, with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Borrower and the Guarantors prepared by the Borrower in accordance with accepted industry practices and otherwise acceptable and in form and substance satisfactory to the Majority Lenders, and including without limitation all assets included in the Borrowing Base;

(h) on or within 30 days after the request of the Administrative Agent or the Majority Lenders, in connection with a redetermination of the Borrowing Base permitted under Section 2.8 an updated reserve report with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Borrower and the Guarantors prepared by an independent engineering firm of recognized standing acceptable to the Majority Lenders in accordance with accepted industry practices and otherwise acceptable and in form and substance satisfactory to the Majority Lenders, and including without limitation all assets included in the Borrowing Base;

(i) promptly, any management letter from the auditors for the Borrower or any Guarantor and all other information respecting the business, properties or the condition or operations, financial or otherwise, including, without limitation, geological and engineering data of the Borrower or an Guarantor and any title work with respect to any Oil and Gas Properties of the Borrower or any Guarantor as any Bank may from time to time reasonably request;

(j) at all times after the date ninety (90) days after the Closing Date, if requested by the Majority Lenders, title opinions and other opinions of counsel, in each case in form and substance acceptable to the Majority Lenders, with respect to at least eighty (80%) percent of the value of the assets included in the Borrowing Base; and

(k) promptly, such additional information regarding the business, financial or corporate affairs of the Borrower or any Subsidiary as the Administrative Agent, at the request of any Lender, may from time to time reasonably request.

SECTION 6.3 NOTICES. Promptly notify the Administrative Agent and each Lender:

(a) of the occurrence of any Default or Event of Default;

(b) of any matter that has resulted or may reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of the Borrower or any Subsidiary; (ii) any dispute, litigation, investigation, proceeding or suspension between the Borrower or any Subsidiary and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting any of the Borrower or any Subsidiary, including pursuant to any applicable Environmental Laws;

(c) of any litigation, investigation or proceeding affecting any Loan Party in which the amount involved exceeds $10,000,000 or in which injunctive relief or similar relief is sought, which relief, if granted, could be reasonably expected to have a Material Adverse Effect;

(d) of the occurrence of any ERISA Event; and

(e) of any material change in accounting policies or financial reporting practices by the Borrower or any Subsidiary.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower or the relevant Subsidiary has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.3(a) shall describe with particularity any and all provisions of this Agreement or other Loan Document that have been breached.

SECTION 6.4 PAYMENT OF OBLIGATIONS. Pay and discharge as the same shall become due and payable, all its obligations and liabilities, including (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings and adequate reserves in accordance with GAAP are being maintained by the Borrower or such Subsidiary; (b) all lawful claims which, if unpaid, would by law become a Lien upon its property; and (c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness.

SECTION 6.5 PRESERVATION OF EXISTENCE, ETC. Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization; take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except in a transaction permitted by Section 7.4 or 7.5; and preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

SECTION 6.6 MAINTENANCE OF PROPERTIES. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) use the standard of care typical in the industry in the operation and maintenance of its facilities.

SECTION 6.7 MAINTENANCE OF INSURANCE. Maintain with financially sound and reputable insurance companies not Affiliates of the Borrower, insurance with respect to its properties

and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons.

SECTION 6.8 COMPLIANCE WITH LAWS. Comply in all material respects with the requirements of all Laws applicable to it or to its business or property, except in such instances in which (i) such requirement of Law is being contested in good faith or a bona fide dispute exists with respect thereto; or (ii) the failure to comply therewith could not be reasonably expected to have a Material Adverse Effect.

SECTION 6.9 BOOKS AND RECORDS. (a) Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Borrower or its Subsidiaries, as the case may be; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over the Borrower or any Subsidiary, as the case may be.

SECTION 6.10 INSPECTION RIGHTS. Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, however, that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice.

SECTION 6.11 COMPLIANCE WITH ERISA. Do, and cause each of its ERISA Affiliates to do, each of the following: (a) maintain each Plan in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state law; (b) cause each Plan which is qualified under Section 401(a) of the Code to maintain such qualification; and (c) make all required contributions to any Plan subject to Section 412 of the Code.

SECTION 6.12 USE OF PROCEEDS. Use the proceeds of the Credit Extensions to redeem 1999 Senior Notes and for working capital and other general corporate purposes, in each case, in compliance with, and not in contravention of, Section 7.11, any Law, any Loan Document, or any other Contractual Obligation.

SECTION 6.13 TITLE OPINIONS. Not later than ninety (90) days following the Closing Date, the Borrower agrees to deliver, or to cause to be delivered, to the Administrative Agent favorable title opinions in form and substance satisfactory to the Administrative Agent addressed to the Lenders (or containing an express statement providing that the Lenders may rely on such title opinions) with respect to such of Borrower's and the Guarantor's Oil and Gas Properties as the Administrative Agent shall reasonably determine or request and demonstrating that the Borrower or a Guarantor, as applicable, has good and defensible title to such properties and interests that is at least equal to the interest included in the Initial Engineering Report, free and clear of all Liens (other than those permitted by Section 7.1) and covering such other matters as the Administrative Agent may reasonably request.

SECTION 6.14 COGI REORGANIZATION. Promptly upon the consummation of the COGI Reorganization, and in any event within thirty (30) days following the COGI Reorganization, the Borrower shall, or shall cause COGI GP, COGI LP or COGI to, satisfy each of the following conditions:

(i) each of Borrower, COGI GP and COGI LP shall execute and deliver to the Administrative Agent on behalf of the Lenders, a Pledge Agreement, or an amendment or supplement to an existing Pledge Agreement, if appropriate, pursuant to which all of the outstanding equity interests in COGI GP, COGI LP and COGI, after giving effect to the COGI Reorganization, shall be pledged to the Administrative Agent on behalf of the Lenders, together with any certificates representing all equity interests so pledged, if any, and for each such certificate representing shares of stock, a stock power executed in blank;

(ii) each of COGI GP and COGI LP shall execute and deliver to the Administrative Agent on behalf of the Lenders a Guaranty and a Security Agreement;

(iii) COGI, after giving effect to the COGI Reorganization, shall execute and deliver a ratification, acceptance and acknowledgment of the Guaranty, Pledge Agreement and Security Agreement delivered by COGI pursuant to Section 4.1(a)(i);

(iv) each of COGI GP, COGI LP and COGI shall execute and deliver a ratification of the Subordination Agreement previously delivered by the Loan Parties;

(v) each of COGI GP, COGI LP and COGI shall execute and deliver or cause to be delivered to the Administrative Agent on behalf of the Lenders and the Issuing Bank all agreements, documents, instruments and other writings described in Section 4.1(a)(iii) and (iv) with respect to COGI GP, COGI LP and COGI; and

(vi) Borrower shall deliver or cause to be delivered to the Administrative Agent on behalf of the Lenders and the Issuing Bank the opinions similar to those required by Section 4.1(a)(vi) with respect to COGI GP, COGI LP and COGI and the documents and agreements described in the preceding clauses (i) through (v) of this Section 6.14.

SECTION 6.15 ADDITIONAL COVENANTS. If at any time the Borrower shall enter into or be a party to any instrument or agreement, including all such instruments or agreements in existence as of the date hereof and all such instruments or agreements entered into after the date hereof, relating to or amending any terms or conditions applicable to any of its Indebtedness which includes covenants, terms, conditions or defaults not substantially provided for in this Agreement or more favorable to the lender or lenders thereunder than those provided for in this Agreement, then the Borrower shall promptly so advise the Administrative Agent and the Lenders. Thereupon, if the Administrative Agent shall request, upon notice to the Borrower, the Administrative Agent and the Lenders shall enter into an amendment to this Agreement or an additional agreement (as the Administrative Agent may request), providing for substantially the same covenants, terms, conditions and defaults as those provided for in such instrument or agreement to the extent required and as may be selected by the Administrative Agent. In addition to the foregoing, any covenants, terms, conditions or defaults in any existing agreements or other documents evidencing or relating to any Indebtedness of the Borrower or any Guarantor (including without limitation the Indenture Debt Documents) not substantially provided for in this Agreement or more favorable to the holders of such

Indebtedness, are hereby incorporated by reference into this Agreement to the same extent as if set forth fully herein, and no subsequent amendment, waiver or modification thereof shall affect any such covenants, terms, conditions or defaults as incorporated herein.

SECTION 6.16 SECURITY.

(a) The Security. The Obligations will be secured by the Security Documents listed in the Security Schedule and any additional Security Documents hereafter delivered by any Loan Party or any Affiliate of any Loan Party.

(b) Agreement to Deliver Security Documents. The Borrower shall promptly deliver, and to cause each of the Guarantors to deliver, to further secure the Obligations, deeds of trust, mortgages, chattel mortgages, security agreements, financing statements and other Security Documents in form and substance satisfactory to the Administrative Agent for the purpose of granting, confirming, and perfecting first and prior liens or security interests in (i) prior to the occurrence of a Default (A) at least eighty percent (80%) of the present value of the Borrower's and the Guarantors' Oil and Gas Properties constituting proved reserves to which value is given in the determination of the then current Borrowing Base, (B) after the occurrence of a Default, at least ninety-five percent (95%) of the present value of the Borrower's and the Guarantors' Oil and Gas Properties, (ii) all of the equity interests of the Borrower or any Guarantor in any other Guarantor now owned or hereafter acquired by the Borrower or any Guarantor, and (iii) all property of the Borrower or any Guarantor of the type described in the Security Agreement attached hereto as Exhibit I. The Borrower also agrees to deliver, or to cause to be delivered, to the extent not already delivered, whenever requested by the Administrative Agent in its sole and absolute discretion (a) favorable title information (including, if reasonably requested by the Administrative Agent, title opinions) acceptable to the Administrative Agent with respect to the Borrower's or any Guarantor's Oil and Gas Properties constituting at least eighty percent (80%) of the present value, determined by the Lenders in their sole and absolute discretion and in accordance with their normal practices and standards for oil and gas loans as it exists at the particular time, of the Borrower's and the Guarantors' properties and demonstrating that the Borrower or a Guarantor, as applicable, have good and defensible title to such properties and interests, free and clear of all Liens (other than those permitted by Section 7.1) and covering such other matters as the Administrative Agent may reasonably request and (b) favorable opinions of counsel satisfactory to the Administrative Agent in its sole discretion opining that the forms of Mortgage are sufficient to create valid first deed of trust or mortgage liens in such properties and interests and first priority assignments of and security interests in the Hydrocarbons attributable to such properties and interests and proceeds thereof. In addition and not by way of limitation of the foregoing, in the case of the Borrower or any Guarantor granting a Lien in favor of the Administrative Agent upon any assets having a present value in excess of $1,000,000 located in a new jurisdiction, the Borrower or Guarantor will at its own expense, obtain and furnish to the Administrative Agent all such opinions of legal counsel as the Administrative Agent may reasonably request in connection with any such security or instrument.

(c) Perfection and Protection of Security Interests and Liens. In addition and not by way of limitation of the foregoing, the Borrower will from time to time deliver, or cause to be delivered, to the Administrative Agent any financing statements, continuation statements, extension agreements and other documents, properly completed (and executed and acknowledged when required) by the Borrower or appropriate Guarantor in form and substance satisfactory to the Administrative Agent, which the Administrative Agent requests for the purpose of perfecting, confirming, or protecting any

Liens or other rights in the collateral securing any Obligations. In addition to the foregoing, the Borrower hereby authorizes, and shall cause each Guarantor to authorize, the Administrative Agent, on behalf of the Issuing Bank and the Lenders, to file in the appropriate filing office pursuant to applicable Law such financing statements, assignments and continuation statements as the Administrative Agent shall deem necessary or desirable for the purpose of perfecting, confirming, or protecting any Liens or other rights in the collateral securing any Obligations without the signature of the Borrower or any Guarantor.

(d) Additional Subsidiaries. Within thirty (30) Business Days after the Borrower or any Subsidiary creates, acquires or otherwise forms a Subsidiary, the Borrower shall:

(i) execute and deliver, or cause the Person owning all of the outstanding equity interests in such Subsidiary to execute and deliver, as applicable, to the Administrative Agent on behalf of the Lenders, a Pledge Agreement, or an amendment or supplement to an existing Pledge Agreement, if appropriate, pursuant to which all of the outstanding equity interests in such Subsidiary shall be pledged to the Administrative Agent on behalf of the Lenders, together with any certificates representing all equity interests so pledged, if any, and for each such certificate representing shares of stock, a stock power executed in blank;

(ii) cause such Subsidiary to execute and deliver to the Administrative Agent on behalf of the Lenders (i) a Guaranty, (ii) a ratification and acceptance of the Subordination Agreement, (iii) an agreement substantially similar to the Security Documents executed and delivered on the Closing Date and (iv) a Mortgage as to all Oil and Gas Properties containing any proved Hydrocarbon reserves owned or leased by such Subsidiary;

(iii) cause such Subsidiary to execute and deliver to the Administrative Agent on behalf of the Lenders and the Issuing Bank, or to authorize the Administrative Agent to file or record without such Subsidiary's signature, appropriate financing statements covering the collateral of such Subsidiary described in the Security Documents required to be delivered pursuant to the foregoing clauses (i) or (ii);

(iv) deliver or cause to be delivered to the Administrative Agent on behalf of the Lenders and the Issuing Bank all agreements, documents, instruments and other writings of the type described in Section 4.1(a)(iii), (iv) and (vi) with respect to such Subsidiary and opinions of counsel acceptable to the Administrative Agent and in form and substance satisfactory to the Administrative Agent covering the matters covered by the opinions delivered on the Closing Date with respect to such Subsidiary; and

(v) deliver or cause to be delivered to the Administrative Agent on behalf of the Lenders all such information regarding the condition (financial or otherwise), business and operations of such Subsidiary as the Administrative Agent, or the Issuing Bank or any Lender through the Administrative Agent, may reasonably request.

(e) Production Proceeds. Notwithstanding that, by the terms of the various Security Documents, the Loan Parties are and will be assigning to the Administrative Agent, the Issuing Bank and the Lenders all of the "Production" (as defined therein) and the proceeds therefrom accruing to the properties covered thereby, so long as no Event of Default has occurred, the Loan Parties may continue to receive from the purchasers of production all such Production Proceeds, subject,

however, to the Liens created under the Security Documents, which Liens are hereby affirmed and ratified. Upon the occurrence of an Event of Default, the Administrative Agent, the Issuing Bank and the Lenders may exercise all rights and remedies granted under the Security Documents, including the right to obtain possession of all Production Proceeds then held by any Loan Party or to receive directly from the purchasers of production all other Production Proceeds. In no case shall any failure, whether purposeful or inadvertent, by the Administrative Agent, the Issuing Bank or the Lenders to collect directly any such Production Proceeds constitute in any way a waiver, remission or release of any of its or their rights under the Security Documents, nor shall any release of any Production Proceeds by the Administrative Agent or Lenders to any Loan Party constitute a waiver, remission, or release of any other Production Proceeds or of any rights of the Administrative Agent, the Issuing Bank or the Lenders to collect other Production Proceeds thereafter.

SECTION 6.17 CANCELED 1999 SENIOR NOTES. The Borrower shall deliver, or cause to be delivered, to the Administrative Agent with respect to Borrower's redemption of any 1999 Senior Notes, within twenty (20) days of such redemption, an acknowledgment of the Trustee (as defined in the 1999 Senior Notes Indenture) that those 1999 Senior Notes redeemed shall have been canceled (and not reissued or replaced) in accordance with the 1999 Senior Notes Indenture.

SECTION 6.18 LIMITATION ON HEDGES. The Borrower shall not, and shall not permit any Subsidiary of the Borrower to, enter into any commodity hedging or derivative transactions except Hedge Agreements related to bona fide hedging activities of the Borrower in an aggregate notional amount not to exceed, with respect to any future calendar quarter, 100% of the Borrower's projected production of oil (for oil related transactions) and 100% of the Borrower's projected production of natural gas (for natural gas related transactions), in each case from the Borrower's Oil and Gas Properties.

ARTICLE VII.
NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Borrower shall not, and the Borrower shall not permit any Subsidiary to, directly or indirectly:

SECTION 7.1 LIENS. Create, incur, assume or suffer to exist, any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

(a) Liens existing pursuant to any Loan Document;

(b) Liens existing on the date hereof and listed on Schedule 7.1 and any renewals or extensions thereof, provided that the property covered thereby is not increased and any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.3(b);

(c) Liens for taxes not yet due or which are being contested in good faith and by appropriate proceedings, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(d) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 30

days or which are being contested in good faith and by appropriate proceedings, if adequate reserves with respect thereto are maintained on the books of the applicable Person;

(e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;

(f) deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(g) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person; and

(h) Liens existing pursuant to a Subordinate Mortgage.

SECTION 7.2 INVESTMENTS. Make any Investments, except:

(a) Investments other than those permitted by subsections (b) through (h) existing on the date hereof and listed on Schedule 7.2;

(b) Investments held by the Borrower or such Subsidiary in the form of cash equivalents;

(c) advances to officers, directors and employees of the Borrower or Subsidiary in an aggregate amount not to exceed $50,000 at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;

(d) Investments constituting contributions of capital (but not loans or advances) made by the Borrower or any Guarantor in another Guarantor and Investments constituting a loans or advances by the Borrower in any Guarantor, provided that such Investment constituting a loan or advance shall be evidenced by a Pledged Note pursuant to a Pledge Agreement;

(e) Guaranty Obligations permitted by Section 7.3;

(f) Investments permitted by Section 7.4;

(g) Investments by the Borrower necessary to effectuate the COGI Reorganization; and

(h) Investments by the Borrower or any Guarantor in any other Person, provided that all such Investments made after the Closing Date do not exceed $10,000,000 in the aggregate at any time; provided that such Investment shall not violate Section 7.8, and provided, further, that the Borrower shall, or shall cause such other Person to, comply with the provisions of Section 6.16(d) in accordance therewith; and provided, further, that both before and after giving effect to such Investment (on a pro forma basis acceptable to the Administrative Agent) no Default or Event of Default shall have occurred and be continuing and all representations and warranties contained in Article V hereof shall be true and correct in all material respects as if made both immediately before and immediately after the time of such Investment.

SECTION 7.3 INDEBTEDNESS. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness outstanding on the date hereof and listed on Schedule 7.3 and any refinancings, refundings, renewals or extensions thereof; provided that the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing;

(c) Guaranty Obligations of the Borrower or any Subsidiary in respect of Indebtedness otherwise permitted hereunder of the Borrower or any wholly-owned Subsidiary provided all such Indebtedness shall be evidenced by Pledged Notes (as described in the Pledged Agreements) which shall have been pledged the Administrative Agent in accordance with the Pledge Agreements;

(d) obligations (contingent or otherwise) of the Borrower or any Subsidiary existing or arising under any Hedging Agreement with any Lender or any Person with an investment grade debt rating acceptable to the Administrative Agent at the time such Hedging Agreement is entered into or any other Person acceptable to the Administrative Agent, provided that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person and not for purposes of speculation or taking a "market view;" and (ii) such Hedging Agreement does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party;

(e) Unsecured Indebtedness in an aggregate principal amount not to exceed $10,000,000 at any time outstanding;

(f) Indebtedness of Borrower outstanding under the Indenture Debt Documents, provided that the principal amount of any Indebtedness outstanding under the Indenture Debt Documents shall not exceed $197,332,000 at any time (except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with any refinancing, refunding, renewal or extension of the facilities described in the Indenture Debt Documents);

(g) Indebtedness constituting intercompany loans or advances owing by a Guarantor to the Borrower evidenced by a Pledged Note; and

(h) Unsecured insurance premium financing in the ordinary course of business.

SECTION 7.4 FUNDAMENTAL CHANGES. Merge, consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of related transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Default or Event of Default exists or would result therefrom:

(a) any Subsidiary may merge with (i) the Borrower, provided that the Borrower shall be the continuing or surviving Person, or (ii) any one or more Subsidiaries, provided that when any wholly-owned Subsidiary is merging with another Subsidiary, the wholly-owned Subsidiary shall be the continuing or surviving Person;

(b) any Subsidiary may sell all or substantially all of its assets (upon voluntary liquidation or otherwise), to the Borrower or to another Subsidiary; provided that if the seller in such a transaction is a wholly-owned Subsidiary, then the purchaser must also be a wholly-owned Subsidiary; and

(c) the COGI Reorganization.

SECTION 7.5 DISPOSITIONS. Make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions of inventory in the ordinary course of business;

(c) Dispositions of property by any Subsidiary to the Borrower or to a wholly-owned Subsidiary;

(d) Dispositions permitted by Section 7.4; and

(e) if no Default or Event of Default exists either before or after such Disposition or would result therefrom, other sales of assets that, when aggregated with any other Disposition made pursuant to this Section 7.5(e) between the most recent and the next succeeding regularly schedule redeterminations of the Borrowing Base, have a fair market value not exceeding ten percent (10%) of the Borrowing Base in effect at the time of such Disposition, provided that, in connection with any such sales of assets included in the most recently delivered Engineering Report having a fair market value in excess of five percent (5%) of the Borrowing Base in effect at the time of such Disposition, the Borrowing Base shall automatically be reduced concurrently with such Disposition in an amount equal to such excess;

provided, however, that any Disposition pursuant to this Section 7.5 shall be for fair market value.

SECTION 7.6 RESTRICTED PAYMENTS. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

(a) each Subsidiary may make Restricted Payments, directly or indirectly, to the Borrower or a Guarantor;

(b) Borrower may declare and make dividend payments or other distributions payable solely in the common stock of Borrower;

(c) the Borrower and each Subsidiary may purchase, redeem or otherwise acquire shares of its common stock or warrants or options to acquire any such shares (i) with the proceeds received from the substantially concurrent issue of new shares of its common stock or (ii) if such purchases,

redemptions, acquisitions or defeasances together with all other Restricted Payments made hereunder do not exceed $25,000,000 for all such Restricted Payments made since the Closing Date;

(d) other Restricted Payments that, when aggregated with all Optional Indebtedness Payments made pursuant to Section 7.12(b), if any, do not exceed $10,000,000 in aggregate amount since the Closing Date; provided that both before and after giving effect to such Restricted Payment, as applicable, (on a pro forma basis acceptable to the Administrative Agent) no Default or Event of Default shall have occurred and be continuing and all representations and warranties contained in Article V hereof shall be true and correct in all material respects as if made at the time of such Restricted Payment;

provided, however, that notwithstanding the foregoing, no Restricted Payment (other than Restricted Payments pursuant to clause (a)) shall be made at any time when the Outstanding Amount exceeds, or would exceed after giving effect to any Credit Extension the proceeds of which are used (or are intended to be used) to fund any portion of such Restricted Payment, 80% of the Aggregate Commitments; and further provided, however, that the Borrower will not issue any Disqualified Stock.

SECTION 7.7 ERISA. At any time engage in a transaction which could be subject to Section 4069 or 4212(c) of ERISA, or permit any Plan to (a) engage in any non-exempt "prohibited transaction" (as defined in Section 4975 of the Code); (b) fail to comply with ERISA or any other applicable Laws; or (c) incur any material "accumulated funding deficiency" (as defined in Section 302 of ERISA), which, with respect to each event listed above, could be reasonably expected to have a Material Adverse Effect.

SECTION 7.8 CHANGE IN NATURE OF BUSINESS. Engage in any material line of business substantially different from those lines of business conducted by the Borrower and its Subsidiaries on the date hereof.

SECTION 7.9 TRANSACTIONS WITH AFFILIATES. Enter into any transaction of any kind with any Affiliate of the Borrower (including without limitation, the purchase from, sale to, or exchange of property with, or the rendering of any service by or from, any Affiliate), except in the ordinary course of, and pursuant to the reasonable requirements of, the Borrower's or any Guarantor's business and upon fair and reasonable terms no less favorable to the Borrower or such Guarantor than would be obtained in a comparable arms-length transaction with a Person other than an Affiliate provided such transactions are otherwise permitted hereunder.

SECTION 7.10 BURDENSOME AGREEMENTS. Enter into any Contractual Obligation that limits the ability (a) of any Subsidiary to make Restricted Payments to the Borrower or any Guarantor or to otherwise transfer property to the Borrower or any Guarantor or (b) of the Borrower or any Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person, in each case, other than Contractual Obligations pursuant to the Indenture Debt Documents to the extent listed in Schedule 7.10.

SECTION 7.11 USE OF PROCEEDS. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the Board) or to extend credit to others for the

purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

SECTION 7.12 PAYMENTS AND MODIFICATION OF INDENTURE DEBT DOCUMENTS. Make, or permit any Subsidiary to make, any optional payment or prepayment of principal of, or make any payment of interest on, any Indebtedness on any day other than the stated, scheduled date for such payment or prepayment set forth in the documents and instruments memorializing such Indebtedness, or defease (whether a covenant defeasance, legal defeasance or other defeasance), prepay or redeem any of Indebtedness or enter into any agreement or arrangement providing for any defeasance of any kind of any Indebtedness, or make any deposit for any of the foregoing purposes (all of the foregoing defined herein as "Optional Indebtedness Payments"), except (a) the redemption at any time and from time to time of 1999 Senior Notes in accordance with the 1999 Senior Notes Indenture, and (b) such other Optional Indebtedness Payments that, when aggregated with all Restricted Payments made pursuant to Section 7.6(d), if any, do not exceed $25,000,000 in aggregate amount since the Closing Date, provided that both before and after giving effect to any Optional Indebtedness Payment (on a pro forma basis acceptable to the Administrative Agent) no Default or Event of Default shall have occurred and be continuing and all representations and warranties contained in Article V hereof shall be true and correct in all material respects as if made at the time of the applicable Optional Indebtedness Payment, and further provided, that the Borrower shall not make any Optional Indebtedness Payments permitted by clause (b) above at any time when the Outstanding Amount exceeds, or would exceed after giving effect to any Credit Extension the proceeds of which are used (or are intended to be used) to fund any portion of any Optional Indebtedness Payments, 80% of the Aggregate Commitments, or amend or modify, or consent or agree to any amendment or modification of, any Indenture Debt Document.

SECTION 7.13 FINANCIAL COVENANTS.

(a) Minimum Tangible Net Worth. Permit or suffer the Consolidated Tangible Net Worth of Borrower and its Subsidiaries, at any time, to be less than the sum of (i) $200,000,000, plus (ii) 50% of Consolidated Net Income for each fiscal year, commencing with the fiscal year ending December 31, 2003, and to be added as of the last day of such fiscal quarter and each such fiscal year (provided that if such Consolidated Net Income is negative in such fiscal quarter or in any fiscal year, the amount added pursuant to this clause (ii) shall be zero and shall not reduce the amount added pursuant to this clause (ii) for any other fiscal year), plus (iii) 75% of the net cash proceeds of any equity offering or other sale of capital stock of Borrower or any of its Subsidiaries, other than net cash proceeds in an aggregate amount per fiscal year not to exceed $2,500,000 received by Borrower in connection with the exercising of stock options; provided that for purposes of calculating Consolidated Tangible Net Worth and Consolidated Net Income, the Borrower shall exclude (x) any ceiling test write-down and impairment write-downs required by GAAP or by the Securities and Exchange Commission, (y) any non-cash charges or losses and any non-cash income or gains, in each case described in, and calculated pursuant to, Financial Accounting Standards Board Statements of Financial Accounting Standards No. 133, but shall expressly include any cash charges or payments in respect of the termination of any Hedging Agreement and (z) any charges associated with the extinguishment of the 1999 Senior Notes.

(b) Current Ratio. Permit or suffer the ratio of (i) sum of Current Assets plus the unused availability under this Agreement, to (ii) Current Liabilities, to be less than 1.0 to 1.0 at any time; provided that the calculation of Current Assets and Current Liabilities for purposes of this

Section 7.13(b) shall exclude any non-cash Current Assets and Current Liabilities, in each cased described in, and calculated pursuant to, Financial Accounting Standards Board Statements of Financial Accounting Standards No. 133, but shall expressly include any Current Assets or Current Liabilities in respect of, or arising from, the termination of any Hedging Agreement.

ARTICLE VIII.
EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1 EVENTS OF DEFAULT. Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrower fails to pay within two (2) Business Days after the same becomes due any amount of principal of any Loan or any L/C Obligation, or any interest on any Loan or on any L/C Obligation, or any commitment fee or other fee due hereunder, or any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. The Borrower fails to perform or observe any term, covenant or agreement contained in any of Sections 6.3, 6.5, 6.7, 6.10, 6.12, 6.13, or 6.16 or Article VII; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after written notice to the Borrowers; or

(d) Representations and Warranties. Any representation or warranty made or deemed made by the Borrower or any other Loan Party herein, in any other Loan Document, or in any certificate or document delivered in connection herewith or therewith proves to have been incorrect in any material respect when made or deemed made; or

(e) Cross-Default. (i) Any Loan Party (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guaranty Obligation having an aggregate principal amount (including undrawn or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than $15,000,000, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guaranty Obligation or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guaranty Obligation (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the actual giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased or redeemed (automatically or otherwise) prior to its stated maturity, or such Guaranty Obligation to become payable or cash collateral in respect thereof to be demanded; or

(f) Insolvency Proceedings, Etc. Any Loan Party institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed

without the application or consent of such Loan Party and the appointment continues undischarged or unstayed for 30 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 30 calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Loan Party and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) Judgments. There is entered against the Borrower or any Guarantor (i) one or more final judgments or orders for the payment of money which together with other such judgments or orders exceeds the aggregate amount of $15,000,000 (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any non-monetary final judgment that has, or would reasonably be expected to have, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 30 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of any Loan Party under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC, or (ii) any Loan Party or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan; or

(j) Event of Default Under Other Loan Document. Any event of default described in any Security Document or any other Loan Document shall have occurred and be continuing, or any material provision of any Security Agreement or any other Loan Document shall at any time for any reason cease to be valid, binding and enforceable against any Loan Party that is an obligor thereunder; or

(k) Invalidity of Loan Documents. Any Loan Document, at any time after its execution and delivery and for any reason other than the agreement of all the Lenders or satisfaction in full of all the Obligations, ceases to be in full force and effect, or is declared by a court of competent jurisdiction to be null and void, invalid or unenforceable in any respect; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any Loan Document; or

(l) Change of Control. There occurs any Change of Control with respect to any of the Borrower or any Subsidiary; or, so long as there are any 1999 Senior Notes outstanding, there occurs any "Change in Control," "Change of Control" or similar term as defined in the 1999 Senior Notes Indenture; or there occurs any "Change of Control Triggering Event" as defined in the 2004 Senior Notes Indenture; or

(m) Material Adverse Effect. There occurs any event or circumstance that has a Material Adverse Effect which Material Adverse Effect shall not have been cured within 30 days following notice from the Administrative Agent.

SECTION 8.2 REMEDIES UPON EVENT OF DEFAULT. If any Event of Default occurs, the Administrative Agent shall, at the request of, or may, with the consent of, the Majority Lenders,

(a) declare the commitment of each Lender to make Loans and any obligation of the Issuing Bank to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(c) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the then Outstanding Amount thereof); and

(d) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable law, including, without limitation, the enforcement of the Administrative Agent's and the Lenders' rights either by suit in equity, or by action at law, or by other appropriate proceedings, whether for the specific performance (to the extent permitted by law) of any covenant or agreement contained in this Agreement or in any then outstanding Note or any Security Document or in aid of the exercise of any power granted in this Agreement or in any then outstanding Note or any Security Document;

provided, however, that upon the occurrence of any event specified in subsection (f) of Section 8.1, the obligation of each Lender to make Loans and any obligation of the Issuing Bank to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

SECTION 8.3 DISTRIBUTION OF PROCEEDS. All proceeds of any realization on the Collateral received by the Administrative Agent pursuant to the Security Documents or any payments on any of the liabilities secured by the Security Documents received by the Administrative Agent or any Lender upon and during the continuance of any Event of Default shall be allocated and distributed as follows (and with respect to any contingent obligation shall be held as cash collateral for application as follows):

(a) First, to the payment of all costs and expenses, including without limitation all attorneys' fees, of the Administrative Agent in connection with the enforcement of the Security Documents and otherwise administering this Agreement;

(b) Second, to the payment of all costs, expenses and fees, including without limitation, commitment fees, letter of credit fees and attorneys' fees, owing to the Issuing Bank and the Lenders pursuant to the Obligations on a pro rata basis in accordance with the Obligations consisting of fees,

costs and expenses owing to the Issuing Bank and the Lenders under the Obligations for application to payment of such liabilities;

(c) Third, to the Issuing Bank and the Lenders on a pro rata basis in accordance with the Obligations consisting of interest and principal owing to the Lenders under the Obligations, together with any obligations owing to any Lender or any Affiliate of a Lender pursuant to any Hedging Agreement to which it is a party (whether pursuant to a termination thereof or otherwise) and any reimbursement obligations or other liabilities owing to any Lender with respect to any Letter of Credit or any application for a Letter of Credit, for application to payment of such liabilities;

(d) Fourth, to the payment of any and all other amounts owing to the Administrative Agent, the Issuing Bank and the Lenders on a pro rata basis in accordance with the total amount of such Indebtedness owing to each of the Lenders, for application to payment of such liabilities; and

(e) Fifth, to the Borrower or such other Person as may be legally entitled thereto.

ARTICLE IX.
ADMINISTRATIVE AGENT

SECTION 9.1 APPOINTMENT AND AUTHORIZATION OF ADMINISTRATIVE AGENT.

(a) Each Lender hereby irrevocably (subject to Section 9.9) appoints, designates and authorizes the Administrative Agent to take such action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Loan Document, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" herein and in the other Loan Documents with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. Each Lender hereby agrees to assert no claim against the Administrative Agent on any agency theory or any other theory of liability for breach of fiduciary duty, all of which claims are hereby expressly waived by each Lender.

(b) The Issuing Bank shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith until such time (and except for so long) as the Administrative Agent may agree at the request of the Majority Lenders to act for the Issuing Bank with respect thereto; provided, however, that the Issuing Bank shall have all of the benefits and immunities (i) provided to the Administrative Agent in this Article IX with respect to any acts taken or omissions suffered by the Issuing Bank in connection with Letters of Credit issued by it or proposed to be issued by it and the application and agreements for letters of credit pertaining to the Letters of Credit as fully as if the term "Administrative Agent" as used in this Article IX included the

Issuing Bank with respect to such acts or omissions, and (ii) as additionally provided herein with respect to the Issuing Bank.

SECTION 9.2 DELEGATION OF DUTIES. The Administrative Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel and other consultants or experts concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects in the absence of gross negligence or willful misconduct.

SECTION 9.3 LIABILITY OF ADMINISTRATIVE AGENT. No Agent-Related Person shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct in connection with its duties expressly set forth herein), or (b) be responsible in any manner to any Lender or participant for any recital, preliminary statement, statement, representation or warranty made by any Loan Party or any officer thereof, contained herein or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or for any failure of any Loan Party or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender or participant to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party or any Affiliate thereof.

SECTION 9.4 RELIANCE BY ADMINISTRATIVE AGENT.

(a) The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to any Loan Party), independent accountants and other experts selected by the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of the Majority Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Majority Lenders or all the Lenders, if required hereunder, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and participants. Where this Agreement expressly permits or prohibits an action unless the Majority Lenders otherwise determine, the Administrative Agent shall, and in all other instances, the Administrative Agent may, but shall not be required to, initiate any solicitation for the consent or a vote of the Lenders.

(b) For purposes of determining compliance with the conditions specified in Section 4.1, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter either sent by the Administrative Agent to such Lender for consent, approval, acceptance or satisfaction, or required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender.

SECTION 9.5 NOTICE OF DEFAULT. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to the Administrative Agent for the account of the Lenders, unless the Administrative Agent shall have received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." The Administrative Agent will notify the Lenders of its receipt of any such notice. The Administrative Agent shall take such action with respect to such Default or Event of Default as may be directed by the Majority Lenders in accordance with Article VIII; provided, however, that unless and until the Administrative Agent has received any such direction, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interest of the Lenders.

SECTION 9.6 CREDIT DECISION; DISCLOSURE OF INFORMATION BY ADMINISTRATIVE AGENT. Each Lender acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by the Administrative Agent hereinafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to the Administrative Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

SECTION 9.7 INDEMNIFICATION OF ADMINISTRATIVE AGENT. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand each Agent-Related Person (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless each Agent-Related

Person from and against any and all Indemnified Liabilities incurred by it (INCLUDING ANY AND ALL INDEMNIFIED LIABILITIES ARISING OUT OF, IN ANY WAY RELATING TO, OR RESULTING FROM SUCH AGENT-RELATED PARTY'S OWN NEGLIGENCE); provided, however, that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person's gross negligence or willful misconduct; provided, however, that no action taken in accordance with the directions of the Majority Lenders shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower. The undertaking in this Section shall survive termination of the Commitments, the payment of all Obligations hereunder and the resignation or replacement of the Administrative Agent.

SECTION 9.8 ADMINISTRATIVE AGENT IN ITS INDIVIDUAL CAPACITY. BMO and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with each of the Loan Parties and their respective Affiliates as though BMO were not the Administrative Agent or the Issuing Bank hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, BMO or its Affiliates may receive information regarding any Loan Party or its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. With respect to its Loans, BMO shall have the same rights and powers under this Agreement as any other Lender and may exercise such rights and powers as though it were not the Administrative Agent or the Issuing Bank, and the terms "Lender" and "Lenders" include BMO in its individual capacity.

SECTION 9.9 SUCCESSOR ADMINISTRATIVE AGENT. The Administrative Agent may resign as Administrative Agent upon 30 days' notice to the Lenders. If the Administrative Agent resigns under this Agreement, the Majority Lenders shall appoint from among the Lenders a successor administrative agent for the Lenders. If no successor administrative agent is appointed prior to the effective date of the resignation of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Lenders, a successor administrative agent from among the Lenders. Upon the acceptance of its appointment as successor administrative agent hereunder, such successor administrative agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and the term "Administrative Agent" shall mean such successor administrative agent and the retiring Administrative Agent's appointment, powers and duties as Administrative Agent shall be terminated. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Article IX and Sections 10.4 and 10.5 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement. If no successor administrative agent has accepted appointment as Administrative Agent by the date which is 30 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and the Lenders

shall perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Majority Lenders appoint a successor agent as provided for above.

SECTION 9.10 OTHER AGENTS; LEAD MANAGERS. None of the Lenders identified on the facing page or signature pages of this Agreement as a "syndication agent," "documentation agent," "co-agent" or "lead manager" shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of the Lenders so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

ARTICLE X.
MISCELLANEOUS

SECTION 10.1 AMENDMENTS, ETC. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Majority Lenders and the Borrower and acknowledged and agreed by each other Loan Party, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall, unless in writing and signed by each of the Lenders directly affected thereby and by the Borrower, and acknowledged and agreed by each other Loan Party and acknowledged by the Administrative Agent, do any of the following:

(a) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.2);

(b) postpone any date fixed by this Agreement or any other Loan Document for any payment or mandatory prepayment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document;

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or any fees or other amounts payable hereunder or under any other Loan Document, or change the manner of computation of any financial covenant used in determining the Base Rate Spread, LIBOR Spread or Commitment Fee Rate that would result in a reduction of any interest rate on any Loan;

(d) change the percentage of the Aggregate Commitments or of the aggregate unpaid principal amount of the Loans and L/C Obligations which is required for the Lenders or any of them to take any action hereunder;

(e) increase the Borrowing Base, or take any other action which requires the signing of all the Lenders pursuant to the terms of this Agreement or of any other Loan Document, or change the Percentage Share or Voting Percentage of any Lender; or

(f) amend this Section, or Section 2.14, or any provision herein providing for consent or other action by all the Lenders; or

(g) permit any termination, amendment, modification, waiver, or release of any Guaranty or any provision thereof; or

(h) release any collateral under any of the Security Documents, or permit any termination, amendment, modification, waiver or release of any Security Document or an provision thereof, provided that, notwithstanding the foregoing, the consent of the Lenders shall not be required for any release of any collateral under any of the Security Documents in connection with a Disposition by the Borrower or any Guarantor if such Disposition is permitted by Section 7.5 hereof as Section 7.5 is in effect on the Closing Date;

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the Issuing Bank in addition to the Majority Lenders or all the Lenders, as the case may be, affect the rights or duties of the Issuing Bank under this Agreement or any Letter of Credit Application relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Majority Lenders or all the Lenders, as the case may be, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; and (iii) the Agent and Arranger Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto.

SECTION 10.2 NOTICES AND OTHER COMMUNICATIONS; FACSIMILE COPIES.

(a) General. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder shall be in writing (including by facsimile transmission) and mailed, faxed or delivered, to the address, facsimile number or (subject to subsection (c) below) electronic mail address specified for notices on Schedule 10.2; or, in the case of the Borrower, the Administrative Agent, or the Issuing Bank, to such other address as shall be designated by such party in a notice to the other parties, and in the case of any other party, to such other address as shall be designated by such party in a notice to the Borrower, the Administrative Agent and the Issuing Bank. All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the intended recipient and (ii) (A) if delivered by hand or by courier, when signed for by the intended recipient; (B) if delivered by mail, four Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail (which form of delivery is subject to the provisions of subsection (c) below), when delivered; provided, however, that notices and other communications to the Administrative Agent and the Issuing Bank pursuant to Article II shall not be effective until actually received by such Person. Any notice or other communication permitted to be given, made or confirmed by telephone hereunder shall be given, made or confirmed by means of a telephone call to the intended recipient at the number specified on Schedule 10.2, it being understood and agreed that a voicemail message shall in no event be effective as a notice, communication or confirmation hereunder.

(b) Effectiveness of Facsimile Documents and Signatures. Loan Documents may be transmitted and/or signed by facsimile. The effectiveness of any such documents and signatures shall, subject to applicable Law, have the same force and effect as manually-signed originals and shall be binding on all Loan Parties, the Administrative Agent and the Lenders. The Administrative Agent may also require that any such documents and signatures be confirmed by a manually-signed original thereof; provided, however, that the failure to request or deliver the same shall not limit the effectiveness of any facsimile document or signature.

(c) Limited Use of Electronic Mail. Electronic mail and internet and intranet websites may be used only to distribute routine communications, such as financial statements, annual and quarterly compliance information and other information, and to distribute Loan Documents for execution by the parties thereto, and may not be used for any other purpose.

(d) Reliance by Administrative Agent and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Notice of Advances) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify each Agent-Related Person and each Lender from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

SECTION 10.3 NO WAIVER; CUMULATIVE REMEDIES. No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein or therein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

SECTION 10.4 ATTORNEY COSTS, EXPENSES AND TAXES. The Borrower agrees (a) to pay or reimburse the Administrative Agent for all costs and expenses incurred in connection with the development, preparation, negotiation and execution of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated hereby or thereby are consummated), and the consummation and administration of the transactions contemplated hereby and thereby, including all Attorney Costs, and (b) to pay or reimburse the Administrative Agent and each Lender for all costs and expenses incurred in connection with the enforcement, attempted enforcement, or preservation of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any "workout" or restructuring in respect of the Obligations and during any legal proceeding, including any proceeding under any Debtor Relief Law), including all Attorney Costs. The foregoing costs and expenses shall include all search, filing, recording, title insurance and appraisal charges and fees and taxes related thereto, and other out-of-pocket expenses incurred by the Administrative Agent and the cost of independent public accountants and other outside experts retained by the Administrative Agent or any Lender. The agreements in this Section shall survive the termination of the Commitments and repayment of all the other Obligations.

SECTION 10.5 INDEMNIFICATION BY THE BORROWER. Whether or not the transactions contemplated hereby are consummated, the Borrower agrees to indemnify, defend, save and hold harmless each Agent-Related Person, each Lender and their respective Affiliates, directors, officers, employees, counsel, agents and attorneys-in-fact (collectively the "Indemnitees") from and against: (a) any and all claims, demands, actions or causes of action that are asserted against any Indemnitee by any Person (other than the Administrative Agent or any Lender) relating directly or indirectly to a claim, demand, action or cause of action that such Person asserts or may assert against any Loan

Party, any Affiliate of any Loan Party or any of their respective officers or directors; (b) any and all claims, demands, actions or causes of action that may at any time (including at any time following repayment of the Obligations and the resignation or removal of the Administrative Agent or the replacement of any Lender) be asserted or imposed against any Indemnitee, arising out of or relating to, the Loan Documents, any predecessor loan documents, the Commitments, the use or contemplated use of the proceeds of any Credit Extension, or the relationship of any Loan Party, the Administrative Agent and the Lenders under this Agreement or any other Loan Document; (c) any administrative or investigative proceeding by any Governmental Authority arising out of or related to a claim, demand, action or cause of action described in subsection (a) or (b) above; and (d) any and all liabilities (including liabilities under indemnities), losses, costs or expenses (including Attorney Costs) that any Indemnitee suffers or incurs as a result of the assertion of any foregoing claim, demand, action, cause of action, litigation or proceeding, or as a result of the preparation of any defense in connection with any foregoing claim, demand, action, cause of action, litigation or proceeding, in all cases, WHETHER OR NOT ARISING OUT OF THE NEGLIGENCE OF AN INDEMNITEE, and whether or not an Indemnitee is a party to such claim, demand, action, cause of action, litigation or proceeding (all the foregoing, collectively, the "Indemnified Liabilities"); provided that no Indemnitee shall be entitled to indemnification for any claim caused by its own gross negligence or willful misconduct or for any loss asserted against it by another Indemnitee. The agreements in this Section shall survive the termination of the Commitments and repayment of all the other Obligations.

SECTION 10.6 PAYMENTS SET ASIDE. To the extent that the Borrower makes a payment to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of set-off, and such payment or the proceeds of such set-off or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such set-off had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to (i) with respect to the first two Business Days following such demand, the Federal Funds Rate from time to time in effect, and (2) with respect to each day thereafter, the Base Rate from time to time in effect.

SECTION 10.7 SUCCESSORS AND ASSIGNS; ASSIGNMENTS; PARTICIPATIONS.

10.7.1 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

10.7.2 Assignments.

(a) Any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including in all instances for purposes of this subsection (a), participations in L/C Obligations) at the time owing to it); provided that (i) except in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder, including as noted above, participations in L/C Obligations) subject to each such assignment, determined as of the date the Lender Assignment with respect to such assignment is delivered to the Administrative Agent, shall not be less than $5,000,000 unless each of the Administrative Agent and, so long as no Default has occurred and is continuing and so long as in the case of Bank of Montreal, such Lender shall have been reduced to its "final hold amount" as described in the commitment letter referred to in the Agent and Arranger Fee Letter, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed), (ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Borrowings on a non-pro rata basis, (iii) the parties to each assignment shall execute and deliver to the Administrative Agent a Lender Assignment, together with a processing and recordation fee of $3,500. Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Lender Assignment, the Eligible Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Lender Assignment, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Lender Assignment, be released from its obligations under this Agreement (and, in the case of an Lender Assignment covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.7, 10.4 and 10.5). Upon request, the Borrower (at its expense) shall execute and deliver new or replacement Notes to the assigning Lender and the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(b) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Lender Assignment delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

10.7.3 Participations.

(a) Any Lender may, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") in all

or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification that would (i) postpone any date upon which any payment of money is scheduled to be paid to such Participant, (ii) reduce the principal, interest, fees or other amounts payable to such Participant, or (iii) release any Guarantor from the Guaranty. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.1, 3.4 and 3.5 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.9 as though it were a Lender, provided such Participant agrees to be subject to Section 2.14 as though it were a Lender.

(b) A Participant shall not be entitled to receive any greater payment under Section 3.1 or 3.4 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.1 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 3.8 as though it were a Lender.

10.7.4 Pledge of Lender's Interest. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

10.7.5 Consent to Assignment. If the consent of the Borrower to an assignment or to an Eligible Assignee is required hereunder (including a consent to an assignment which does not meet the minimum assignment threshold specified in clause (i) of the proviso to the first sentence of Section 10.7.2, the Borrower shall be deemed to have given its consent five Business Days after the date notice thereof has been delivered by the assigning Lender (through the Administrative Agent) unless such consent is expressly refused by the Borrower prior to such fifth Business Day.

10.7.6 Definitions for Section 10.7. As used herein, the following terms have the following meanings:

> "Eligible Assignee" means (a) a Lender; (b) an Affiliate of a Lender; and (c) any other Person (other than a natural Person) approved by the Administrative Agent, the Issuing Bank, and, after Bank of Montreal shall have assigned a sufficient amount of its Commitment (as set

forth in Schedule 2.1) to one or more Persons (who shall become Lenders) such that Bank of Montreal's Commitment has been reduced to an amount not exceeding the "final hold amount" set forth in the commitment letter referred to in the Agent and Arranger Fee Letter, and provided that no Default has occurred and is continuing, the Borrower (each such approval not to be unreasonably withheld or delayed).

"Fund" means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

10.7.7 Assignment by BMO. Notwithstanding anything to the contrary contained herein, if at any time BMO assigns all of its Commitment and Loans pursuant to subsection (b) above, BMO may, upon 30 days' notice to the Borrower and the Lenders, resign as Issuing Bank. In the event of any such resignation as Issuing Bank, the Borrower shall be entitled to appoint from among the Lenders a successor Issuing Bank hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of BMO as Issuing Bank. BMO shall retain all the rights and obligations of the Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as Issuing Bank and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund participations in Unreimbursed Amounts pursuant to Section 2.3.3).

SECTION 10.8 CONFIDENTIALITY. (a) Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential); (b) to the extent requested by any regulatory authority; (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process; (d) to any other party to this Agreement; (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder; (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any direct or indirect contractual counterparty or prospective counterparty (or such contractual counterparty's or prospective counterparty's professional advisor) to any credit derivative transaction relating to obligations of the Borrower; (g) with the consent of the Borrower; (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent or any Lender on a nonconfidential basis from a source other than the Borrower; or (i) to the National Association of Insurance Commissioners or any other similar organization or any nationally recognized rating agency that requires access to information about a Lender's or its Affiliates' investment portfolio in connection with ratings issued with respect to such Lender or its Affiliates. For the purposes of this Section, "Information" means all information received from the Borrower relating to the Borrower or its business, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower; provided that, in the case of information received from the Borrower

after the date hereof, such information is clearly identified in writing at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 10.9 SET-OFF. In addition to any rights and remedies of the Lenders provided by law, upon the occurrence and during the continuance of any Event of Default, each Lender is authorized at any time and from time to time, without prior notice to the Borrower or any other Loan Party, any such notice being waived by the Borrower (on its own behalf and on behalf of each Loan Party) to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other indebtedness at any time owing by, such Lender to or for the credit or the account of the respective Loan Parties against any and all Obligations owing to such Lender, now or hereafter existing, irrespective of whether or not the Administrative Agent or such Lender shall have made demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such set-off and application made by such Lender; provided, however, that the failure to give such notice shall not affect the validity of such set-off and application.

SECTION 10.10 INTEREST RATE LIMITATION. It is the intention of the parties hereto to conform strictly to applicable usury laws and, anything herein to the contrary notwithstanding, the obligations of the Borrower to each Lender and the Issuing Bank under this Agreement shall be subject to the limitation that payments of interest shall not be required to the extent that receipt thereof would be contrary to provisions of law applicable to such Lender or the Issuing Bank limiting rates of interest which may be charged or collected by such Lender or the Issuing Bank. Accordingly, if the transactions contemplated hereby would be usurious under applicable law (including the Federal and state laws of the United States of America, or of any other jurisdiction whose laws may be mandatorily applicable) with respect to a Lender or the Issuing Bank then, in that event, notwithstanding anything to the contrary in this Agreement, it is agreed as follows: (i) the provisions of this Section 10.10 shall govern and control; (ii) the aggregate of all consideration which constitutes interest under applicable law that is contracted for, charged or received under this Agreement, or under any of the other aforesaid agreements or otherwise in connection with this Agreement by such Lender or the Issuing Bank shall under no circumstances exceed the maximum amount of interest allowed by applicable law (such maximum lawful interest rate, if any, with respect to such Lender or the Issuing Bank herein called the "Highest Lawful Rate"), and any excess shall be credited to the Borrower by such Lender or the Issuing Bank (or, if such consideration shall have been paid in full, such excess promptly refunded to the Borrower); (iii) all sums paid, or agreed to be paid, to the Lender or the Issuing Bank for the use, forbearance and detention of the indebtedness of the Borrower to such Lender or the Issuing Bank hereunder shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the actual rate of interest is uniform throughout the full term thereof; and (iv) if at any time the interest provided pursuant to Article II together with any other fees payable pursuant to this Agreement and deemed interest under applicable law, exceeds that amount which would have accrued at the Highest Lawful Rate, the amount of interest and any such fees to accrue to such Lender or the Issuing Bank pursuant to this Agreement shall be limited, notwithstanding anything to the contrary in this Agreement to that amount which would have accrued at the Highest Lawful Rate, but any subsequent reductions, as applicable, shall not reduce the interest

to accrue to such Lender or the Issuing Bank pursuant to this Agreement below the Highest Lawful Rate until the total amount of interest accrued pursuant to this Agreement and such fees deemed to be interest equals the amount of interest which would have accrued to such Lender or the Issuing Bank if a varying rate per annum equal to the interest provided pursuant to Article II had at all times been in effect, plus the amount of fees which would have been received but for the effect of this Section 10.10. For purposes of Tex. Fin. Code Ann. Ch. 303, as amended, to the extent, if any, applicable to a Lender or the Issuing Bank, the Borrower agrees that the Highest Lawful Rate shall be the "weekly ceiling" as defined in said Article, provided that such Lender and the Issuing Bank may also rely, to the extent permitted by applicable laws, on alternative maximum rates of interest under other laws applicable to such Lender or such Issuer, as the case may be, if greater. Tex. Fin. Code Ann. Ch. 346 (which regulates certain revolving credit loan accounts and revolving tri-party accounts) shall not apply to this Agreement or the Notes.

SECTION 10.11 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SECTION 10.12 SURVIVAL OF REPRESENTATIONS AND WARRANTIES. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or Event of Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

SECTION 10.13 COLLATERAL MATTERS; HEDGES. The benefit of the Security Documents and the provisions of this Agreement and the other Loan Documents relating to the collateral shall also extend to and be available on a pro rata basis to each Lender and such Lender's Affiliates in respect of any obligations under a Hedging Agreement only so long as such Lender remains a party to this Agreement and this Agreement remains in effect. No Lender or Affiliate of a Lender shall have any voting or consent right under any Loan Document as a result of the existence of obligations owed to it under a Hedging Agreement.

SECTION 10.14 RENEWAL AND CONTINUATION OF EXISTING INDEBTEDNESS. Upon the effectiveness of this Agreement, all of the Existing Indebtedness outstanding on such date shall hereby be restructured, rearranged, renewed, extended and continued as provided in this Agreement and all Loans outstanding under the Existing Credit Facility shall become Loans outstanding hereunder.

In connection herewith, the Prior Lenders have sold, assigned, transferred and conveyed, and Lenders party to this Agreement have purchased and accepted, and hereby purchase and accept, so much of the Existing Indebtedness such that each Lender's percentage of the loans and obligations outstanding pursuant to the Existing Credit Facility, as restructured, rearranged, renewed, extended and continued pursuant to this Agreement, shall be equal to such Lender's Percentage Share upon the effectiveness of this Agreement. The Lenders acknowledge and agree that the assignment, transfer and conveyance of the Existing Indebtedness is without recourse to the Prior Lenders and without

any warranties whatsoever by any Prior Lender, except as expressly set forth in the Assignment of Secured Indebtedness, the Mortgage Assignment and Amendment or the Subordinate Mortgage Amendment.

SECTION 10.15 SEVERABILITY. Any provision of this Agreement and the other Loan Documents to which the Borrower is a party that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 10.16 GOVERNING LAW.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY WITHIN SUCH STATE (WITHOUT GIVING EFFECT TO THE PRINCIPLES THEREOF RELATING TO CONFLICT OF LAW EXCEPT SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW); PROVIDED THAT THE ADMINISTRATIVE AGENT AND EACH LENDER SHALL RETAIN ALL RIGHTS ARISING UNDER FEDERAL LAW.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK SITTING IN MANHATTAN OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF SUCH STATE, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE BORROWER, THE ADMINISTRATIVE AGENT AND EACH LENDER CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. THE BORROWER, THE ADMINISTRATIVE AGENT AND EACH LENDER IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF ANY LOAN DOCUMENT OR OTHER DOCUMENT RELATED THERETO. THE BORROWER, THE ADMINISTRATIVE AGENT AND EACH LENDER WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS, WHICH MAY BE MADE BY ANY OTHER MEANS PERMITTED BY THE LAW OF SUCH STATE.

SECTION 10.17 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION

WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

SECTION 10.18 CONSENTS TO RENEWALS, MODIFICATIONS AND OTHER ACTIONS AND EVENTS. This Agreement and all of the obligations of the Borrower hereunder shall remain in full force and effect without regard to and shall not be released, affected or impaired by: (a) any amendment, assignment, transfer, modification of or addition or supplement to the Lenders Obligations, this Agreement, any Note or any other Loan Document; (b) any extension, indulgence, increase in the Lenders Obligations or other action or inaction in respect of any of the Loan Documents or otherwise with respect to the Lenders Obligations, or any acceptance of security for, or guaranties of, any of the Lenders Obligations or Loan Documents, or any surrender, release, exchange, impairment or alteration of any such security or guaranties including without limitation the failing to perfect a security interest in any such security or abstaining from taking advantage or of realizing upon any guaranties or upon any security interest in any such security; (c) any default by the Borrower under, or any lack of due execution, invalidity or unenforceability of, or any irregularity or other defect in, any of the Loan Documents; (d) any waiver by the Lenders or any other Person of any required performance or otherwise of any condition precedent or waiver of any requirement imposed by any of the Loan Documents, any guaranties or otherwise with respect to the Lenders Obligations; (e) any exercise or non-exercise of any right, remedy, power or privilege in respect of this Agreement or any of the other Loan Documents; (f) any sale, lease, transfer or other disposition of the assets of the Borrower or any consolidation or merger of the Borrower with or into any other Person, corporation, or entity, or any transfer or other disposition by the Borrower or any other holder of any shares of capital stock or other ownership interest of the Borrower; (g) any bankruptcy, insolvency, reorganization or similar proceedings involving or affecting the Borrower; (h) the release or discharge of the Borrower from the performance or observance of any agreement, covenant, term or condition under any of the Obligations or contained in any of the Loan Documents by operation of law; or (i) any other cause whether similar or dissimilar to the foregoing which, in the absence of this provision, would release, affect or impair the Obligations, covenants, agreements and duties of the Borrower hereunder, including without limitation any act or omission by the Administrative Agent, or the Lenders or any other Person which increases the scope of the Borrower's risk; and in each case described in this paragraph whether or not the Borrower shall have notice or knowledge of any of the foregoing, each of which is specifically waived by the Borrower. The Borrower warrants to the Administrative Agent and the Lenders that it has adequate means to obtain from the Guarantors on a continuing basis information concerning the financial condition and other matters with respect to the Guarantors and it is not relying on the Administrative Agent or the Lenders to provide such information either now or in the future.

SECTION 10.19 ENTIRE AGREEMENT. This Agreement, together with the other Loan Documents, comprises the complete and integrated agreement of the parties on the subject matter hereof and thereof and supersedes all prior agreements, written or oral, on such subject matter. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

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

COMSTOCK RESOURCES, INC.

By: /s/M. JAY ALLISON

Name: M. Jay Allison
Title: President

BANK OF MONTREAL, as
Administrative Agent, Issuing Bank and Lender

By: /s/JOSEPH A. BLISS

Name: Joseph A. Bliss
Title: Vice President

BANK OF AMERICA, N.A., as
Syndications Agent and Lender

By: /s/STEVEN A. MACKENZIE

Name: Steven A. Mackenzie
Title: Vice President

COMERICA BANK, as
Co-Documentation Agent and Lender

By: /s/PETER L. SEIZIK

Name: Peter L. Seizik
Title: Vice President

FORTIS CAPITAL CORP., as
Co-Documentation Agent and Lender

By: /s/DARRELL W. HOLLEY

Name: Darrell W. Holley
Title: Managing Director

By: /s/DAVID MONTGOMERY

Name: David Montgomery
Title: Senior Vice President

UNION BANK OF CALIFORNIA, N.A., as
Co-Documentation Agent and Lender

By: /s/SEAN MURPHY

Name: Sean Murphy
Title: Vice President

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EXHIBIT 21

SUBSIDIARIES OF COMSTOCK RESOURCES, INC.

Name	Incorporation	Business Name
Comstock Oil & Gas, Inc.	Nevada	Comstock Oil & Gas, Inc.
Comstock Oil & Gas Holdings, Inc.(1)	Nevada	Comstock Oil & Gas Holdings, Inc.
Comstock Oil & Gas - Louisiana, LLC(2)	Nevada	Comstock Oil & Gas - Louisiana, LLC
Comstock Offshore, LLC(3)	Nevada	Comstock Offshore, LLC

(1) Subsidiary of Comstock Oil & Gas, Inc.

(2) Subsidiary of Comstock Oil & Gas Holdings, Inc.

(3) Subsidiary of Comstock Oil & Gas - Louisiana, LLC

EXHIBIT 23.1

CONSENT OF INDEPENDENT AUDITORS

The Board of Directors and Stockholders of
Comstock Resources, Inc.

We consent to the incorporation by reference in the Registration Statements Nos. 33-20981 and 33- 88962 filed on Form S-8 and Nos. 333-111237 and 333-112100 filed on Form S-3 of Comstock Resources, Inc. of our report dated March 19, 2003, with respect to the consolidated balance sheet of Comstock Resources, Inc. and subsidiaries as of December 31, 2002, and the related consolidated statements of operations, stockholders` equity and comprehensive income, and cash flows for each of the years in the two-year period ended December 31, 2002, which report appears in the December 31, 2003 Annual Report on Form 10-K of Comstock Resources, Inc. Our report refers to a change in the Company`s method of accounting for derivative instruments effective January 1, 2001.

/s/ KPMG LLP
Dallas, Texas
March 12, 2004

EXHIBIT 23.2

CONSENT OF INDEPENDENT AUDITORS

We consent to the incorporation by reference in the Registration Statements Nos. 33-20981 and 33-88962 filed on Form S-8 and Nos. 333-111237 and 333-112100 filed on Form S-3 of Comstock Resources, Inc. and the related Prospectuses of our report dated February 26, 2004, with respect to the consolidated financial statements of Comstock Resources, Inc. included in this Annual Report on Form 10-K for the year ended December 31, 2003.

/s/ ERNST & YOUNG LLP
Dallas, Texas
March 12, 2004

EXHIBIT 31.1

CHIEF EXECUTIVE OFFICER CERTIFICATION

I, M. Jay Allison, certify that:

1. I have reviewed this annual report on Form 10-K of Comstock Resources, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

March 12, 2004

/s/M. JAY ALLISON

M. Jay Allison
Chairman, President and
Chief Executive Officer

EXHIBIT 31.2

CHIEF FINANCIAL OFFICER CERTIFICATION

I, Roland O. Burns, certify that:

1. I have reviewed this annual report on Form 10-K of Comstock Resources, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

March 12, 2004

/s/ROLAND O. BURNS

Roland O. Burns
Senior Vice President and
Chief Financial Officer

EXHIBIT 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of Comstock Resources, Inc. (the "Company") on Form 10-K for the year ending December 31, 2003 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, M. Jay Allison, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. (Section) 1350, as adopted pursuant to (Section) 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

March 12, 2004

/s/M. JAY ALLISON

M. Jay Allison
Chairman, President and
Chief Executive Officer

EXHIBIT 32.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of Comstock Resources, Inc. (the "Company") on Form 10-K for the year ending December 31, 2003 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Roland O. Burns, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. (Section) 1350, as adopted pursuant to (Section) 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

March 12, 2004

/s/ROLAND O. BURNS

Roland O. Burns
Senior Vice President and
Chief Financial Officer