Table of Contents

As filed with the Securities and Exchange Commission on August 31, 2016

No. 333-212795

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Amendment No. 2
to
FORM S-4

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

COMSTOCK RESOURCES, INC.

Additional Registrants Listed on Schedule A Hereto (Exact name of registrant as specified in its charter)

Nevada	**1311**	**94-1667468**
(State or other jurisdiction of incorporation or organization)	**(Primary Standard Industrial Classification Code Number)**	**(I.R.S. Employer Identification No.)**

5300 Town and Country Blvd., Suite 500
Frisco, Texas 75034
(972) 668-8800
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

M. Jay Allison
Chairman of the Board of Directors and Chief Executive Officer
Comstock Resources, Inc.
5300 Town and Country Blvd., Suite 500
Frisco, Texas 75034
(972) 668-8800
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Jack E. Jacobsen
Locke Lord LLP
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201
(214) 740-8000

Doug Rayburn
Baker Botts L.L.P.
2001 Ross Avenue, Suite 600
Dallas, Texas 75201
(214) 953-6500

Approximate date of commencement of proposed sale of the securities to the public: The exchange will occur as soon as practicable after the effective date of this Registration Statement.

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box: ☐

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

Table of Contents

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer	☐	Accelerated filer	☒
Non-Accelerated filer	☐ (Do not check if a smaller reporting company)	Smaller reporting Company	☐

The registrants hereby amend this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

Table of Contents

Schedule A

Exact Name of Additional Registrants	Jurisdiction of Incorporation or Formation	Principal Executive Offices	Primary Standard Industrial Classification Code Number	I.R.S. Employer Identification No.
Comstock Oil & Gas, LP	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	75-2272352
Comstock Oil & Gas-Louisiana, LLC	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	26-0012430
Comstock Oil & Gas GP, LLC	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	(not applicable)
Comstock Oil & Gas Investments, LLC	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	90-0155903
Comstock Oil & Gas Holdings, Inc.	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	75-2968982

Table of Contents

The information in this prospectus is not complete and may be changed. We may not complete the exchange offer and issue these securities until the registration statement filed with the Securities and Exchange Commission is effective. The prospectus is not an offer to sell these securities nor a solicitation of an offer to buy these securities in any jurisdiction where the offer and sale is not permitted.

Subject to Completion, Dated August 31, 2016

Prospectus

Comstock Resources, Inc.

OFFER TO EXCHANGE AND CONSENT SOLICITATION

Senior Secured Toggle Notes due 2020 and
Warrants For Shares of Common Stock

for

Any and All 10% Senior Secured Notes due 2020
(CUSIP Nos. 205768 AK0 and U2038J AC1)

and

7 ¾% Convertible Secured PIK Notes due 2019

for

Any and All 7 ¾% Senior Notes due 2019
(CUSIP No. 205768 AH7)

and

9 ½% Convertible Secured PIK Notes due 2020

for

Any and All 9 ½% Senior Notes due 2020
(CUSIP No. 205768 AJ3)

In accordance with the terms and subject to the conditions set forth in this prospectus and related letter of transmittal, as each may be amended from time to time, Comstock Resources, Inc. is offering to exchange (collectively, the "Exchange Offer") (a) its Senior Secured Toggle Notes due 2020 (the "New Senior Secured Notes") and warrants exercisable for shares of common stock for any and all outstanding 10% Senior Secured Notes due 2020 (the "Old Senior Secured Notes"), (b) its 7 ¾% Convertible Secured PIK Notes due 2019 (the "New 2019 Convertible Notes") for any and all outstanding 7 ¾% Senior Notes due 2019 (the "Old 2019 Notes") and (c) its 9 ½% Convertible Secured PIK Notes due 2020 (the "New 2020 Convertible Notes" and together with the New Senior Secured Notes and the New 2019 Convertible Notes, the "new notes") for any and all outstanding 9 ½% Senior Notes due 2020 (the "Old 2020 Notes" and together with the Old Senior Secured Notes and the Old 2019 Notes, the "old notes"). See the "Summary Offering Table." The New 2019 Convertible Notes and the New 2020 Convertible Notes are collectively referred to herein as the "New Convertible Notes."

THE EXCHANGE OFFER AND THE CONSENT SOLICITATION (AS DEFINED BELOW) WILL EXPIRE AT 11:59 P.M., NEW YORK CITY TIME, ON SEPTEMBER 2, 2016, UNLESS EXTENDED OR EARLIER TERMINATED BY US WITH RESPECT TO ANY OR ALL SERIES (SUCH DATE AND TIME, AS THE SAME MAY BE EXTENDED, THE "EXPIRATION DATE"). TO BE ELIGIBLE TO RECEIVE THE APPLICABLE EARLY EXCHANGE CONSIDERATION (AS DEFINED HEREIN), ELIGIBLE HOLDERS MUST TENDER THEIR OLD NOTES (AS DEFINED HEREIN) AT OR PRIOR TO 11:59 P.M., NEW YORK CITY TIME, ON SEPTEMBER 2, 2016 UNLESS EXTENDED (SUCH TIME AND DATE WITH RESPECT TO AN EXCHANGE OFFER AND CONSENT SOLICITATION, AS IT MAY BE EXTENDED FOR SUCH EXCHANGE OFFER, THE "EARLY TENDER DATE"). TENDERS MAY BE WITHDRAWN AT ANY TIME BEFORE 11:59 P.M., NEW YORK CITY TIME, ON SEPTEMBER 2, 2016 (SUCH DATE AND TIME, AS THE SAME MAY BE EXTENDED, THE "WITHDRAWAL DEADLINE").

IF YOU ELECT NOT TO PARTICIPATE IN THE EXCHANGE OFFER AND COMSTOCK SUBSEQUENTLY FILES FOR BANKRUPTCY, YOUR NOTES MAY BE WORTHLESS BECAUSE THEY WILL RANK JUNIOR TO ALL OF THE NEW NOTES.

Subject to the tender acceptance procedures described herein: (i) for each $1,000 principal amount of old notes tendered at or prior to the Early Tender Date, accepted for exchange and not validly withdrawn, holders of old notes will be eligible to receive the applicable early exchange consideration set forth in the table on page ii of this prospectus (the "Early Exchange Consideration"); and (ii) for each $1,000 principal amount of old notes tendered after the Early Tender Date and prior to the Expiration Date and accepted for exchange, holders of old notes will be eligible to receive the applicable late exchange consideration set forth in such table (the "Late Exchange Consideration"). The Early Tender Date and the Expiration Date are currently the same. Accordingly, all holders whose old notes are tendered and not validly withdrawn prior to the Expiration Date will receive the applicable Early Exchange Consideration. However, if we extend the Expiration Date past the Early Tender Date, holders whose old notes are tendered and not validly withdrawn prior to the Expiration Date but after the Early Tender Date will receive the applicable Late Exchange Consideration.

Payment of accrued and unpaid interest on the old notes will be made in cash on the date on which the Exchange Offer is completed (the "Closing Date").

The New Senior Secured Notes will bear interest at a rate of 10.0% per annum, if we elect to pay interest in cash, or 12 ¼% per annum, if we elect to pay interest in kind, in each case payable semi-annually, but no more than $75.0 million of cash interest may be replaced by the payment in kind of the New Senior Secured Notes. As a result, we may issue up to approximately $91.9 million of New Senior Secured Notes as payment of interest in kind. The New Senior Secured Notes will mature on March 15, 2020. See "Description of New Senior Secured Notes."

The New 2019 Convertible Notes will bear interest at a rate of 7 ¾% per annum, payable semi-annually. Interest will be paid only by the issuance of additional New 2019 Convertible Notes. The New 2019 Convertible Notes will mature on April 1, 2019 and will be convertible at the option of the holders, and in certain instances mandatorily convertible, in each case into shares of our common stock, subject to certain circumstances. See "Description of New Convertible Notes."

The New 2020 Convertible Notes will bear interest at a rate of 9 ½% per annum, payable semi-annually. Interest will be paid only by the issuance of additional New 2020 Convertible Notes. The New 2020 Convertible Notes will mature on June 15, 2020 and will be convertible at the option of the holders, and in certain instances mandatorily convertible, in each case into shares of our common stock, subject to certain circumstances. See "Description of New Convertible Notes."

The new notes will be guaranteed on a senior basis by all of our current and certain of our future subsidiaries (the "Guarantors"). Other than with respect to the payment of interest on the New 2019 Convertible Notes and New 2020 Convertible Notes in kind, the provisions relating to the second priority liens on the collateral, the provisions regarding the conversion of such notes into our common stock, a prohibition with respect to the New 2019 Convertible Notes and the New 2020 Convertible Notes on incurring any liens securing indebtedness other than permitted liens and the addition of permitted investments in unrestricted subsidiaries and joint ventures in an amount not to exceed $25 million, the restrictive covenants in the respective indentures governing the New 2019 Convertible Notes and the New 2020 Convertible Notes will be substantially similar to the covenants in the indenture governing the Old 2020 Notes. Other than with respect to our ability to pay up to $75.0 million of cash interest by issuing New Senior Secured Notes in kind, the restrictive covenants in the indenture governing the New Senior Secured Notes will be substantially similar to the covenants in the indenture governing the Old Senior Secured Notes. For a more detailed description of the new notes, see "Description of New Senior Secured Notes" and "Description of New Convertible Notes."

Concurrently with this Exchange Offer, we are also soliciting consents (the "Consent Solicitation") from holders for certain amendments to the indentures governing the old notes to eliminate or amend certain of the restrictive covenants, release the collateral securing the Old Senior Secured Notes and modify various other provisions contained in the existing indentures (collectively, the "Proposed Amendments"). We refer to the Exchange Offer and the Consent Solicitation collectively in this prospectus as the Exchange Offer. See "Proposed Amendments to Existing Indentures and Old Notes."

It is a condition to the consummation of this Exchange Offer, among other things, that (i) (x) holders of not less than 67% in aggregate principal amount of the Old Senior Secured Notes having validly tendered (and not validly withdrawn) their old notes in the Exchange Offer and (y) holders of not less than 90% in total aggregate principal amount of the Old 2019 Notes and Old 2020 Notes (on a combined basis) having validly tendered (and not validly withdrawn) their old notes in the Exchange Offer (collectively, the "Minimum Condition"), (ii) consents with respect to more than 50% of the aggregate principal amount of each series of the old notes approving the Proposed Amendments (other than the consent regarding a release of the collateral with respect to the Old Senior Secured Notes, which requires the consent of at least 66 ⅔% of the aggregate principal amount of the Old Senior

Secured Notes) are delivered and not revoked prior to the Expiration Date in connection with the consent solicitation described below and (iii) the Exchange Offer is completed by September 15, 2016. With respect to the condition described in clause (ii) of the preceding sentence, since the Minimum Condition threshold is greater than the threshold required to approve the Proposed Amendments and because consents to the Proposed Amendments are required if holders tender their old notes, the minimum threshold for the consents will automatically be achieved if the Minimum Condition is satisfied.

Our common stock is listed on the New York Stock Exchange (NYSE) under the symbol "CRK." There is no market for the new notes or warrants and we do not intend to list the new notes or warrants on the NYSE or any national or regional securities exchange.

If we are unable to complete the Exchange Offer and Consent Solicitation and address our near term liquidity needs, we will consider other restructuring alternatives available to us at that time. Those alternatives include seeking asset dispositions, joint ventures, additional debt and relief under the U.S. Bankruptcy Code, all of which involve uncertainties, potential delays and other risks.

You should carefully consider the risks set forth under "Risk Factors" beginning on page 21 of this prospectus before you decide whether to participate in the Exchange Offer.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THE SECURITIES BEING OFFERED IN EXCHANGE FOR OUR OLD NOTES OR THIS TRANSACTION, PASSED UPON THE MERITS OR FAIRNESS OF THIS TRANSACTION OR PASSED UPON THE ADEQUACY OR ACCURACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

Dealer Manager

BofA Merrill Lynch

The date of this prospectus is August 31, 2016.

TABLE OF CONTENTS

SUMMARY OFFERING TABLE

This summary offering table indicates the new notes and warrants, as the case may be, to be offered in the Exchange Offer. For the purposes of this prospectus, the term "exchange consideration" refers to the new notes and in certain cases warrants being offered to holders of the old notes.

Title of Old Notes to be Tendered	Aggregate Principal Amount Outstanding(1)	Early Exchange Consideration per $1,000 Principal Amount of Old Notes if Tendered and Not Withdrawn Prior to Early Tender Date(2)(3)(4)(5)	Late Exchange Consideration per $1,000 Principal Amount of Old Notes if Tendered After the Early Tender Date and Not Withdrawn Prior to the Expiration Date(2)(3)(4)(5)
10% Senior Secured Notes due 2020	$ 700,000,000	$1,000 principal amount of Senior Secured Toggle Notes due 2020 and warrants exercisable for 2.75 shares of common stock of the Company	$950 principal amount of Senior Secured Toggle Notes due 2020 and warrants exercisable for 2.75 shares of common stock of the Company
7 ¾% Senior Notes due 2019	$ 288,516,000	$1,000 principal amount of 7 ¾% Convertible Secured PIK Notes due 2019	$950 principal amount of 7 ¾% Convertible Secured PIK Notes due 2019
9 ½% Senior Notes due 2020	$ 174,607,000	$1,000 principal amount of 9 ½% Convertible Secured PIK Notes due 2020	$950 principal amount of 9 ½% Convertible Secured PIK Notes due 2020

(1) The outstanding principal amount reflects the aggregate principal amount outstanding as of August 29, 2016.

(2) Any accrued and unpaid interest on the old notes through the closing date of the Exchange Offer will be paid in cash.

(3) Subject to certain conditions, the New 2019 Convertible Notes and New 2020 Convertible Notes will be convertible into shares of common stock. The warrants issued in connection with the New Senior Secured Notes will be exercisable for shares of common stock at an exercise price of $0.01 per share. See "Description of New Senior Secured Notes," "Description of New Convertible Notes" and "Description of Warrants."

(4) The share and per share data reflects the one-for-five (1:5) reverse stock split that became effective on July 29, 2016.

(5) The Early Tender Date and the Expiration Date are currently the same. Accordingly, all holders whose old notes are tendered and not validly withdrawn prior to the Expiration Date will receive the applicable Early Exchange Consideration. However, if we extend the Expiration Date past the Early Tender Date, holders whose old notes are tendered and not validly withdrawn prior to the Expiration Date but after the Early Tender Date will receive the applicable Late Exchange Consideration.

NONE OF THE COMPANY, ITS SUBSIDIARIES, THE COMPANY'S BOARD OF DIRECTORS, THE TRUSTEE NOR THE INFORMATION AND EXCHANGE AGENT HAS MADE ANY RECOMMENDATION AS TO WHETHER OR NOT HOLDERS SHOULD TENDER THEIR OLD NOTES FOR EXCHANGE PURSUANT TO THE EXCHANGE OFFER. YOU MUST MAKE YOUR OWN DECISION WHETHER TO EXCHANGE ANY OLD NOTES PURSUANT TO THE EXCHANGE OFFER, AND, IF YOU WISH TO EXCHANGE OLD NOTES, THE PRINCIPAL AMOUNT OF OLD NOTES TO TENDER.

This prospectus does not constitute an offer to participate in the Exchange Offer to any person in any jurisdiction where it is unlawful to make such an offer or solicitations. The Exchange Offer is being made on the basis of this prospectus and is subject to the terms described herein and those that may be set forth in any amendment or supplement thereto or incorporated by reference herein. Any decision to participate in the Exchange Offer should be based on the information contained in this prospectus or any amendment or supplement thereto or specifically incorporated by reference herein. In making an investment decision or decisions, prospective investors must rely on their own examination of us and the terms of the Exchange Offer and the securities being offered and the terms of the amendments being sought, including the merits and risks involved. Prospective investors should not construe anything in this prospectus as legal, business or tax advice. Each prospective investor should consult its advisors as needed to make its investment decision and to determine whether it is legally permitted to participate in the Exchange Offer under applicable legal investment or similar laws or regulations.

Each prospective investor must comply with all applicable laws and regulations in force in any jurisdiction in which it participates in the Exchange Offer or possesses or distributes this prospectus and must obtain any consent, approval or permission required by it for participation in the Exchange Offer under the laws and regulations in force in any jurisdiction to which it is subject, and neither we nor any of our respective representatives shall have any responsibility therefor.

No action with respect to the offer of exchange consideration has been or will be taken in any jurisdiction (except the United States) that would permit a public offering of the offered securities, or the possession, circulation or distribution of this prospectus or any material relating to the Company or the offered securities where action for that purpose is required. Accordingly, the offered securities may not be offered, sold or exchanged, directly or indirectly, and neither this prospectus nor any other offering material or advertisement in connection with the Exchange Offer may be distributed or published, in or from any such jurisdiction, except in compliance with any applicable rules or regulations of any such jurisdiction.

This prospectus contains summaries believed to be accurate with respect to certain documents, but reference is made to the actual documents for complete information. All of those summaries are qualified in their entirety by this reference. Copies of documents referred to herein will be made available to prospective investors upon request to us at the address and telephone number set forth in "Prospectus Summary—Corporate Information."

This prospectus, including the documents incorporated by reference herein, and the related letters of transmittal contain important information that should be read before any decision is made with respect to participating in the Exchange Offer.

The delivery of this prospectus shall not under any circumstances create any implication that the information contained herein is correct as of any time subsequent to the date hereof or that there has been no change in the information set forth herein or in any attachments hereto or in the affairs of the Company or affiliates since the date hereof.

We are responsible only for the information contained in or incorporated by reference into this prospectus. No one has been authorized to give any information or to make any representations with respect to the matters described in this prospectus and the related letter(s) of transmittal, other than those contained in this prospectus and the related letter(s) of transmittal. If given or made, such information or representation may not be relied upon as having been authorized by us.

This prospectus incorporates important business and financial information about the Company that is not included in or delivered with this document. This information is available without charge to security

holders upon written or oral request to the Company, which may be made in writing or by phone to the following address or telephone number: 5300 Town and Country Blvd., Suite 500, Frisco, Texas 75034, Tel. (972) 668-8800, Attention: Corporate Secretary. To obtain timely delivery of such information, security holders must request such information no later than August 31, 2016.

In making a decision in connection with the Exchange Offer, you must rely on your own examination of our business and the terms of the Exchange Offer, including the merits and risks involved. You should not construe the contents of this prospectus as providing any legal, business, financial or tax advice. You should consult with your own legal, business, financial and tax advisors with respect to any such matters concerning this prospectus and the Exchange Offer and Consent Solicitation contemplated hereby.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

The information contained in this prospectus, including the documents incorporated by reference herein and our public releases, include certain forward-looking statements. These forward-looking statements are identified by their use of terms such as “expect,” “estimate,” “anticipate,” “project,” “plan,” “intend,” “believe” and similar terms. All statements, other than statements of historical facts, included in this prospectus, are forward-looking statements, including statements regarding:

- amount and timing of future production of oil and natural gas;
- the availability of exploration and development opportunities;
- amount, nature and timing of capital expenditures;
- the number of anticipated wells to be drilled after the date hereof;
- our financial or operating results;
- our cash flow and anticipated liquidity;
- operating costs, including lease operating expenses, administrative costs and other expenses;
- finding and development costs;
- our business strategy; and
- other plans and objectives for future operations.

Any or all of our forward-looking statements in this prospectus may turn out to be incorrect. They can be affected by a number of factors, including, among others:

- the risks described in “Risk Factors” and elsewhere in this prospectus;
- the volatility of prices and supply of, and demand for, oil and natural gas;
- the timing and success of our drilling activities;
- the numerous uncertainties inherent in estimating quantities of oil and natural gas reserves and actual future production rates and associated costs;
- our ability to successfully identify, execute, or integrate future acquisitions effectively;
- the usual hazards associated with the oil and natural gas industry, including fires, well blowouts, pipe failure, spills, explosions and other unforeseen hazards;
- our ability to effectively market our oil and natural gas;
- the availability of rigs, equipment, supplies and personnel;
- our ability to discover or acquire additional reserves;
- our ability to satisfy future capital requirements;

- changes in regulatory requirements, including those relating to environmental matters, permitting or other aspects of our operations;
- general economic conditions, status of the financial markets and competitive conditions;
- the adequacy and availability of capital resources, credit and liquidity, including, but not limited to, access to additional borrowing capacity and our inability to generate sufficient cash flow from operations to fund our capital expenditures and meet working capital needs;
- the willingness and ability of the Organization of Petroleum Exporting Countries ("OPEC") to set and maintain oil price and production controls;
- counterparty credit risks;
- competition in the oil and gas industry in general, and specifically in our areas of operations;
- the success of our business and financial strategies, and hedging strategies;
- our ability to retain key members of our senior management and other key employees; and
- hostilities in the Middle East and other sustained military campaigns and acts of terrorism or sabotage that impact the supply of crude oil and natural gas.

Other factors that could cause actual results to differ materially from those anticipated are discussed in "Risk Factors" included in this prospectus. Should one or more of the risks or uncertainties described above or elsewhere in this prospectus or in the documents incorporated by reference herein occur, or should underlying assumptions prove incorrect, our actual results and plans could differ materially from those expressed in any forward-looking statements. We specifically disclaim all responsibility to publicly update any information contained in a forward-looking statement or any forward-looking statement in its entirety and therefore disclaim any resulting liability for potentially related damages. We note, however, that the safe harbor for forward-looking statements provided by the Private Securities Litigation Reform Act of 1995 does not apply to statements made in connection with the Exchange Offer.

IMPORTANT INFORMATION

Old notes tendered and not validly withdrawn prior to the Withdrawal Deadline may not be withdrawn at any time after the Withdrawal Deadline, which is 11:59 P.M., New York City time, on September 2, 2016.

Old notes tendered for exchange, along with letters of transmittal and any other required documents, should be directed to the Information and Exchange Agent. Any requests for assistance in connection with the Exchange Offer or for additional copies of this prospectus or related materials should be directed to the Information and Exchange Agent. Contact information for the Information and Exchange Agent is set forth on the back cover of this prospectus. None of the Company, its subsidiaries, their respective boards of directors and the Information and Exchange Agent has made any recommendation as to whether or not holders should tender their old notes for exchange pursuant to the Exchange Offer.

Merrill Lynch, Pierce, Fenner & Smith Incorporated is acting as Dealer Manager for the Exchange Offer. D.F. King & Co., Inc. is acting as the Information and Exchange Agent for the Exchange Offer.

Subject to the terms and conditions set forth in the Exchange Offer, the exchange consideration to which an exchanging holder is entitled pursuant to the Exchange Offer will be paid on the Closing Date, which is the date promptly following the applicable expiration date of the Exchange Offer, subject to satisfaction or waiver (to the extent permitted) of all conditions precedent to the Exchange Offer. Under no circumstances will any interest be payable because of any delay in the transmission of the exchange consideration to holders by the Information and Exchange Agent.

Notwithstanding any other provision of the Exchange Offer, our obligation to pay the exchange consideration for old notes validly tendered for exchange and not validly withdrawn pursuant to the Exchange Offer is subject to, and conditioned upon, the satisfaction or waiver of the conditions described under “General Terms of the Exchange Offer and Consent Solicitation—Conditions of the Exchange Offer and Consent Solicitation.”

Subject to applicable securities laws and the terms of the Exchange Offer, we reserve the right:

- to waive any and all conditions to the Exchange Offer that may be waived by us;
- to extend the Exchange Offer;
- to terminate the Exchange Offer; or
- otherwise to amend the Exchange Offer in any respect in compliance with applicable securities laws.

If the Exchange Offer is withdrawn or otherwise not completed, the exchange consideration will not be paid or become payable to holders of the old notes who have validly tendered their old notes for exchange in connection with the Exchange Offer, and the old notes tendered for exchange pursuant to the Exchange Offer will be promptly returned to the tendering holders.

Only registered holders of old notes are entitled to tender old notes for exchange and give consents. Beneficial owners of old notes that are held of record by a broker, bank or other nominee or custodian must instruct such nominee or custodian to tender the old notes for exchange on the beneficial owner’s behalf. A letter of instructions is included in the materials provided along with this prospectus, which may be used by a beneficial owner in this process to affect the tender of old notes for exchange. See “General Terms of the Exchange Offer and Consent Solicitation—Procedures for Tendering Old Notes—General.”

Exchanging holders will not be obligated to pay brokerage fees or commissions to the Information and Exchange Agent or us. If a broker, bank or other nominee or custodian tenders old notes on behalf of a tendering holder, such broker, bank or other nominee or custodian may charge a fee for doing so. Exchanging holders who own old notes through a broker, bank or other nominee or custodian should consult their broker, bank or other nominee or custodian to determine whether any charges will apply.

IMPORTANT DATES

Holders of old notes should note the following dates and times relating to the Exchange Offer, unless extended:

Event	*Date and Time*	*Event Description*
Launch Date	August 1, 2016	Commencement of the Exchange Offer.
Early Tender Date	11:59 P.M., New York City time, on September 2, 2016	The last time for you to validly tender old notes to qualify for payment of the applicable Early Exchange Consideration.
Withdrawal Deadline	11:59 P.M., New York City time, on September 2, 2016	The last time for you to validly withdraw tenders of old notes. If your tenders are validly withdrawn, you will no longer receive the applicable consideration on the Closing Date (unless you validly retender such old notes at or before the Expiration Date).
Expiration Date	11:59 P.M., New York City Time, on September 2, 2016	The last time for you to validly tender old notes. The Early Tender Date and the Expiration Date are currently the same. Accordingly, all holders whose old notes are tendered and not validly withdrawn prior to the Expiration Date will receive the applicable Early Exchange Consideration. However, if we extend the Expiration Date past the Early Tender Date, holders whose old notes are tendered and not validly withdrawn prior to the Expiration Date but after the Early Tender Date will receive the applicable Late Exchange Consideration.
Closing Date	Promptly after the Expiration Date Expected to be on or about September 6, 2016	Subject to the tender acceptance procedures described herein, payment of the Early Exchange Consideration and the Late Exchange Consideration, as applicable, plus the payment in cash of accrued and unpaid interest on old notes accepted for exchange from the applicable last interest payment date to, but not including, the Closing Date (subject to the right of holders on the relevant record date to receive interest due on the relevant interest payment date).

QUESTIONS AND ANSWERS ABOUT THE EXCHANGE OFFER

The following are some questions and answers regarding the Exchange Offer, including the Consent Solicitation. It does not contain all of the information that may be important to you. You should carefully read this prospectus to fully understand the terms of the Exchange Offer and Consent Solicitation, as well as the other considerations that are important to you in making your investment decision. You should pay special attention to the information provided under the captions entitled "Risk Factors" and "Cautionary Note Regarding Forward-Looking Statements."

Who is making the Exchange Offer?

Comstock Resources, Inc., a Nevada corporation and the issuer of the old notes, is making the Exchange Offer. The mailing address of our principal executive offices is 5300 Town and Country Blvd., Suite 500, Frisco, Texas 75034. Our telephone number is (972) 668-8800. Our common stock is currently listed on the New York Stock Exchange under the symbol "CRK." See "General Terms of the Exchange Offer and Consent Solicitation."

Why are we making the Exchange Offer?

We are making the Exchange Offer in order to restructure the terms of our consolidated outstanding indebtedness to enhance liquidity, add equity and pay-in-kind (PIK) interest components, to provide collateral security to certain unsecured debt obligations, to modify the restrictive covenants and to make other changes in such terms. We believe that restructuring our outstanding indebtedness will promote our long-term financial viability. See "General Terms of the Exchange Offer and Consent Solicitation—Exchange Offer."

The Company continues to assess strategic alternatives to address our liquidity needs and capital structure and if we are not successful in our efforts to restructure our debt obligations, including because the response to the Exchange Offer is too limited, or if we are otherwise unable to extend the maturities of our debt obligations, we may consider seeking relief under the U.S. Bankruptcy Code. Even if we are successful with the Exchange Offer, avoidance of an in-court restructuring under the U.S. Bankruptcy Code in the future is not guaranteed and we expect to continue to restructure our remaining obligations and will likely attempt to undertake other financing and refinancing alternatives, the success of which cannot be predicted at this time.

What will happen to the Company if the Exchange Offer is not completed?

If we are unable to complete the Exchange Offer and Consent Solicitation and improve our near-term liquidity, we will consider other restructuring alternatives available to us at that time. Those alternatives include seeking asset dispositions, joint ventures, additional debt and relief under the U.S. Bankruptcy Code, all of which involve uncertainties, potential delays and other risks. If we seek bankruptcy relief, there is a substantial risk that some holders of old notes would receive little or no consideration for their old notes and the ability of such holders to recover all or a portion of their investment would be substantially delayed and more impaired than under the Exchange Offer restructuring. For a more complete description of potential bankruptcy relief and the risks relating to our failure to complete the Exchange Offer, see "Risk Factors—Risks Relating to the Exchange Offer and Consent Solicitation."

What will happen to the old notes if the Company files for bankruptcy?

Any old notes that remain outstanding after the Exchange Offer is completed may be worthless in the event of our bankruptcy. That is because all of the new notes will rank ahead of any remaining old notes in a bankruptcy.

Why are we pursuing an out-of-court restructuring rather than an in-court restructuring?

An out-of-court restructuring through the Exchange Offer or an in-court restructuring pursuant to the U.S. Bankruptcy Code provide alternative means of restructuring our liabilities and seeking to achieve the survival and long-term viability of our business. We believe that there are advantages to restructuring the Company's indebtedness out-of-court. We believe that the successful consummation of the Exchange Offer out-of-court would, among other things:

- enable us to continue operating our business without the negative impact that a bankruptcy could have on our relationships with our customers, suppliers, employees and others;

- reduce the risk of a potentially precipitous decline in our revenues in a bankruptcy; and
- allow us to complete our restructuring in less time, with less cash and with less risk than any bankruptcy alternatives.

If we have to resort to bankruptcy relief, among other things, we expect that the ability of holders of old notes to recover all or a portion of their investment would likely be impaired to a greater degree than if the Exchange Offer is completed.

When does the Exchange Offer expire?

The Exchange Offer will expire at 11:59 P.M., New York City time, on September 2, 2016 (unless extended). See "General Terms of the Exchange Offer and Consent Solicitation—Early Tender Date, Expiration Date, Extensions, Amendments or Termination."

Can the Exchange Offer be extended?

Yes, we can extend the Exchange Offer. See "General Terms of the Exchange Offer and Consent Solicitation—Early Tender Date, Expiration Date, Extensions, Amendments or Termination."

What securities are being sought in the Exchange Offer?

We are offering to exchange, for new notes and in certain cases warrants, upon the terms and subject to the conditions described in this prospectus, any and all of the $1.2 billion in aggregate principal amount of outstanding old notes that are validly tendered and not validly withdrawn, as permitted under the terms of the Exchange Offer, on or prior to the Expiration Date. Our acceptance of validly tendered old notes and the closing of the Exchange Offer are subject to the conditions described under "General Terms of the Exchange Offer and Consent Solicitation—Conditions of the Exchange Offer and Consent Solicitation."

The old notes were issued pursuant to three existing indentures and have the following payment terms:

(i) Old Senior Secured Notes: 10% Senior Secured Notes due March 15, 2020; interest payable semi-annually on each March 15 and September 15.

(ii) Old 2019 Notes: 7 ¾% Notes due April 1, 2019; interest payable semi-annually on each April 1 and October 1.

(iii) Old 2020 Notes: 9 ½% Notes due June 15, 2020; interest payable semi-annually on each June 15 and December 15.

The Old Senior Secured Notes are secured on a first-priority basis equally and ratably with our revolving credit facility described under "Description of Other Indebtedness," subject to certain payment priorities in favor of the revolving credit facility.

The old notes are guaranteed by all of our subsidiaries. Upon a change of control of the Company, we are obligated to offer to repurchase the old notes for cash at 101% of the aggregate principal amount tendered plus accrued and unpaid interest. The Exchange Offer and Consent Solicitation, if completed, will not trigger this change of control repurchase obligation. For a description of the terms governing the old notes, see "Description of Other Indebtedness."

What will I receive in the Exchange Offer?

Holders of old notes that are validly tendered and accepted in the Exchange Offer will, subject to the terms and conditions of the Exchange Offer, receive for each $1,000 in principal amount of old notes exchanged, the following:

(i) Holders of Old Senior Secured Notes will receive exchange consideration consisting of (a) new Senior Secured Toggle Notes due 2020 (the "New Senior Secured Notes") and (b) warrants exercisable for 2.75 shares of our common stock at an exercise price of $0.01 per share;

(ii) Holders of Old 2019 Notes will receive exchange consideration consisting of new 7 ¾% Convertible Secured PIK Notes due 2019 (the "New 2019 Convertible Notes"); and

(iii) Holders of Old 2020 Notes will receive exchange consideration consisting of new 9 ½% Convertible Secured PIK Notes due 2020 (the "New 2020 Convertible Notes").

In each instance, if the tender is made by the Early Tender Date, you will receive $1,000 principal amount of the applicable new notes. The Early Tender Date and the Expiration Date are currently the same. Accordingly, all holders whose old notes are tendered and not validly withdrawn prior to the Expiration Date will receive the applicable Early Exchange Consideration. However, if we extend the Expiration Date past the Early Tender Date, and if the tender is made after the Early Tender Date and prior to the Expiration Date, you will receive $950 principal amount of the applicable new notes.

Payment of accrued and unpaid interest on the old notes tendered and accepted in the Exchange Offer will be made in cash on the Closing Date. The Exchange Offer and Consent Solicitation are each subject to the conditions described under "General Terms of the Exchange Offer and Consent Solicitation—Conditions of the Exchange Offer and Consent Solicitation."

The exchange consideration will be in full satisfaction of the principal amount of the old notes that are tendered and accepted in the Exchange Offer, and any accrued and unpaid interest to, but excluding, the Closing Date of the Exchange Offer on the old notes that are tendered and accepted in the Exchange Offer will be paid in cash on the date on which the Exchange Offer is completed.

When are the new notes convertible into shares of common stock of the Company?

The New Senior Secured Notes will not be convertible into shares of our common stock but holders of the New Senior Secured Notes will receive for each $1,000 principal amount of old notes tendered warrants exercisable for 2.75 shares of our common stock at an exercise price of $0.01 per share. The share and per share data reflects the one-for-five (1:5) reverse stock split that became effective on July 29, 2016.

The New 2019 Convertible Notes and the New 2020 Convertible Notes will be convertible, subject to and following receipt of required stockholder approval, at the option of the holder, into shares of our common stock at a conversion rate of 81.2 shares of common stock per $1,000 principal amount of such new notes (equivalent to a conversion price of approximately $12.32 per share of common stock), subject to customary anti-dilution adjustments.

Provided that required stockholder approval has been obtained for the convertibility of the New Convertible Notes, any holder of New Convertible Notes who would beneficially own (as determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder) in excess of 9.99% of the outstanding shares of our common stock or otherwise be deemed an "affiliate" of the Company upon conversion of such holder's New Convertible Notes (all such holders, the "affected holders") will be required to provide 61 days' written notice to the Company prior to any optional conversion. Further, after the consummation of the Exchange Offer and upon request by any affected holder, we will agree to file a shelf registration statement on Form S-3 with respect to the resale of shares of our common stock issued pursuant to the conversion of such New Convertible Notes. Such undertaking will be pursuant to a registration rights agreement to be entered into between us and the affected holders. Our obligation to maintain any such shelf registration statement will not extend for longer than one year after effectiveness thereof and will terminate if the applicable affected holder is no longer considered an affiliate of the Company.

In addition, subject to and following receipt of required stockholder approval, the New 2019 Convertible Notes and New 2020 Convertible Notes will be mandatorily convertible into shares of our common stock at the conversion rate of 81.2 shares of common stock per $1,000 principal amount of such notes (equivalent to a conversion price of approximately $12.32 per share of common stock) on or before the third business day following required notice of the 15 consecutive trading day period during which the daily volume weighted average price on the NYSE for our common stock is equal to or greater than $12.32 per share, subject to customary anti-dilution adjustments.

If the required stockholder approval is not obtained by December 31, 2016, the New 2019 Convertible Notes and New 2020 Convertible Notes will not be convertible into common stock, and such failure to obtain stockholder

approval will result in a default under such notes. If such default continues for 90 days, it will become an Event of Default. Such default may in turn result in a default under the New Senior Secured Notes.

Interest shall cease to accrue on any new notes on the date such new notes have been converted (the "Conversion Date"). All accrued and unpaid interest on new notes that are being converted will be paid in cash on any Conversion Date. See "Description of New Senior Secured Notes" and "Description of New Convertible Notes."

What percentage of the ownership of the Company will holders receive or be entitled to if the Exchange Offer is completed?

Assuming all $1.2 billion in outstanding old notes are validly tendered and accepted in the Exchange Offer, we will reserve for issuance, (i) subject to stockholder approval, up to approximately 48.8 million shares of common stock to be issuable upon conversion of the New 2019 Convertible Notes and New 2020 Convertible Notes and (ii) up to approximately 1.93 million shares of common stock to be issuable upon exercise of the warrants. If the conversion of the New Convertible Notes was to occur immediately after receipt of stockholder approval, approximately 37.6 million shares of common stock would be issued, which would represent in the aggregate approximately 72.3% of our outstanding common stock. If the conversion of the New Convertible Notes was to occur immediately prior to their respective maturity date, approximately 48.8 million shares of common stock would be issued, which would represent in the aggregate approximately 77.1% of our outstanding common stock. Exercise of the warrants would represent in the aggregate approximately 3.7% of our outstanding common stock. If the maximum number of shares of common stock were issued upon conversion of the New Convertible Notes and exercise of the warrants, it would represent approximately 80.8% of our outstanding shares. The foregoing assumes (i) all $1.2 billion in outstanding old notes are validly tendered and accepted in the Exchange Offer, (ii) all of the New Convertible Notes are converted into and all warrants are exercised for common stock and (iii) the number of outstanding shares of our common stock prior to such conversion or exercise is equal to 12,504,562, which is the approximate number of outstanding shares on August 29, 2016.

Who may participate in the Exchange Offer?

All holders of the old notes may participate in the Exchange Offer.

Is there a minimum tender condition to the Exchange Offer?

Yes. The Exchange Offer is conditioned upon holders of not less than (i) 67% in aggregate principal amount of the Old Senior Secured Notes and (ii) 90% in total aggregate principal amount of the Old 2019 Notes and Old 2020 Notes (on a combined basis) having validly tendered (and not validly withdrawn) their old notes in the Exchange Offer.

Are there any other conditions to the Exchange Offer?

Yes. The Exchange Offer is conditioned on the closing conditions described under "General Terms of the Exchange Offer and Consent Solicitation—Conditions of the Exchange Offer and Consent Solicitation." We will not be required, but we reserve the right, to the extent legally permitted, to accept for exchange any old notes tendered (or, alternatively, we may terminate the Exchange Offer) if any of the conditions of the Exchange Offer as described under "General Terms of the Exchange Offer and Consent Solicitation—Conditions of the Exchange Offer and Consent Solicitation" remain unsatisfied.

What rights will I lose if I exchange my old notes in the Exchange Offer?

If you validly tender your old notes and we accept them for exchange, you will have rights as a holder of new notes and/or a holder of warrants, as the case may be, and will lose the rights of a holder of old notes. For example, as a holder of warrants to purchase common stock, your claims would rank below those of a holder of old notes and/or new notes in any bankruptcy proceeding involving the Company.

How can I determine the market value of the old notes?

The old notes are not listed on any securities exchange. To the extent that old notes have traded, prices of the old notes have fluctuated depending, among other things, upon trading volume, the balance between buy and sell

orders, prevailing interest rates, our operating results and financial condition, our business prospects and the market for similar securities.

Will the new securities be freely tradable?

The new notes and the warrants received in the Exchange Offer, and the shares of common stock issuable upon exercise of the warrants or conversion of the New Convertible Notes will be freely tradable in the United States, unless you are an affiliate of the Company, as that term is defined in the Securities Act. The Company's common stock is currently listed on the NYSE under the symbol "CRK." However, our common stock may be delisted if it does not maintain an average closing price of $1.00 per share or our average market capitalization is less than $50.0 million, in each case over a consecutive 30-day trading period. As of July 29, 2016, our average market capitalization was $52.5 million and the average closing price of our common stock was $0.84 (prior to the reverse stock split), in each case over the preceding 30-day trading period. The Company has submitted, and the NYSE has accepted, a plan to address the market capitalization and minimum trading price issues. The plan is closely tied to the successful completion of the restructuring, along with other operating initiatives, which the Company also believes will address the $1.00 minimum price and market capitalization deficiency. To address the minimum stock price requirement, on July 20, 2016, we announced a one-for-five (1:5) reverse split of our common stock which became effective on July 29, 2016. We do not intend to list the new notes or the warrants on the NYSE or any national or regional securities exchange, and therefore no trading market for the new notes will exist upon consummation of the Exchange Offer, and none is likely to develop.

What risks should I consider in deciding whether or not to exchange the old notes?

In deciding whether to participate in the Exchange Offer, you should carefully consider the discussion of the risks and uncertainties relating to the Exchange Offer, our Company and our industry described in the section entitled "Risk Factors," beginning on page 20 of this prospectus.

How do I participate in the Exchange Offer?

To tender your old notes, you must deliver the required documents to D.F. King & Co., Inc. as Information and Exchange Agent, on or prior to the Expiration Date, which is 11:59 P.M., New York City time, on September 2, 2016, unless extended as described in this prospectus. See "General Terms of the Exchange Offer and Consent Solicitation—Early Tender Date, Expiration Date, Extensions, Amendments or Termination."

A holder who is a DTC participant should tender its old notes electronically through DTC's Automatic Tender Offer Program ("ATOP"), subject to the terms and procedures of that system. See "General Terms of the Exchange Offer and Consent Solicitation—Procedures for Tendering Old Notes—Tender of Notes Through ATOP."

What happens if I do not participate in the Exchange Offer?

If you currently hold old notes and do not tender them, then, following completion of the Exchange Offer, your old notes will continue to be outstanding according to their terms (as amended pursuant to any amendments resulting from the Consent Solicitation). Because the new notes will be secured by substantially all assets of the Company and the old notes are (or as a result of the Proposed Amendments will be) unsecured, any old notes remaining outstanding after the Exchange Offer will effectively be subordinated to the new notes to the extent of the assets securing the new notes. The Proposed Amendments will also remove certain of the covenants from the indentures governing the old notes. Moreover, if we complete the Exchange Offer, the liquidity and value of, and any trading market for, any old notes that remain outstanding after completion of the Exchange Offer may be adversely affected.

HOLDERS THAT TENDER THROUGH DTC NEED NOT SUBMIT A PHYSICAL LETTER OF TRANSMITTAL TO THE INFORMATION AND EXCHANGE AGENT IF SUCH HOLDERS COMPLY WITH THE TRANSMITTAL PROCEDURES OF DTC.

A holder whose old notes are held by a broker, dealer, commercial bank, trust company or other nominee must contact that nominee if that holder desires to tender its old notes and instruct that nominee to tender the old notes on the holder's behalf.

A holder whose old notes are held in certificated form must properly complete and execute the applicable Letter of Transmittal, and deliver such Letter(s) of Transmittal and old notes in certificated form to the Information and Exchange Agent, with any other required documents and the certificates representing the old notes to be tendered in the Exchange Offer.

May I withdraw my tender of old notes?

Yes. You can withdraw old notes previously tendered for exchange at any time before the Withdrawal Deadline. The Withdrawal Deadline is 11:59 P.M., New York City time, on September 2, 2016, unless extended as described in this prospectus. See "General Terms of the Exchange Offer and Consent Solicitation—Early Tender Date, Expiration Date, Extensions, Amendments or Termination."

HOLDERS THAT WITHDRAW THROUGH DTC NEED NOT SUBMIT A PHYSICAL NOTICE OF WITHDRAWAL TO THE INFORMATION AND EXCHANGE AGENT IF SUCH HOLDERS COMPLY WITH THE WITHDRAWAL PROCEDURES OF DTC.

What happens if my old notes are not accepted in the Exchange Offer?

If we decide for any reason not to accept your old notes for exchange, the old notes will be returned to you promptly after the expiration or termination of the Exchange Offer. In the case of old notes tendered by book entry transfer into the Information and Exchange Agent's account at DTC, any unaccepted old notes will be credited to your account at DTC. See "General Terms of the Exchange Offer and Consent Solicitation."

Do I need to do anything if I do not wish to tender my old notes?

No. If you do not deliver a properly completed and duly executed Letter of Transmittal to the Information and Exchange Agent or tender your old notes electronically through DTC's ATOP before the Expiration Date, your old notes will remain outstanding subject to their terms (as amended pursuant to any amendments resulting from the Consent Solicitation).

If I choose to tender my old notes for exchange, do I have to tender all of my old notes?

No. You may tender a portion of your old notes, all of your old notes or none of your old notes for exchange. See "General Terms of the Exchange Offer and Consent Solicitation."

How will I be taxed under United States federal income tax laws on the exchange of the old notes if I am a United States holder of old notes?

Though it is not free from doubt, we intend to take the position that, the exchange of the old notes for exchange consideration should be treated as part of a recapitalization for United States federal income tax purposes. In such case, you generally should not recognize loss or gain for United States federal income tax purposes as a result of exchanging your old notes for exchange consideration, even if you have otherwise recognized an economic loss or gain with respect to such exchange. You should consult with your own tax advisor regarding the tax consequences of exchanging your old notes. See "Certain United States Federal Income Tax Consequences."

Has the Board of Directors adopted a position on the Exchange Offer?

Our board of directors, which we refer to in this prospectus as the "Board of Directors" or the "Board," has approved the making of the Exchange Offer. However, our directors do not make any recommendation as to whether you should tender your old notes pursuant to the Exchange Offer. You should consult your own financial, tax, legal and other advisors and must make your own decision as to whether to tender your old notes.

Who will pay the fees and expenses associated with the Exchange Offer?

We will bear all of our fees and expenses incurred in connection with consummating the Exchange Offer. No brokerage commissions are payable by the holders to the Information and Exchange Agent or us. If your old notes are held through a broker or other nominee who tenders old notes on your behalf, your broker or other nominee may charge you a commission or fee for doing so. You should consult with your broker or other nominee to determine whether any charges will apply. See "General Terms of the Exchange Offer and Consent Solicitation."

How do I vote for the Proposed Amendments?

If a holder validly tenders old notes prior to 11:59 P.M., New York City time, on the Expiration Date, such tender will be deemed to constitute the delivery of consent to the Proposed Amendments as a holder of old notes with respect to the tendered old notes. See “Proposed Amendments to Existing Indentures and Old Notes.”

Who can answer questions concerning the Exchange Offer?

Requests for assistance in connection with the tender of your old notes pursuant to the Exchange Offer may be directed to the Information and Exchange Agent, D.F. King & Co., Inc., 48 Wall Street, 22nd Floor, New York, New York 10005, Attention: Peter Aymar; phone: (877) 732-3619 or to the Dealer Manager, BofA Merrill Lynch, Attention: Debt Advisory; The Hearst Building, 214 North Tryon Street, 14th Floor, Charlotte, North Carolina 28255, toll-free: (888) 292-0070; collect: (980) 388-4813 and (646) 855-2464.

PROSPECTUS SUMMARY

For the definitions of certain terms and abbreviations used in the oil and natural gas industry, see "Definitions."

Our Company

We are engaged in the acquisition, development, production and exploration of oil and natural gas. Our common stock is listed and traded on the New York Stock Exchange under the symbol "CRK."

Our oil and gas operations are concentrated in Texas and Louisiana. Our oil and natural gas properties are estimated to have proved reserves of 625 Bcfe with a standardized measure of discounted future net cash flows of $372.1 million as of December 31, 2015. Our proved oil and natural gas reserve base is 91% natural gas and 9% oil and was 59% developed as of December 31, 2015.

Our proved reserves at December 31, 2015 and our 2015 average daily production are summarized below:

	Proved Reserves at December 31, 2015				2015 Average Daily Production			
	Oil (MMBbls)	Natural Gas (Bcf)	Total (Bcfe)	% of Total	Oil (MBbls/d)	Natural Gas (MMcf/d)	Total (MMcfe/d)	% of Total
East Texas / North Louisiana	0.3	493.6	495.4	79.3%	0.2	106.9	107.9	59.5%
South Texas	8.8	67.3	119.9	19.2%	8.1	20.3	68.9	38.0%
Other Regions	0.1	8.7	9.7	1.5%	0.2	3.4	4.6	2.5%
Total	9.2	569.6	625.0	100.0%	8.5	130.6	181.4	100.0%

Recent Developments

With the substantial decline in oil and natural gas prices we experienced in 2015, which continued into 2016, we continue to experience declining cash flows and reductions in our overall liquidity. Given current oil and natural gas prices, our operating cash flow is not sufficient to cover our fixed debt service costs and as a result, we have had to fund capital expenditures with asset sale proceeds or from cash on hand. In late 2014 and into 2015, we reduced our drilling activity and released three operated drilling rigs. We substantially reduced our capital spending in 2015 and directed our drilling program to natural gas. We drilled ten horizontal wells on our Haynesville and Bossier shale properties in North Louisiana, employing an enhanced completion design using longer laterals and larger well stimulations. The well results were successful but natural gas prices substantially declined in response to a very warm winter. In order to preserve liquidity, we recently released our last operated rig after drilling and completing three additional successful Haynesville shale wells in 2016. While the reduction in drilling activity will allow us to preserve more of our cash on our balance sheet, it will result in future reductions to our natural gas production and proved oil and natural gas reserves. Without additional drilling in 2016, we expect our natural gas production to decline by 25-30% in 2017.

A successful completion of the Exchange Offer combined with our previous repurchases of $236.9 million of our senior notes in 2015 and 2016 will free up our cash flow from operations to allow us to restart our Haynesville shale drilling program which will allow us to increase our natural gas production and proved oil and gas reserves into 2017 and benefit from improving natural gas prices. To the extent that the Exchange Offer is not completed, we intend to pursue other initiatives to enhance our liquidity. Such initiatives could include entering into a drilling joint venture on our Haynesville shale properties or additional asset divestitures. We may also seek to issue additional secured debt to the extent permitted by the indentures governing the old notes. Such initiatives may help to meet our short-term liquidity needs but may come with terms that diminish our longer-term value and ability to benefit from improving oil and natural gas prices.

We have received a notice of non-compliance with continued listing standards from the New York Stock Exchange (the "NYSE") for our common stock in that our common stock did not meet the minimum trading

price of $1.00 per share and our market capitalization was less than the minimum requirement of $50 million. We have submitted a business plan to the NYSE demonstrating our intent to regain compliance with the NYSE's continued listing standards which has been accepted by the NYSE. As part of the plan to regain compliance, we have effected a one-for-five (1:5) reverse split of our common stock that became effective on July 29, 2016. All share and per share information in this prospectus has been adjusted to reflect the reverse stock split, unless the context otherwise requires.

Strengths

High Quality Properties. Our operations are focused in two operating areas: East Texas/North Louisiana and South Texas. Our properties have an average reserve life of approximately 9.4 years and have extensive development and exploration potential. Our properties in the East Texas/North Louisiana region, which are primarily prospective for natural gas, include 78,759 acres (66,864 net to us) in the Haynesville or Bossier shale formations. Advances in drilling and completion technology have allowed us to increase the reserves recovered through longer horizontal lateral length and substantially larger well stimulation. As a result of the improved economic returns that we achieved with our Haynesville shale natural gas wells, and the continuing decline of oil prices, our 2015 drilling activity primarily targeted natural gas in the Haynesville shale. In our South Texas region, our Eagleville field includes 26,416 acres (19,293 net to us) located in the oil window of the Eagle Ford shale. Our oil development program in the Eagleville field in 2015 was limited to the completion of wells that were drilled in 2014. In addition to our acreage in the Eagle Ford shale, we have 81,421 acres (75,669 net to us) in Mississippi and Louisiana that are prospective for oil development in the Tuscaloosa Marine shale. We did not drill on these properties in 2015 due to the low oil prices throughout the year, and we have extended lease terms on key acreage in this area to hold this oil acreage until prices support further development.

Successful Exploration and Development Program. In 2015, we spent $227.7 million on exploration and development activities, of which $196.4 million was for drilling and completing wells. We drilled 15 wells (13.6 net to us) and completed 23 wells (19.6 net to us). We also spent $13.7 million in 2015 on leasehold costs and $31.3 million for other development costs. Of our 2015 capital expenditures, 48% was directed towards natural gas projects. In 2015, our natural gas drilling program grew our natural gas production by 20% over 2014 and increased our proved natural gas reserves by 167 Bcf.

Efficient Operator. We operated 98% of our proved reserve base as of December 31, 2015. As the operator, we are better able 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.

Successful Acquisitions. We have had significant growth over the years as a result of our acquisition activity. In recent years, we have focused primarily on acquiring undrilled acreage rather than producing properties. We apply strict economic and reserve risk criteria in evaluating acquisitions. Over the past 25 years, we have added 1.1 Tcfe of proved oil and natural gas reserves from 38 acquisitions of producing oil and gas properties at an average cost of $1.17 per Mcfe. Our applications of strict economic and reserve risk criteria have enabled us to successfully evaluate and integrate acquisitions.

Business Strategy

Pursue Exploration Opportunities. Each year, we conduct exploration activities to grow our reserve base and to replace our production. In 2015, we focused on natural gas development as our natural gas projects in the Haynesville and Bossier shales provide us the highest returns within our opportunity set. We deferred further development of our oil properties under the low oil price environment.

In 2015, our Haynesville shale properties were the primary focus of our drilling activity. We have 80,657 acres (68,331 net to us) in East Texas and North Louisiana with Haynesville or Bossier shale natural gas potential. In January 2016, we completed an acreage swap with another operator which increased our Haynesville shale properties by 3,637 net acres in DeSoto Parish, Louisiana. Our 2015 drilling program focused on natural gas development based on a new well design that significantly enhanced the economics of these wells. We spent $109.9 million to drill 10 wells (9.6 net to us) on our Haynesville and Bossier shale properties and to recomplete two wells using the new enhanced completion design.

From 2010 through 2015, we spent approximately $169.5 million leasing acreage in South Texas, in the oil window of the Eagle Ford shale formation. We have in place a joint venture which allows us to accelerate the development of this field. Our joint venture partner participates for a one-third interest in the wells that we drill in exchange for paying $25,000 per net acre that is earned by its participation. Through December 31, 2015, we have drilled 196 wells (138.2 net to us) in our Eagleville field. Our joint venture partner participated in 144 of these wells and contributed $86.0 million through 2015 for acreage and an additional $9.1 million to reimburse us for a portion of common production facilities. During 2015, we completed four oil wells that were drilled on these properties during 2014, but we did not drill any new wells in 2015 and we are not currently anticipating any drilling activity on our oil properties until oil prices improve. In January 2016, we exchanged 2,547 net acres in Atascosa County, Texas for Haynesville shale acreage.

We divested all of our acreage in or near Burleson County, Texas in 2015 which were prospective for oil in the Eagle Ford shale formation. Cash proceeds realized from this sale were $102.5 million. We spent $69.1 million to drill four wells (4.0 net to us) and to complete eight wells (7.8 net to us) on this acreage in 2015 prior to their sale.

Through the end of 2015 we spent $94.2 million to acquire 87,746 acres (81,537 net to us) in Louisiana and Mississippi which are prospective for oil in the Tuscaloosa Marine shale. During 2014 we drilled our first well on this acreage but did not drill any wells in 2015 due to the decline in oil prices. We are not currently anticipating any drilling activity on this acreage during 2016 until oil prices improve. The lease terms on our key acreage in this area were modified during 2015 to allow us to defer drilling activity until 2018.

Enhance Liquidity and Reduce Leverage. With the substantial decline in oil and natural gas prices we experienced in 2015, which continued into 2016, we have taken several steps to enhance liquidity, reduce corporate commitments and ultimately reduce our leverage. In late 2014 and into 2015, we reduced our drilling activity and released three operated drilling rigs. We substantially reduced our capital spending in 2015 and have further reduced activity in 2016. In March 2015, we refinanced our bank revolving credit facility with $700 million of senior secured notes which mature in 2020. The bank revolving credit facility was subject to a semi-annual borrowing base which was based on current oil and gas prices. During 2015 and 2016, we repurchased $236.9 million in principal amount of our senior unsecured notes for $46.1 million in cash and the issuance of 2.7 million shares of our common stock. The repurchases reduced our annual interest expense by $20.6 million.

Exploit Existing Reserves. We seek to maximize the value of our oil and gas properties by increasing production and recoverable reserves through development drilling and workover, recompletion and exploitation activities. We utilize advanced industry technology, including 3-D seismic data, horizontal drilling, enhanced logging tools, and formation stimulation techniques. We spent $4.6 million in 2015 to refrac two of our producing horizontal wells in the Haynesville shale. This pilot program was successful in enhancing production from these wells by 577%. The success of this program supports a future program to re-stimulate many of our 186 producing natural gas shale wells and may also have applicability to our 196 horizontal oil shale wells when well economics support these investments.

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. We operate most of the drilling projects in which we participate. Consequently, we have a significant degree of flexibility to adjust the level of such expenditures according to market conditions. In 2016, we drilled three horizontal Haynesville shale wells and in June 2016 suspended our drilling program. We may restart our drilling program later in 2016 conditioned on our liquidity and industry conditions.

Acquire High Quality Properties at Attractive Costs. Historically, we have had a successful track record of increasing our oil and natural gas reserves through opportunistic acquisitions. Over the past 25 years, we have added 1.1 Tcfe of proved oil and natural gas reserves from 38 acquisitions of producing oil and gas properties at a total cost of $1.3 billion, or $1.17 per Mcfe. In evaluating acquisitions, we apply strict economic and reserve risk criteria. 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.

Markets and Customers

The market for our production of oil and natural gas 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.

Our oil production is currently sold under short-term contracts with a duration of six months or less. The contracts require the purchasers to purchase the amount of oil production that is available at prices tied to the spot oil markets. Our natural gas production is primarily sold under contracts with various terms and priced on first of the month index prices or on daily spot market prices. Approximately 50% of our 2015 natural gas sales were priced utilizing first of the month index prices and approximately 50% were priced utilizing daily spot prices. BP Energy Company and its subsidiaries and Shell Oil Company and its subsidiaries accounted for 52% and 25%, respectively, of our total 2015 sales. The loss of either of these customers would not have a material adverse effect on us as there is an available market for our crude oil and natural gas production from other purchasers.

We have entered into longer term marketing arrangements to ensure that we have adequate transportation to get our natural gas production in North Louisiana to the markets. As an alternative to constructing our own gathering and treating facilities, we have entered into a variety of gathering and treating agreements with midstream companies to transport our natural gas to the long-haul natural gas pipelines. We have entered into certain agreements with a major natural gas marketing company to provide us with firm transportation for 15,000 MMBtu per day for our North Louisiana natural gas production on the long-haul pipelines. These agreements expire from 2016 to 2019. To the extent we are not able to deliver the contracted natural gas volumes, we may be responsible for the transportation costs. Our production available to deliver under these agreements in North Louisiana is expected to exceed the firm transportation arrangements we have in place. In addition, the marketing company managing the firm transportation is required to use reasonable efforts to supplement our deliveries should we have a shortfall during the term of the agreements.

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 and leases for oil and gas exploration.

Summary of the Terms of the Exchange Offer

We refer to the notes to be registered under the registration statement of which this prospectus forms a part as new notes. You may exchange your old notes for new notes and warrants, as the case may be and as further described herein, in this Exchange Offer. You should read the discussion under the headings "General Terms of the Exchange Offer and Consent Solicitation," "Description of New Senior Secured Notes" and "Description of New Convertible Notes" for further information regarding the new notes.

Securities Subject to the Exchange Offer	Any and all of $700.0 million aggregate principal amount of 10% Senior Secured Notes due 2020, any and all of $288.5 million aggregate principal amount of 7 ¾% Senior Notes due 2019 and any and all of $174.6 million aggregate principal amount of 9 ½% Senior Notes due 2020.
The Exchange Offer	We are offering to exchange any and all of our outstanding old notes tendered prior to the Expiration Date for new notes and, in the case of the Old Senior Secured Notes, warrants, upon the terms and subject to the conditions set forth in this prospectus and the accompanying Letter(s) of Transmittal (collectively, as the same may be amended or supplemented from time to time, the "Offer Documents"). Payment of accrued and unpaid interest on each of the old notes will be made in cash on the date on which the Exchange Offer is completed.
Early Tender Date	To be eligible to receive the Early Exchange Consideration, holders must tender the old notes at or prior to 11:59 P.M., New York City time, on September 2, 2016, unless extended by us.
Withdrawal Deadline; Expiration Date and Time	A holder's right to withdraw any old notes tendered will expire at 11:59 P.M., New York City time on September 2, 2016 unless extended by us. See "General Terms of the Exchange Offer and Consent Solicitation—Withdrawal of Tenders; Revocation of Consents." The Exchange Offer will expire at 11:59 P.M., New York City time, on September 2, 2016, unless extended by us. See "General Terms of the Exchange Offer and Consent Solicitation—Early Tender Date, Expiration Date, Extensions, Amendments or Termination."
Exchange Consideration	Eligible holders whose old notes are tendered prior to the Early Tender Date, not validly withdrawn and accepted for exchange will receive the following Early Exchange Consideration: • For each $1,000 principal amount of Old Senior Secured Notes so tendered, $1,000 principal amount of New Senior Secured Notes and warrants exercisable for 2.75 shares of common stock of the Company; • For each $1,000 principal amount of Old 2019 Notes so tendered, $1,000 principal amount of New 2019 Convertible Notes; and

	• For each $1,000 principal amount of Old 2020 Notes so tendered, $1,000 principal amount of New 2020 Convertible Notes. The Early Tender Date and the Expiration Date are currently the same. Accordingly, all holders who tender their old notes prior to the Expiration Date will receive the Early Exchange Consideration. However, if we extend the Expiration Date past the Early Tender Date, eligible holders whose old notes are tendered after the Early Tender Date and prior to the Expiration Date, not validly withdrawn and accepted for exchange will receive the following Late Exchange Consideration: • For each $1,000 principal amount of Old Senior Secured Notes so tendered, $950 principal amount of New Senior Secured Notes and warrants exercisable for 2.75 shares of common stock of the Company; • For each $1,000 principal amount of Old 2019 Notes so tendered, $950 principal amount of New 2019 Convertible Notes; and • For each $1,000 principal amount of Old 2020 Notes so tendered, $950 principal amount of New 2020 Convertible Notes. For additional information regarding the terms of the new notes, see “Description of New Senior Secured Notes” and “Description of New Convertible Notes.”
Accrued Interest	Payment of accrued and unpaid interest on the old notes will be made in cash on the Closing Date.
Proposed Amendments	Holders that tender old notes pursuant to the Exchange Offer prior to the Expiration Date will be deemed automatically to have delivered a consent to the Proposed Amendments with respect to all such old notes. If consents representing a majority of the outstanding principal amount of the respective old notes are delivered (and not revoked) prior to the Expiration Date, we will, subject to consummation of the Exchange Offer, execute supplemental indentures with respect to each series of the old notes with American Stock Transfer & Trust Company, LLC, as successor Trustee. Each such supplemental indenture will eliminate or amend certain of the restrictive covenants contained in the respective indenture governing the applicable series of old notes. If consents from holders representing at least 66 ⅔% of the aggregate outstanding principal amount of the Old Senior Secured Notes are delivered (and not revoked) prior to the Expiration Date, the supplemental indenture with respect to the Old Senior Secured Notes will, subject to the consummation of the Exchange Offer, also release all liens securing the Old Senior Secured Notes. See “Proposed Amendments to Existing Indentures and Old Notes.” Since

	the Minimum Condition threshold is greater than the threshold required to approve the Proposed Amendments and because consents to the Proposed Amendments are required if holders tender their old notes, the minimum threshold for the consents will automatically be achieved if the Minimum Condition is satisfied.
Conditions to the Exchange Offer	Our obligation to accept, and exchange, any old notes validly tendered (and not validly withdrawn) pursuant to the Exchange Offer is conditioned, among other things, upon: (i) the Minimum Condition; (ii) consents with respect to more than 50% of the aggregate principal amount of the old notes approving the Proposed Amendments are delivered and not revoked prior to the Expiration Date in connection with the Consent Solicitation, provided that the requested consent regarding a release of the collateral with respect to the Old Senior Secured Notes requires the consent of at least 66 ⅔% of the aggregate principal amount of the Old Senior Secured Notes; and (iii) the Exchange Offer is completed by September 15, 2016. In addition, pursuant to NYSE rules, we may not issue shares of our common stock representing in excess of 19.9% of our outstanding shares without the approval of our stockholders. If the Exchange Offer is completed, we intend to call a special meeting of stockholders as soon as reasonably practicable for stockholders of record as of the Closing Date (or such later date that we may designate) to consider the following matters: (1) a proposal to amend our restated articles of incorporation to increase the number of shares of our common stock authorized for issuance, in order to provide a sufficient number of authorized shares of common stock for the issuance of shares upon conversion of the New Convertible Notes; (2) a proposal to issue shares of common stock in excess of 19.9% of the currently outstanding shares that would be issued upon conversion of the New Convertible Notes and exercise of the warrants; and (3) any other matters properly brought before the meeting. If stockholder approval is not obtained by December 31, 2016, the New 2019 Convertible Notes and New 2020 Convertible Notes will not be convertible into common stock and such failure to obtain stockholder approval will result in a default under such notes. If such default continues for 90 days, it will become an Event of Default. Such default may in turn result in a default under the New Senior Secured Notes. See “General Terms of the Exchange Offer and Consent Solicitation—Conditions of the Exchange Offer and Consent Solicitation.”
Closing Date	The Closing Date will be promptly after the Expiration Date and is expected to be the first business day after the Expiration Date. Assuming the Exchange Offer is not extended, we expect the Closing Date will be on or about September 6, 2016.
Acceptance of Tenders	All properly completed, executed and delivered Letters of Transmittal and properly tendered old notes received by the Information and Exchange Agent prior to the Expiration Date may be accepted.

Procedure for Tenders	If you wish to participate in the Exchange Offer and your old notes are held by a custodial entity such as a bank, broker, dealer, trust company or other nominee, you must instruct that custodial entity to tender your old notes on your behalf pursuant to the procedures of the custodial entity. Custodial entities that are participants in The Depository Trust Company, or DTC, may tender old notes through DTC's Automated Tender Offer Program, known as ATOP, by which the custodial entity and the beneficial owner on whose behalf the custodial entity is acting agree to be bound by the Letter of Transmittal. Holders may also tender old notes at their option through the completion and delivery to the Information and Exchange Agent of a Letter of Transmittal. See "General Terms of the Exchange Offer and Consent Solicitation—Procedures for Tendering Old Notes." A Letter of Transmittal need not accompany tenders effected through ATOP.
Withdrawal of Tenders	You may withdraw the tender of your old notes at any time prior to 11:59 P.M., New York Time, on September 2, 2016 unless extended by us, by submitting a notice of withdrawal to the Information and Exchange Agent using the procedures described in "General Terms of the Exchange Offer and Consent Solicitation—Withdrawal of Tenders; Revocation of Consents." Any old note withdrawn pursuant to the terms of the Exchange Offer shall not thereafter be considered tendered for any purpose unless and until such old note is again tendered pursuant to the Exchange Offer. Any old notes tendered prior to the Withdrawal Deadline that are not validly withdrawn prior to such Withdrawal Deadline may not be withdrawn thereafter, except as otherwise provided by law.
Further Information	Requests for additional copies of this prospectus and the Letter of Transmittal and questions about the terms of the Exchange Offer should be directed to the Information and Exchange Agent at the address and telephone numbers set forth on the back cover of this prospectus.
Fees and Expenses	We will bear all of our fees and expenses incurred in connection with consummating the Exchange Offer. No brokerage commissions are payable by the holders to the Information and Exchange Agent or us. If your old notes are held through a broker or other nominee who tenders old notes on your behalf, your broker or other nominee may charge you a commission or fee for doing so. You should consult with your broker or other nominee to determine whether any charges will apply. See "General Terms of the Exchange Offer and Consent Solicitation."
Soliciting Dealer Fee	We will agree to pay a soliciting dealer fee equal to $5.00 for each $1,000 principal amount of old notes that are validly tendered for exchange and not validly withdrawn pursuant to the Exchange Offer to retail brokers that are appropriately designated by their clients to

	receive this fee, but only if the old notes of each applicable series that are tendered by or for that beneficial owner have an aggregate equivalent principal amount of $250,000 or less. Soliciting dealer fees will only be paid to retail brokers upon consummation of the Exchange Offer. No soliciting dealer fees will be paid if the Exchange Offer is not consummated, and the fees will be payable thereafter upon request by the soliciting dealers and presentation of such supporting documentation as we may reasonably request.
Extensions, Amendments or Termination	We may extend, in our sole discretion, the Early Tender Date, the Withdrawal Deadline or the Expiration Date. We may terminate the Exchange Offer if the conditions to the Exchange Offer are not met on or prior to the Expiration Date. We reserve the right, subject to applicable law, to (i) waive any and all of the conditions of the Exchange Offer prior to the Expiration Date, or (ii) amend the terms of the Exchange Offer. In the event that the Exchange Offer is terminated, withdrawn or otherwise not consummated prior to the Expiration Date, no new notes will be issued or become payable to holders who have tendered their old notes. In any such event, the old notes previously tendered pursuant to the Exchange Offer will be promptly returned to the tendering holders and the Proposed Amendments will not become effective.
Use of Proceeds	We will not receive any cash proceeds in the Exchange Offer.
Delivery of Letters of Transmittal and Consent	Properly completed and executed Letters of Transmittal and Consent should be sent by mail, first class postage prepaid, overnight courier or hand delivery to the Information and Exchange Agent at the address, or faxed to the Information and Exchange Agent at the facsimile number, set forth on the back cover of this prospectus. In lieu of physically completing and signing the Letter of Transmittal and delivering it to the Information and Exchange Agent, DTC participants may electronically transmit their acceptance of the Exchange Offer through the ATOP procedures described above. Letters of Transmittal and Consent should not be delivered directly to the Company.
Certain United States Federal Income Tax Consequences	For a discussion of the United States federal income tax consequences of the Exchange Offer, see “Certain United States Federal Income Tax Consequences.”
Consequences of Failure To Exchange	Old notes not exchanged will continue to be outstanding according to their terms (as amended pursuant to any amendments resulting from the Consent Solicitation). Because the new notes will be secured by

	certain assets of the Company and the guarantors and the old notes are (or by result of the Proposed Amendments will be) unsecured, any old notes left outstanding after the Exchange Offer will effectively be subordinated to the new notes to the extent of the assets securing the new notes. The Proposed Amendments will also remove certain of the covenants from the indentures governing the old notes. See "Consequences of Not Exchanging Old Notes."
Additional Information	Questions or requests for assistance in completing and delivering the Letter(s) of Transmittal or tendering old notes and requests for additional copies of any Offer Document or other related documents should be directed to the Information and Exchange Agent, at the addresses and telephone numbers set forth on the back cover of this prospectus.
Information and Exchange Agent	D.F. King & Co., Inc.
Dealer Manager	Merrill Lynch, Pierce, Fenner & Smith Incorporated.
Trustee	American Stock Transfer & Trust Company, LLC

THE NEW SENIOR SECURED NOTES

The summary below describes the principal terms of the New Senior Secured Notes. Certain of the terms and conditions described below are subject to important limitations and exceptions. The "Description of New Senior Secured Notes" section of this prospectus contains more detailed descriptions of the terms and conditions of the New Senior Secured Notes.

Issuer	Comstock Resources, Inc.
Notes Offered	$700.0 million aggregate principal amount of Senior Secured Toggle Notes due 2020.
Maturity	The New Senior Secured Notes will mature on March 15, 2020.
Interest Rate	The New Senior Secured Notes will bear interest at a rate of 10.0% per annum, if the Company elects to pay interest in cash, or 12 ¼% per annum, if the Company elects to pay interest in kind, in each case accruing from the issue date of the New Senior Secured Notes; provided, that not more than $91.875 million of interest may be paid in kind on the New Senior Secured Notes.
Interest Payment Dates	Interest on the New Senior Secured Notes will be payable on March 15 and September 15, commencing on March 15, 2017.
Payment-In-Kind Election	Up to an aggregate of $91.875 million of interest will be payable, at the election of the Company (made by delivering a notice to the trustee for the New Senior Secured Notes (the "Senior Secured Notes Trustee") prior to the end of each interest period), by issuing additional New Senior Secured Notes in lieu of all or part of the cash interest that would otherwise be payable.
Use of Proceeds	We will not receive any proceeds in connection with the Exchange Offer.
Collateral	The New Senior Secured Notes will be secured by liens on the Collateral, on an equal and ratable, first priority basis with the obligations under our existing revolving credit facility (the "Revolving Credit Agreement Obligations" and, together with the obligations under the New Senior Secured Notes, the "Pari Passu Obligations"), subject to payment priorities in favor of lenders under our existing revolving credit facility pursuant to the terms of the pari passu intercreditor agreement (as described more fully below). The Collateral will consist of substantially all of the assets of the Company and the subsidiary guarantors.
Guarantees	All of our subsidiaries that guarantee our Old Senior Secured Notes, which consist of all of our subsidiaries in existence on the issue date, will initially guarantee the New Senior Secured Notes. In the future, the New Senior Secured Notes will be guaranteed by all of our future wholly-owned restricted subsidiaries and any of our other subsidiaries that guarantee our existing revolving credit facility. See "Description of New Senior Secured Notes—Subsidiary Guarantees of New Senior Secured Notes" and "Description of New Senior Secured Notes—Certain Covenants—Future Subsidiary Guarantees."

Ranking	The New Senior Secured Notes: • will be our senior obligations; • will rank pari passu in right of payment with all of our existing and future senior indebtedness, subject to the terms of the pari passu intercreditor agreement; • will be secured, on an equal and ratable first priority basis with the Revolving Credit Agreement Obligations (subject to payment priorities in favor of our existing revolving credit facility pursuant to the terms of the pari passu intercreditor agreement and subject to permitted collateral liens) by liens on the same collateral that secure the Revolving Credit Agreement Obligations; • will rank senior in right of payment to any of our existing and future subordinated indebtedness; • will effectively rank senior to all existing and future unsecured senior indebtedness, including the Old Senior Secured Notes (which will become unsecured upon completion of the Exchange Offer), our Old 2019 Notes and our Old 2020 Notes, to the extent of the value of the Collateral; and • will effectively rank senior to our New 2019 Convertible Notes and our New 2020 Convertible Notes, to the extent of the value of the Collateral. The subsidiary guarantees: • will be senior obligations of each subsidiary guarantor; • will rank pari passu in right of payment with all existing and future senior indebtedness of each such subsidiary guarantor, subject to the terms of the pari passu intercreditor agreement; • will be secured, on an equal and ratable first priority basis with the Revolving Credit Agreement Obligations (subject to payment priorities in favor of our existing revolving credit facility pursuant to the terms of the pari passu intercreditor agreement and subject to permitted collateral liens), by liens on the same collateral that secure the Revolving Credit Agreement Obligations; • will rank senior in right of payment to any existing and future subordinated indebtedness of each such guarantor; • will effectively rank senior to all existing and future unsecured senior indebtedness of such subsidiary guarantor, including the Old Senior Secured Notes, the Old 2019 Notes and the Old 2020 Notes, to the extent of the value of the Collateral; and • will effectively rank senior to each subsidiary guarantor’s guarantee of the New 2019 Convertible Notes and the New 2020 Convertible Notes to the extent of the value of the Collateral.

Intercreditor Agreements	The allocation of the proceeds of the Collateral among the New Senior Secured Notes and our existing revolving credit facility will be governed by a pari passu intercreditor agreement. The pari passu intercreditor agreement will provide that (i) our existing revolving credit facility will have priority of payment as to the proceeds of the Collateral securing obligations up to an amount of $50.0 million plus accrued and unpaid interest, fees, costs and expenses, any swap obligations we or our subsidiaries enter into with our revolving credit lenders or their affiliates and letters of credit outstanding (the "priority obligations") and (ii) subsequent to the satisfaction in full, in cash, of the priority obligations, the New Senior Secured Notes will be entitled to the proceeds of the Collateral. The Controlling Agent will control (i) the exercise of remedies relating to the Collateral and (ii) certain amendments to the Collateral Agreements governing the Collateral, including releases of liens thereunder. "Controlling Agent" means the administrative agent under our existing revolving credit facility until the earlier of (x) the satisfaction in full, in cash, of the priority obligations or (y) the passage of 180 days after an event of default under the indenture with respect to the New Senior Secured Notes has occurred, such obligations have been accelerated, and the Senior Secured Notes Trustee has provided notice thereof to the Controlling Agent, and provided that the Controlling Agent has not taken action to exercise remedies within such 180 day time period. In addition, the allocation of the proceeds of the Collateral among the Pari Passu Obligations and the obligations under the New 2019 Convertible Notes and the New 2020 Convertible Notes (the "Junior Lien Obligations") will be governed by a junior lien intercreditor agreement. The junior lien intercreditor agreement will provide that the Pari Passu Obligations will have priority of payment as to the proceeds of the Collateral securing both the Pari Passu Obligations and the Junior Lien Obligations.
Optional Redemption	We may redeem some or all of the New Senior Secured Notes at redemption prices that decrease over time, plus accrued and unpaid interest and additional amounts, if any, to the redemption date. See "Description of New Senior Secured Notes—Redemption—Optional Redemption."
Change of Control Offer	Upon the occurrence of a change of control (as defined in "Description of New Senior Secured Notes—Certain Definitions"), each holder of New Senior Secured Notes may require us to repurchase some or all of its New Senior Secured Notes at a price equal to 101% of the principal amount thereof, plus accrued and unpaid interest, if any, to the repurchase date. See "Description of New Senior Secured Notes—Certain Covenants—Change of Control."

Asset Sale Offer	We may be required to offer to use all or a portion of the net proceeds of certain asset sales to purchase New Senior Secured Notes at a price equal to 100% of the principal amount thereof, plus accrued and unpaid interest, if any, to the repurchase date. See "Description of New Senior Secured Notes—Certain Covenants—Limitation on Asset Sales."
Certain Covenants	We will issue the New Senior Secured Notes under an indenture. The indenture governing the New Senior Secured Notes will contain covenants that, among other things, will limit our and our restricted subsidiaries' ability to: • pay dividends, purchase or redeem our capital stock or our or our subsidiary guarantor's junior lien, unsecured and subordinated indebtedness or make other restricted payments; • incur or guarantee additional indebtedness or issue preferred stock; • create or incur liens; • create unrestricted subsidiaries; • enter into transactions with affiliates; • enter into new lines of business; and • transfer or sell assets or enter into mergers. The covenants in the New Senior Secured Notes are substantially the same as the covenants in the Old Senior Secured Notes. The indenture governing the New Senior Secured Notes will also contain covenants that limit our and our subsidiaries' ability to consummate a merger or consolidation and that limit our ability to consummate a sale of all or substantially all of their assets. These covenants are subject to important exceptions and qualifications. See "Description of New Senior Secured Notes—Certain Covenants." Many of these covenants will cease to apply to the New Senior Secured Notes during any period that the New Senior Secured Notes have investment grade ratings from both Moody's Investors Service, Inc. ("Moody's") and S&P Global Ratings ("S&P") and no default has occurred and is continuing under the indenture governing the New Senior Secured Notes. See "Description of New Senior Secured Notes—Covenant Suspension."
Risk Factors	You should consider carefully all of the information set forth or incorporated by reference in this prospectus and, in particular, the information under the heading "Risk Factors" beginning on page 20 of this prospectus.

THE NEW CONVERTIBLE NOTES

The summary below describes the principal terms of the New Convertible Notes. Certain of the terms and conditions described below are subject to important limitations and exceptions. The "Description of New Convertible Notes" section of this prospectus contains more detailed descriptions of the terms and conditions of the New Convertible Notes.

Issuer	Comstock Resources, Inc.
Notes Offered	Up to $288,516,000 aggregate principal amount of 7 ¾% Convertible Secured PIK Notes due 2019 (the "New 2019 Convertible Notes") Up to $174,607,000 aggregate principal amount of 9 ½% Convertible Secured PIK Notes due 2020 (the "New 2020 Convertible Notes" and, together with the New 2019 Convertible Notes, the "New Convertible Notes")
Maturity	The New 2019 Convertible Notes will mature on April 1, 2019. The New 2020 Convertible Notes will mature on June 15, 2020.
Interest Rate	The New 2019 Convertible Notes will bear interest at a rate of 7 ¾% per annum, accruing from the issue date of the New 2019 Convertible Notes. The New 2020 Convertible Notes will bear interest at a rate of 9 ½% per annum, accruing from the issue date of the New 2020 Convertible Notes.
Interest Payment Dates	Interest on the New 2019 Convertible Notes will be payable on April 1 and October 1, commencing on April 1, 2017. Interest on the New 2020 Convertible Notes will be payable on June 15 and December 15, commencing on December 15, 2016.
Payment-In-Kind	For each series of New Convertible Notes, interest will be payable solely by issuing additional notes in an amount equal to the applicable amount of interest for the interest period (rounded down to the nearest whole dollar). No scheduled interest payments on the New Convertible Notes will be made in cash.
Use of Proceeds	We will not receive any proceeds in connection with the Exchange Offer.
Collateral	Each series of New Convertible Notes will be secured by liens on the Collateral, on a second priority basis, subject to (i) the liens securing the obligations under our existing revolving credit facility (the "Revolving Credit Agreement Obligations") and the New Senior Secured Notes (together with the Revolving Credit Agreement Obligations, the "Priority Lien Obligations") and (ii) permitted collateral liens. The Collateral for the New Convertible Notes is the same as the collateral for the Revolving Credit Obligations and the New Senior Secured Notes.

Guarantees	All of our subsidiaries that guarantee our Old 2019 Notes and Old 2020 Notes, which consist of all of our subsidiaries in existence on the issue date of each series of New Convertible Notes, will initially guarantee the New Convertible Notes. In the future, the New Convertible Notes will be guaranteed by any future wholly-owned restricted subsidiary that has outstanding or guarantees any other indebtedness of ours or our subsidiary guarantors. See "Description of New Convertible Notes—Junior Lien Subsidiary Guarantees of New Convertible Notes" and "Description of New Convertible Notes—Certain Covenants—Future Junior Lien Subsidiary Guarantees."
Ranking	The New Convertible Notes: • will be our senior obligations; • will rank pari passu in right of payment with all of our existing and future senior indebtedness; • will be secured, on a second priority basis, subject to the Priority Lien Obligations and permitted collateral liens, by junior liens on the same collateral that secures such Priority Lien Obligations; • will rank senior in right of payment to any of our existing and future subordinated indebtedness; • will effectively rank senior to all existing and future unsecured senior indebtedness, including the Old Senior Secured Notes (which will become unsecured upon completion of the Exchange Offer), our Old 2019 Notes and our Old 2020 Notes, to the extent of the value of the Collateral; and • will effectively be subordinated, pursuant to the terms of the Junior Lien Intercreditor Agreement (as defined below), to all Priority Lien Obligations, to the extent of the value of the Collateral. The subsidiary guarantees: • will be senior obligations of each subsidiary guarantor; • will rank pari passu in right of payment with all existing and future senior indebtedness of each such subsidiary guarantor; • will be secured, on a second priority basis, subject to the Priority Lien Obligations and permitted collateral liens, by junior liens on the same collateral that secures such Priority Lien Obligations; • will rank senior in right of payment to any existing and future subordinated indebtedness of each such guarantor; • will effectively rank senior to all existing and future unsecured senior indebtedness of such subsidiary guarantor, including the Old Senior Secured Notes, the Old 2019 Notes and the Old 2020 Notes, to the extent of the value of the Collateral; and

	• will effectively be subordinated, pursuant to the terms of the Junior Lien Intercreditor Agreement, to all Priority Lien Obligations, to the extent of the value of the Collateral.
Junior Lien Intercreditor Agreement	The allocation of the proceeds of the Collateral among the Priority Lien Obligations and the New Convertible Notes will be governed by a junior lien intercreditor agreement (the "Junior Lien Intercreditor Agreement"). The Junior Lien Intercreditor Agreement will provide that the Priority Lien Obligations will have priority of payment as to the proceeds of the Collateral securing both the Priority Lien Obligations and the New Convertible Notes.
Collateral Trust Agreement	The New Convertible Notes will be subject to a collateral trust agreement that will set forth the terms on which the junior lien collateral agent will receive, hold, administer, maintain, enforce and distribute the proceeds of all liens upon the Collateral held by it, in trust for the benefit of the holders of the New Convertible Notes. The junior lien collateral agent will hold (directly or through co-trustees or agents), and, subject to the terms of the Junior Lien Intercreditor Agreement, will be entitled to enforce, all liens on the Collateral securing the New Convertible Notes.
Optional Redemption	We may redeem some or all of each series of New Convertible Notes at redemption prices payable in cash that decrease over time, plus accrued and unpaid interest and additional amounts, if any, to the redemption date. See "Description of New Convertible Notes—Redemption—Optional Redemption of the New 2019 Convertible Notes" and "Description of New Convertible Notes—Redemption—Optional Redemption of the New 2020 Convertible Notes."
Conversion Rights	At any time following issuance, the New 2019 Convertible Notes and the New 2020 Convertible Notes will be convertible, subject to and following receipt of required stockholder approval and the effectiveness of an amendment to our restated articles of incorporation, at the option of the holder, into shares of our common stock at a conversion rate of 81.2 shares of common stock per $1,000 principal amount of such new notes (equivalent to a conversion price of approximately $12.32 per share of common stock), which will be subject to customary adjustments with respect to, among other things, dividends and distributions, mergers and reclassifications.
Mandatory Conversion	Subject to and following receipt of required stockholder approval and the effectiveness of an amendment to our restated articles of incorporation, the New 2019 Convertible Notes and New 2020 Convertible Notes will be mandatorily convertible into shares of our common stock at the conversion rate then in effect per $1,000 principal amount of such notes on or before the third business day

	following required notice of the 15 consecutive trading day period during which the daily volume weighted average price on the relevant stock exchange for our common stock is equal to or greater than $12.32 per share. Any holder who would own in excess of 9.99% of the outstanding shares of our common stock or otherwise be considered an "affiliate" under the Securities Act and/or Exchange Act upon conversion of the New Convertible Notes will have the right to request that we file a registration statement on Form S-3 with respect to the resale of such shares pursuant to a registration rights agreement. See "Description of New Convertible Notes—Conversion Rights."
Change of Control Offer	Upon the occurrence of a change of control (as defined in "Description of New Convertible Notes—Certain Definitions"), each holder of each series of New Convertible Notes may require us to repurchase some or all of its New Convertible Notes at a price in cash equal to 101% of the principal amount thereof, plus accrued and unpaid interest, if any, to the repurchase date. See "Description of New Convertible Notes—Certain Covenants—Change of Control."
Asset Sale Offer	We may be required to offer to use all or a portion of the net proceeds of certain asset sales to purchase New Convertible Notes in each series at a price in cash equal to 100% of the principal amount thereof, plus accrued and unpaid interest, if any, to the repurchase date. See "Description of New Convertible Notes—Certain Covenants—Limitation on Asset Sales."
Certain Covenants	We will issue each series of New Convertible Notes under an indenture. The indentures governing the New Convertible Notes will contain covenants that, among other things, will limit our and our restricted subsidiaries' ability to: • pay dividends, purchase or redeem our capital stock or our or our subsidiary guarantor's subordinated indebtedness or make other restricted payments; • incur or guarantee additional indebtedness or issue preferred stock; • create or incur liens; • create unrestricted subsidiaries; • enter into transactions with affiliates; • enter into new lines of business; and • transfer or sell assets or enter into mergers. The covenants for each series of the New Convertible Notes are substantially the same as the covenants in the Old 2019 Notes and the Old 2020 Notes except that the indentures governing the New

	Convertible Notes will (i) prohibit the Company and its restricted subsidiaries from directly or indirectly creating, incurring, assuming or suffering to exist any Lien of any kind securing Indebtedness on any of their respective property or assets, except for permitted liens and (ii) permit investments in unrestricted subsidiaries and joint ventures in an aggregate amount not to exceed at any one time outstanding $25,000,000. The indentures governing the New Convertible Notes will also contain covenants that limit our and our subsidiaries' ability to consummate a merger or consolidation and that limit our ability to consummate a sale of all or substantially all of their assets. Many of these covenants will cease to apply to a series of New Convertible Notes during any period that such New Convertible Notes have investment grade ratings from both Moody's Investors Service, Inc. ("Moody's") and S&P Global Ratings ("S&P") and no default has occurred and is continuing under the applicable indenture governing the New Convertible Notes. See "Description of New Convertible Notes—Covenant Suspension." These covenants are subject to important exceptions and qualifications. See "Description of New Convertible Notes—Certain Covenants."
Risk Factors	You should consider carefully all of the information set forth or incorporated by reference in this prospectus and, in particular, the information under the heading "Risk Factors" beginning on page 20 of this prospectus.

Consequences of Not Exchanging Old Notes

If you currently hold old notes and do not tender them, then, following completion of the Exchange Offer, your old notes will continue to be outstanding according to their terms (as amended pursuant to any amendments resulting from the Consent Solicitation). Because the new notes will be secured by certain assets of the Company and the guarantors and the old notes are (or by result of the Proposed Amendments will be) unsecured, any old notes left outstanding after the Exchange Offer will effectively be subordinated to the new notes to the extent of the assets securing the new notes. The Proposed Amendments will also remove certain of the covenants from the indentures governing the old notes. Moreover, if we complete the Exchange Offer, the liquidity of any old notes that remain outstanding after completion of the Exchange Offer may be adversely affected and the value of the old notes may otherwise be affected by the completion of the Exchange Offer.

Corporate Information

Our principal executive offices are located at 5300 Town and Country Blvd., Suite 500, Frisco, Texas 75034 and our telephone number is (972) 668-8800. Our website can be found on the Internet at http://www.comstockresources.com. Information on our website is not deemed to be a part of this prospectus. Our common stock is currently listed on the New York Stock Exchange under the symbol “CRK.”

RISK FACTORS

You should carefully consider the risk factors set forth below as well as the other information contained in this prospectus before investing in the new notes. The risks described below are not the only risks facing us. Additional risks and uncertainties not currently known to us or those we currently view to be immaterial may also materially and adversely affect our business, financial condition or results of operations. Any of the following risks could materially and adversely affect our business, financial condition or results of operations. In such a case, you may lose all or part of your investment.

Risks Related to the Exchange Offer and Holding the New Notes

Risks Relating to the Exchange Offer and Consent Solicitation

We may not complete the Exchange Offer and Consent Solicitation.

Our ability to make required payments under our indebtedness would be adversely affected if we were to be unable to complete the Exchange Offer and Consent Solicitation. The purpose of the Exchange Offer is to restructure the terms of our outstanding notes to promote our long-term financial viability through the issuance of the exchange consideration.

The completion of the Exchange Offer and Consent Solicitation is subject to the satisfaction, or in certain cases, waiver of specified conditions. It is a condition to the completion of the Exchange Offer that, among other things, (i) holders of not less than 67% in aggregate principal amount of the Old Senior Secured Notes having validly tendered (and not validly withdrawn) their old notes in the Exchange Offer; (ii) holders of not less than 90% in total aggregate principal amount of the Old 2019 Notes and Old 2020 Notes (on a combined basis) having validly tendered (and not validly withdrawn) their old notes in the Exchange Offer (collectively, the "Minimum Condition"); (iii) consents approving the Proposed Amendments with respect to more than 50% of the aggregate principal amount of each series of the old notes (except regarding the release of the collateral with respect to the Old Senior Secured Notes which requires not less than 66 ⅔% of the aggregate principal amount) are delivered and not revoked prior to the Expiration Date; and (iv) the Exchange Offer is completed by September 15, 2016. If the conditions to the completion of the Exchange Offer and Consent Solicitation are not satisfied or, if permitted, waived, the Exchange Offer may not be completed.

If we are unable to consummate the Exchange Offer and Consent Solicitation, we will consider other restructuring alternatives available to us at that time. Any alternative restructuring could be on terms less favorable to the holders of old notes than the terms of the Exchange Offer and Consent Solicitation.

If we are unable to consummate the Exchange Offer and Consent Solicitation, we will consider other restructuring alternatives available to us at that time. Those alternatives may include asset dispositions, joint ventures, additional debt or the commencement of a Chapter 11 proceeding with or without a pre–arranged plan of reorganization. Moreover, there can be no assurance that any alternative out–of–court restructuring arrangement or plan will be pursued or accomplished. Any alternative restructuring could be on terms less favorable to the holders of old notes than the terms of the Exchange Offer and Consent Solicitation. If a protracted and non–orderly reorganization were to occur, there is a risk that the ability of the holders to recover their investments would be substantially delayed and more impaired than under the proposed Exchange Offer restructuring.

A long and protracted restructuring could cause us to lose key management employees and otherwise adversely affect our business.

If we fail to consummate the Exchange Offer and Consent Solicitation, any alternative we pursue, whether in or out of court, may take substantially longer to consummate than the Exchange Offer and Consent Solicitation. A protracted financial restructuring could disrupt our business and would divert the attention of our management

from the operation of our business and implementation of our business plan. It is possible that such a prolonged financial restructuring or bankruptcy proceeding would cause us to lose many of our key management employees. Such losses of key management employees would likely make it difficult for us to complete a financial restructuring and may make it less likely that we will be able to continue as a viable business.

The uncertainty surrounding a prolonged financial restructuring could also have other adverse effects on us. For example, it could also adversely affect:

- our ability to raise additional capital;
- our ability to capitalize on business opportunities and react to competitive pressures;
- our ability to attract and retain employees;
- our liquidity;
- how our business is viewed by investors, lenders, strategic partners or customers; and
- our enterprise value.

Our ability to use our NOLs to offset our future income may be limited.

For United States federal income tax purposes, it is possible that a "Section 382 ownership change" could occur as a result of the transactions contemplated by the Exchange Offer (in particular, as a result of the conversion of all of the New Convertible Notes). In the event such a Section 382 ownership change occurs, our ability to use our tax loss carryforwards and other tax attributes would be restricted. See "Certain United States Federal Income Tax Consequences."

We will incur significant costs in conducting the Exchange Offer and Consent Solicitation.

The Exchange Offer and Consent Solicitation have resulted, and will continue to result, in significant costs to us, including advisory and professional fees paid in connection with evaluating our alternatives under the old notes and pursuing the Exchange Offer and Consent Solicitation.

We have not obtained a third–party determination that the Exchange Offer is fair to holders of the old notes.

We are not making a recommendation as to whether holders of the old notes should exchange their old notes or consent to the Proposed Amendments. We have not retained and do not intend to retain any unaffiliated representative to act solely on behalf of the holders of the old notes for purposes of negotiating the Exchange Offer or preparing a report concerning the fairness of the Exchange Offer. We cannot assure holders of the old notes that the value of the exchange consideration received in the Exchange Offer will in the future equal or exceed the value of the old notes tendered, and we do not take a position as to whether you ought to participate in the Exchange Offer and Consent Solicitation.

If the Exchange Offer is consummated, holders of old notes that do not exchange their old notes in the Exchange Offer will be subject to certain risks.

If the Exchange Offer is consummated, holders that do not validly tender their old notes in the Exchange Offer will not be entitled to receive exchange consideration. The New Convertible Notes and the related guarantees will become secured second lien obligations and, assuming adoption of the Proposed Amendments, will effectively rank senior in right of payment to the old notes to the extent of the value of the collateral securing such new obligations.

If the Exchange Offer is consummated, the Proposed Amendments to the Existing Indentures and old notes will become effective, and will substantially reduce, and in some cases eliminate entirely, the covenant protection, collateral security, certain event of default protection, and other provisions of the old notes. See "Proposed Amendments to Existing Indentures and Old Notes."

In addition, consummation of the Exchange Offer and Consent Solicitation would substantially reduce the aggregate principal amount of old notes outstanding, which could adversely affect the trading market, if any, for the untendered old notes. This could adversely affect the liquidity, market price, and price volatility of any untendered old notes. If a market for untendered old notes exists, such old notes may trade at a discount to the price at which the old notes would trade if the amount outstanding had not been reduced, depending on prevailing interest rates, the market for similar securities, and other factors.

You may find it difficult to sell your new notes.

The new notes are a new issue of securities and, although the new notes will be registered under the Securities Act, the new notes will not be listed on any securities exchange. Because there is no public market for the new notes, you may not be able to resell them.

We cannot assure you that an active market will develop for the new notes or that any trading market that does develop will be liquid. If an active market does not develop or is not maintained, the market price and liquidity of the new notes may be adversely affected. If a market for the new notes develops, they may trade at a discount from their historic trading prices. Any trading market for the new notes may be adversely affected by:

- changes in the overall market for non-investment grade securities;
- changes in our financial performance or prospects;
- the financial performance or prospects for companies in our industry generally;
- the number of holders of the new notes;
- the interest of securities dealers in making a market for the new notes; and
- prevailing interest rates and general economic conditions.

Historically, the market for non-investment grade debt has been subject to substantial volatility in prices. The market for the new notes, if any, may be subject to similar volatility. Prospective investors in the new notes should be aware that they may be required to bear the financial risks of such investment for an indefinite period of time.

Consideration paid to holders in the Exchange Offer could be subject to avoidance as a preferential transfer.

If we were to become a debtor in a case under the U.S. Bankruptcy Code within 90 days after the consummation of the Exchange Offer (or, with respect to any insiders, as defined in the U.S. Bankruptcy Code, within one year after consummation of the Exchange Offer) and certain other conditions were met, it is possible that the consideration paid to holders of old notes in the Exchange Offer, absent any of the U.S. Bankruptcy Code's defenses to avoidance, could be subject to avoidance, in whole or in part, as a preferential transfer and, to the extent avoided, the value of such consideration could be recovered from such holders and possibly from subsequent transferees.

Risks Related to Holding the New Notes

To service our indebtedness, including the new notes, we will require a significant amount of cash. Our ability to generate cash depends on many factors beyond our control.

Our ability to pay our expenses and make payments due on our indebtedness, including the new notes, depends on our future performance, which will be affected by financial, business, economic, legislative and other factors, many of which are beyond our control. The new notes contain pay-in-kind (PIK) interest provisions which reduce the cash needed to pay interest while increasing the principal amount of notes that ultimately must be retired with a cash payment. Our business may not generate sufficient cash flow from operations in the future, which could

result in our being unable to pay interest in cash or repay indebtedness, including the new notes, or to fund other liquidity needs. A range of economic, competitive, business and industry factors will affect our future financial performance, and many of these factors, such as oil, NGL and natural gas prices, economic and financial conditions in our industry and the global economy and initiatives of our competitors, are beyond our control. If we do not generate enough cash flow from operations to satisfy our debt obligations, we may have to undertake alternative financing plans, such as:

- selling assets;
- pursuing joint ventures;
- reducing or delaying capital investments;
- seeking to raise additional capital; or
- restructuring or refinancing all or a portion of our indebtedness, including the new notes, at or before maturity.

We cannot assure you that we will be able to accomplish any of these alternatives on terms acceptable to us, or at all. In addition, the terms of existing or future debt agreements may restrict us from adopting any of these alternatives. The failure to generate sufficient cash flow or to achieve any of these alternatives could materially adversely affect the value of the new notes and our ability to pay the amounts due under such notes.

Rights of holders of new notes in the collateral may be adversely affected by the failure to have, obtain and/or perfect liens on certain assets.

Subject to certain exceptions, the liens securing the new notes will cover substantially all of our and the subsidiary guarantors' assets, whether now owned or acquired in the future. Applicable law requires that certain property and rights acquired after the grant of a general security interest or lien can only be perfected at the time such property and rights are acquired and identified. There can be no assurance that the Trustee or the collateral agent will monitor, or that we will inform the Trustee or the collateral agent of, the future acquisition of property and rights that constitute collateral, and that the necessary action will be taken to properly perfect the lien on such after acquired collateral. The collateral agent for the new notes has no obligation to monitor the acquisition of additional property or rights that constitute collateral or the perfection of any security interests therein. Such failure may result in the loss of the liens thereon or of the priority of the liens securing the new notes.

Our substantial level of indebtedness could materially adversely affect our financial condition and prevent us from fulfilling our obligations under the new notes and any other indebtedness.

We have a substantial amount of debt. As of August 29, 2016, we had $1.2 billion principal amount of total funded indebtedness consisting of the old notes in the aggregate principal amount of $1.2 billion. The respective indentures governing the new notes will allow us to continue to maintain a senior secured revolving credit facility and incur certain other additional indebtedness, including pari passu senior secured indebtedness in certain circumstances. Our substantial indebtedness could have important consequences to you and significant effects on our business, including the following:

- it may make it difficult for us to satisfy our obligations under the new notes and our other indebtedness and contractual and commercial commitments and, if we fail to comply with these requirements, an event of default could result;
- we will be required to use a substantial portion of our cash flow from operations to make payments on the new notes and any other indebtedness, which will reduce the funds available to us for other purposes, such as funding operations or other business activities;
- we will be more vulnerable to economic downturns and adverse developments in our business;

- our ability to obtain additional debt financing in the future for working capital, capital expenditures, acquisitions or general corporate purposes may be limited;
- our flexibility in reacting to changes in our industry may be limited and we could be more vulnerable to adverse changes in our business or economic conditions in general; and
- we may be at a competitive disadvantage compared to our competitors that are not as highly leveraged.

The occurrence of any one of these events could have a material adverse effect on our business, financial condition, results of operations, prospects and ability to satisfy our obligations under the new notes.

We are a holding company, and therefore our ability to make any required payments on our indebtedness depends upon the ability of our subsidiaries to pay dividends or to advance funds.

We have no direct operations and no significant assets other than the equity interests of our subsidiaries. Because we conduct our operations through our operating subsidiaries, we depend on those entities for dividends and other payments to generate the funds necessary to meet our financial obligations, including our required obligations under the new notes. However, each of our subsidiaries is a legally distinct entity, and while our subsidiaries will guarantee the new notes, such guarantees are subject to risks. See "—Risks Relating to the Exchange Offer and Consent Solicitation—Consideration paid to holders in the Exchange Offer could be subject to avoidance as a preferential transfer"; "—Risks Related to Holding the New Notes—A court could cancel the new notes or the related guarantees of our existing and future restricted subsidiaries under fraudulent conveyance laws or certain other circumstances" and "—Rights of holders of new notes in the collateral may be adversely affected by the failure to have, obtain and/or perfect liens on certain assets." The ability of our subsidiaries to pay dividends and make distributions to us will be subject to, among other things, the terms of any debt instruments of our subsidiaries then in effect and applicable law. If distributions from our subsidiaries to us were eliminated, delayed, reduced or otherwise impaired, our ability to make payments on the new notes would be substantially impaired.

Despite our substantial level of indebtedness, we may still incur significantly more debt, which could exacerbate any or all of the risks described above.

The PIK interest feature of the new notes will increase the aggregate amount of debt that must be repaid at maturity or otherwise. In addition, we may be able to incur other substantial indebtedness in the future. Although the indentures governing the new notes will limit our ability and the ability of our subsidiaries to incur additional indebtedness, these restrictions are subject to a number of qualifications and exceptions and, under certain circumstances, debt incurred in compliance with these restrictions could be substantial. In addition, the indentures governing the new notes may not prevent us from incurring obligations that do not constitute indebtedness. See "Description of New Senior Secured Notes" and "Description of New Convertible Notes." To the extent that we incur additional indebtedness or such other obligations, the risks associated with our substantial leverage described above, including our possible inability to service our debt, would increase.

The new notes will contain restrictive covenants that limit our operational flexibility.

The new notes will contain covenants that, among other things, restrict our ability to take specific actions, even if we believe them to be in our best interest. These covenants will include restrictions on our ability to:

- incur or guarantee additional indebtedness or issue certain preferred stock;
- pay dividends or make other distributions;
- issue capital stock of our restricted subsidiaries;
- transfer or sell assets, including the capital stock of our restricted subsidiaries;
- make certain investments or acquisitions;
- grant liens on our assets;

- incur dividend or other payment restrictions affecting our restricted subsidiaries;
- enter into certain transactions with affiliates; and
- merge, consolidate or transfer all or substantially all of our assets.

Our failure to comply with these restrictions could lead to a default under the new notes. The actual covenants will be contained in the indentures governing the new notes. See "Description of New Senior Secured Notes—Certain Covenants" and "Description of New Convertible Notes—Certain Covenants."

The restrictive covenants in the new notes may permit us to enter into and contribute assets to joint ventures and to effect asset sales or other dispositions that may not benefit holders of the new notes.

The indentures governing the new notes will permit us, in certain circumstances, to contribute assets to joint ventures that may not guarantee the new notes. In addition, we will have 365 days to apply the proceeds of asset sales before we are required to make an offer to repurchase the new notes. During such period, we can use such proceeds in any manner not prohibited by the indentures governing the new notes. See "Description of New Senior Secured Notes—Certain Covenants" and "Description of New Convertible Notes—Certain Covenants."

The indebtedness under our revolving credit facility and New Senior Secured Notes will be effectively senior to the New 2019 Convertible Notes and New 2020 Convertible Notes to the extent of the value of the collateral securing those obligations.

Assuming completion of the Exchange Offer as contemplated hereby, we do not expect to have any amounts outstanding under our revolving credit facility at the completion of the Exchange Offer, with $50.0 million available for borrowing. Assuming 100% participation in the Exchange Offer, we expect to have $700.0 million of New Senior Secured Notes, $288.5 million of New 2019 Convertible Notes and $174.6 million of New 2020 Convertible Notes outstanding at the completion of the Exchange Offer.

The New Senior Secured Notes will be secured on an equal and ratable first priority basis with our revolving credit facility but subject to payment priority in favor of the credit facility. The New Convertible Notes will be secured on a second priority basis, subject to the obligations under the revolving credit facility and the New Senior Secured Notes, by junior liens on the same collateral that secures the revolving credit facility and the New Senior Secured Notes. To the extent the value of the collateral is not sufficient to satisfy the obligations under the revolving credit facility and the New Senior Secured Notes, the New Convertible Notes would effectively be unsecured obligations.

We may be unable to maintain compliance with certain financial ratio covenants of our outstanding indebtedness which could result in an event of default that, if not cured or waived, would have a material adverse effect on our business, financial condition and results of operations.

We are in compliance with our financial ratio covenants in our debt agreements as of June 30, 2016. However, we cannot guarantee that we will be able to comply with such terms at all times in the future. Any failure to comply with the conditions and covenants that is not waived by our lenders or otherwise cured could lead to an event of default that would have a material adverse effect on our business, financial condition and results of operations. These restrictions may limit our ability to obtain future financings to withstand a future downturn in our business or the economy in general, or to otherwise conduct necessary corporate activities. We may also be prevented from taking advantage of business opportunities that arise because of the limitations that the restrictive covenants under our indebtedness impose on us.

The new notes will be structurally subordinated to all liabilities of any of our non–guarantor subsidiaries.

Not all of our future subsidiaries will guarantee the new notes. If any of our future non-guarantor subsidiaries becomes insolvent, liquidates, reorganizes, dissolves or otherwise winds up, holders of its indebtedness and its

trade creditors generally will be entitled to payment on their claims from the assets of such subsidiary before any of those assets would be made available to us. Consequently, your claims in respect of the new notes effectively would be subordinated to all of the existing and future liabilities of our future non-guarantor subsidiaries, if any.

There are circumstances other than repayment or discharge of the new notes under which the collateral securing the new notes and guarantees would be released automatically, without your consent or the consent of the indenture trustee and the collateral agent.

Pursuant to the indentures governing the new notes, under various circumstances all or a portion of the collateral securing the new notes and guarantees would be released automatically without your consent or the consent of the indenture trustee and the collateral agent, including:

- in the absence of an event of default under the indentures governing the new notes at such time, with respect to the collateral, upon the release of liens securing our revolving credit facility and the New Senior Secured Notes in accordance with the terms of such agreements;
- upon the sale, transfer or other disposition of such collateral in a transaction not prohibited under the indentures governing the new notes;
- with respect to collateral held by a guarantor, upon the release of such guarantor from its guarantee in accordance with the indentures governing the new notes;
- with the consent of the holders of the requisite percentage of notes in accordance with the provisions described under “Description of New Senior Secured Notes—Amendments and Waivers” and “Description of New Convertible Notes—Amendments and Waivers;” and
- in other circumstances specified in the intercreditor agreements, including in connection with the exercise of remedies by the collateral agent.

See “Description of New Senior Secured Notes—The Pari Passu Intercreditor Agreement” and “Description of New Convertible Notes—The Junior Lien Intercreditor Agreement.”

The indentures governing the new notes will also permit us to designate one or more of our subsidiaries as unrestricted subsidiaries, subject to certain conditions. If we designate a subsidiary as an unrestricted subsidiary, all of the liens on any collateral owned by such unrestricted subsidiary or any of its subsidiaries and any guarantees of the notes by such unrestricted subsidiary or any of its subsidiaries will be automatically released under the indentures. Designation of one or more of our subsidiaries as an unrestricted subsidiary will therefore reduce the aggregate value of the collateral securing the notes.

The imposition of certain permitted liens may cause the assets on which such liens are imposed to be excluded from the collateral securing the new notes and the guarantees. There are also certain other categories of property that are excluded from the collateral.

The indentures governing the new notes will permit us and the guarantors to grant certain permitted liens in favor of third parties and, in certain cases, any assets subject to such liens will be automatically excluded from the collateral securing the new notes and the guarantees to the extent inclusion in such collateral would be prohibited by the documents relating to such permitted liens.

In the event of our bankruptcy or the bankruptcy of any of the guarantors, the ability of the holders of the new notes to realize upon the collateral will be subject to certain bankruptcy law limitations.

The ability of holders of the new notes to realize upon the collateral will be subject to certain bankruptcy law limitations in the event of our bankruptcy or the bankruptcy of our guarantor subsidiaries. Under applicable U.S. federal bankruptcy laws, secured creditors are prohibited from, among other things, repossessing their security from a debtor in a bankruptcy case without bankruptcy court approval and may be prohibited from retaining security repossessed by such creditor without bankruptcy court approval. Moreover, applicable federal

bankruptcy laws generally permit the debtor to continue to retain collateral, including cash collateral, even though the debtor is in default under the applicable debt instruments, provided that the secured creditor is given "adequate protection."

The secured creditor is entitled to "adequate protection" to protect the value of the secured creditor's interest in the collateral as of the commencement of the bankruptcy case but the adequate protection actually provided to a secured creditor may vary according to the circumstances. Adequate protection may include cash payments or the granting of additional security if and at such times as the court, in its discretion and at the request of such creditor, determines after notice and a hearing that the collateral has diminished in value as a result of the imposition of the automatic stay or the debtor's use, sale or lease of such collateral during the pendency of the bankruptcy case. In view of the lack of a precise definition of the term "adequate protection" and the broad discretionary powers of a U.S. bankruptcy court, we cannot predict whether or when the Trustee and collateral agent under the indentures governing the new notes could foreclose upon or sell the collateral or whether or to what extent holders of notes would be compensated for any delay in payment or loss of value of the collateral through the requirement of "adequate protection."

Moreover, the Trustee and collateral agent under the indentures governing the new notes may need to evaluate the impact of the potential liabilities before determining to foreclose on collateral consisting of real property, if any, because secured creditors that hold a security interest in real property may be held liable under environmental laws for the costs of remediating or preventing the release or threatened releases of hazardous substances at such real property. Consequently, the collateral agent may decline to foreclose on such collateral or exercise remedies available in respect thereof if it does not receive indemnification to its satisfaction from the holders of the new notes.

In the event of a bankruptcy of us or any of the guarantors, holders of the New Senior Secured Notes and/or the New Convertible Notes may be deemed to have an unsecured claim to the extent that our obligations in respect of the New Senior Secured Notes and/or the New Convertible Notes exceed the fair market value of the collateral securing the New Senior Secured Notes and/or the New Convertible Notes, respectively.

In any bankruptcy proceeding with respect to us or any of the guarantors, it is possible that the bankruptcy trustee, the debtor-in-possession or competing creditors will assert that the fair market value of the collateral (taking into account the relative priority of the liens securing the New Senior Secured Notes and the New Convertible Notes) available to satisfy the New Senior Secured Notes and/or the New Convertible Notes on the date of the bankruptcy filing was less than the then-current principal amount of the New Senior Secured Notes and/or the New Convertible Notes, respectively. Upon a finding by the bankruptcy court that any of the new notes are under-collateralized, the claims in the bankruptcy proceeding with respect to that series of notes would be bifurcated between a secured claim in an amount equal to the value of such collateral and an unsecured claim with respect to the remainder of its claim which would not be entitled to the benefits of security in the collateral. Other consequences of a finding of under-collateralization would be, among other things, a lack of entitlement on the part of the new notes that are under-collateralized to receive post-petition interest and a lack of entitlement on the part of the unsecured portion of such new notes to receive "adequate protection" under federal bankruptcy laws. In addition, if any payments of post-petition interest had been made at any time prior to such a finding of under-collateralization, those payments would be recharacterized by the bankruptcy court as a reduction of the principal amount of the secured claim with respect to the new notes that are under-collateralized. Further, in any bankruptcy proceeding with respect to us or any of the guarantors, the holders of the New Senior Secured Notes will have priority of payment over the holders of the New 2019 Convertible Notes and New 2020 Convertible Notes, to the extent of the value of the collateral for the new notes.

The value of the collateral securing the New Senior Secured Notes and/or the New Convertible Notes may not be sufficient to secure post-petition interest.

In the event of a bankruptcy proceeding with respect to us or any of the guarantors, holders of the new notes will only be entitled to post-petition interest under the U.S. Bankruptcy Code to the extent that the value of their

security interest in the collateral is greater than their pre-bankruptcy claim (taking into account the relative priority of the liens securing the New Senior Secured Notes and the New Convertible Notes). Holders of any series of new notes that have a security interest in collateral with a value equal or less than their pre-bankruptcy claim will not be entitled to post-petition interest under the U.S. Bankruptcy Code. The value of the new note holders' interest in the collateral may change over time, and may not equal or exceed the principal amount of the new notes. Further, in any bankruptcy proceeding with respect to us or any of the guarantors, the holders of the New Senior Secured Notes will have priority of payment over the holders of the New 2019 Convertible Notes and New 2020 Convertible Notes, to the extent of the value of the collateral for the new notes.

In the event of our bankruptcy or the bankruptcy of any of the guarantors, the present grant, and any future grant, of a lien on collateral might be challenged as preferences under certain circumstances and, if successful, avoided.

The present grant, and any future grant of a lien on the collateral in favor of the Trustee and the collateral agent might be avoidable under the preference laws by the person granting such lien (as debtor-in-possession) or by its trustee or other creditor representative in bankruptcy if certain events or circumstances exist or occur, including if the person granting such lien is insolvent at the time the lien is granted, the lien permits the holders of the notes to receive a greater recovery in the bankruptcy than if the lien had not been given and a bankruptcy proceeding in respect of the person granting such lien is commenced within 90 days following the date the lien was granted. If such claims are filed, the allowance of your claim under the new notes and subsidiary guarantees, as applicable (including your right to a distribution in the bankruptcy case on account of such debt obligations) may be suspended or disallowed pending the outcome of such claims in court. To the extent a challenge to a lien succeeded in court, you would lose the benefit of the security or recourse that the collateral was intended to provide.

Security over certain collateral, including all mortgages on oil and gas properties, on which a lien in favor of the collateral agent is required, may not be perfected on the Closing Date.

Security interests over certain collateral, including all mortgages on oil and gas properties, which are required under the indentures governing the new notes, may not be perfected on the Closing Date. To the extent such security interests are not perfected on such date, we will be required to have such security interests thereafter perfected promptly, but in no event later than the date that is 60 days after the Closing Date, but there can be no assurance that such security interest will be perfected on a timely basis. In the event that more than a reasonable time passes between the issuance of the notes and the perfection of the security interests on the oil and gas properties, such security interests may be set aside or avoided as a preferential transfer if the collateral grantor becomes a debtor that is the subject of a voluntary or involuntary bankruptcy case under the U.S. Bankruptcy Code (or under certain similar state law insolvency proceedings) on or before 90 days from the perfection of the security interests. In the event of such a determination in such bankruptcy case or insolvency proceeding, the collateral agent will not have a security interest in that collateral.

The value of the collateral securing the new notes may not be sufficient to satisfy our and the guarantors' obligations under the new notes and the guarantees.

No appraisal of the value of the collateral has been made in connection with this Exchange Offer, and the fair market value of the collateral is subject to fluctuations based on factors that include general economic conditions and similar factors. The amount to be received upon a sale of the collateral would be dependent on numerous factors, including the actual fair market value of the collateral at such time, the timing and the manner of the sale and the availability of buyers. By its nature, portions of the collateral may be illiquid and may have no readily ascertainable market value. Accordingly, in the event of a foreclosure, liquidation, bankruptcy or similar proceeding, the collateral may not be sold in a timely or orderly manner, and the proceeds from any sale or liquidation of the collateral may not be sufficient to satisfy our and the guarantors' obligations under the new notes and the guarantees.

To the extent that pre-existing liens, liens permitted under the indentures governing the new notes and other rights, including liens on excluded property (in addition to the holders of obligations secured by higher-priority liens), encumber any of the collateral securing the new notes and the guarantees, those parties have or may exercise rights and remedies with respect to the collateral that could adversely affect the value of the collateral and the ability of the collateral agent, the indenture Trustee or the holders of the new notes to realize or foreclose on the collateral.

Your security interest in certain items of present and future collateral may not be perfected. Even if your security interests in certain items of collateral are perfected, it may not be practicable for you to enforce or economically benefit from your rights with respect to such security interests.

The security interests are not perfected with respect to certain items of collateral that cannot be perfected by the filing of financing statements in each debtor's jurisdiction of organization, the filing of mortgages, the delivery of possession of certificated securities, the filing of a notice of security interest with the U.S. Patent and Trademark Office or the U.S. Copyright Office or certain other conventional methods to perfect security interests in the U.S. Security interests in collateral such as deposit accounts and securities accounts, which require or benefit from additional special filings or other actions or the obtaining of additional consents, may not be perfected or may not have priority with respect to the security interests of other creditors. We and the guarantors will have limited obligations to perfect the security interest of the holders of the new notes in specified collateral. To the extent that your security interests in any items of collateral are unperfected, your rights with respect to such collateral are equal to the rights of our general unsecured creditors in the event of any bankruptcy filed by or against us under applicable United States federal bankruptcy laws.

In addition, applicable law requires that certain property and rights acquired after the grant of a general security interest can only be perfected at the time such property and rights are acquired and identified. Necessary action may not be taken to properly perfect the security interest in such after-acquired collateral. Failure to perfect security interests may invalidate such security interests, limit the assets included in the collateral and block the exercise of remedies with respect to such assets. Moreover, the collateral agent may need to obtain the consent of a governmental agency to obtain or enforce a security interest in certain of the collateral or to otherwise operate our business. We cannot assure you that the collateral agent will be able to obtain any such consent or that any such consent will not be delayed, the event of which may adversely affect your rights as holders. Moreover, the collateral agent in exercising its rights to foreclose on certain assets may need to commence governmental proceedings in order to obtain any necessary governmental approvals. As a result, there may be prolonged delays in receiving such approval, or such approval may not be granted to the collateral agent, the result of which may adversely affect your rights as holders.

A court could cancel the new notes or the related guarantees of our existing and future restricted subsidiaries under fraudulent conveyance laws or certain other circumstances.

Our issuance of the new notes and the issuance of the related guarantees by our existing and future restricted subsidiaries (as well as the respective liens on collateral securing such obligations) may be subject to review under federal or state fraudulent transfer or similar laws.

All of our existing and certain of our future restricted subsidiaries will guarantee the new notes. If we or such a subsidiary becomes a debtor in a case under the Bankruptcy Code or encounters other financial difficulty, under federal or state laws governing fraudulent conveyance, renewable transactions or preferential payments, a court in the relevant jurisdiction might avoid or cancel the guarantee and/or the respective liens securing such guarantee. The court might do so if it found that, when the subsidiary entered into its guarantee or, in some states, when payments become due thereunder, (a) it received less than reasonably equivalent value or fair consideration for such guarantee and (b) either (i) was or was rendered insolvent, (ii) was left with inadequate capital to conduct its business, or (iii) believed or should have believed that it would incur debts beyond its ability to pay. The court might also avoid such guarantee or lien, without regard to the above factors, if it found that the subsidiary entered into its guarantee or granted liens with actual or deemed intent to hinder, delay, or defraud its creditors.

A court would likely find that a subsidiary did not receive reasonably equivalent value or fair consideration for its guarantee unless it benefited directly or indirectly from the issuance of the related notes. If a court avoided such guarantee, you would no longer have a claim against such subsidiary or the collateral granted by such subsidiary to secure its guarantee. In addition, the court might direct you to repay any amounts already received from such subsidiary. If the court were to avoid any guarantee, we cannot assure you that funds would be available to pay the related notes from another subsidiary or from any other source.

The indentures governing the new notes will state that the liability of each guarantor on its guarantee is limited to the maximum amount that the subsidiary can incur without risk that the guarantee will be subject to avoidance as a fraudulent conveyance. This limitation may not protect the guarantees from a fraudulent conveyance attack or, if it does, we cannot assure you that the guarantees and the collateral granted by such subsidiary to secure its guarantee will be in amounts sufficient, if necessary, to pay obligations under the new notes when due.

Similarly, if we become a debtor in a case under the Bankruptcy Code or encounter other financial difficulty, a court might cancel our obligations under the new notes and related liens, if it found that when we issued the such notes (or in some jurisdictions, when payments become due under such notes or granted liens), factors (a) and (b) above applied to us, or if it found that we issued such notes with actual intent to hinder, delay or defraud our creditors.

Even though the New 2019 Convertible Notes and the New 2020 Convertible Notes are convertible into shares of our common stock, the terms of such new notes will not provide protection against some types of important corporate events.

The New 2019 Convertible Notes and New 2020 Convertible Notes are, subject to certain conditions, convertible into shares of our common stock. Upon the occurrence of certain change of control events, we may be required to offer to repurchase all of the new notes then outstanding. However, certain important corporate events, such as leveraged recapitalizations, that would increase the level of our indebtedness, would not constitute a “change of control” under the new notes. See “Description of New Convertible Notes.”

The convertibility of the New 2019 Convertible Notes and New 2020 Convertible Notes will be delayed until required stockholder approval is obtained and will result in a default if such approval is not obtained.

If the required stockholder approval of the issuance of additional shares of common stock and other related actions in connection with the Exchange Offer is not obtained promptly or at all, the convertibility of the New 2019 Convertible Notes and New 2020 Convertible Notes will be delayed until such approval is obtained. If such stockholder approval is not received by December 31, 2016, the inability to obtain such approval will result in a default under the New 2019 Convertible Notes and New 2020 Convertible Notes. If such default continues for 90 days, it will become an Event of Default. Such default may in turn result in a default under the New Senior Secured Notes.

The market price of the New 2019 Convertible Notes and the New 2020 Convertible Notes could be significantly affected by the market price of our common stock, which may fluctuate significantly.

We expect that the market price of the New 2019 Convertible Notes and the New 2020 Convertible Notes will be significantly affected by the market price of our common stock. This may result in greater volatility in the trading value for the New 2019 Convertible Notes and the New 2020 Convertible Notes than would be expected for nonconvertible debt securities. Factors that could affect our common stock price include the following:

- fluctuations in our quarterly results of operations and cash flows or those of other companies in our industry;
- the public’s reaction to our press releases, announcements and filings with the SEC;
- additions or departures of key personnel;

- changes in financial estimates or recommendations by research analysts;
- changes in the amount of indebtedness we have outstanding;
- changes in the ratings of the new notes or our other securities;
- changes in general conditions in the United States and international economy, financial markets or the industry in which we operate, including changes in regulatory requirements;
- significant contracts, acquisitions, dispositions, financings, joint marketing relationships, joint ventures or capital commitments by us or our competitors;
- developments related to significant claims or proceedings against us;
- our dividend policy; and
- future sales of our equity or equity–linked securities.

In recent years, stock markets, including the NYSE, have experienced extreme price and volume fluctuations. This volatility has had a significant effect on the market price of securities issued by many companies for reasons unrelated to the operating performance of these companies. These broad market fluctuations may adversely affect the market prices of our common stock and the new notes.

The issuances of our common stock in connection with the conversion of the New Convertible Notes and the exercise of the warrants would cause substantial dilution, which could materially affect the trading price of our common stock and earnings per share.

The New Convertible Notes are, subject to certain conditions, convertible into shares of our common stock. In addition, the warrants issued pursuant to the Exchange Offer are exercisable for shares of our common stock. As a result, substantial amounts of our common stock may be issued subsequent to the Exchange Offer. If the maximum number of shares of common stock issuable in connection with the conversion of the New Convertible Notes and the exercise of the warrants are issued, such shares would represent approximately 80.8% of our outstanding shares. Such issuances could result in substantial decreases to our stock price and earnings per share.

The conversion rate of the New Convertible Notes may not be adjusted for all dilutive events that may occur.

The conversion rate of the New Convertible Notes is subject to adjustment for certain events including, but not limited to, the issuance of stock dividends on our common stock, the issuance of certain rights or warrants, subdivisions or combinations of our common stock, certain distributions of assets, debt securities, capital stock or cash to holders of our common stock and certain tender or exchange offers as described under “Description of New Convertible Notes—Conversion Rights.” The conversion rate will not be adjusted for other events, such as certain stock issuances for cash, that may adversely affect the trading price of the new notes.

You may be required to pay taxes on ordinary interest income over the term of the new notes without receiving cash payments to pay such taxes.

The new notes will be considered to be issued with original issue discount (“OID”). A United States Holder generally will be required to accrue and recognize its share of OID as ordinary interest income over the term of the new notes, possibly in advance of the receipt of any cash payments attributable to such income. See “Certain United States Federal Income Tax Consequences—Consequences to United States Holders—Consequences of Holding New Notes—Stated Interest; Original Issue Discount.”

As a holder of the new notes and/or warrants, you will not be entitled to any rights with respect to our common stock, but you will be subject to all changes made with respect to our common stock.

If you hold any of our new notes or warrants, you will not be entitled to any rights with respect to our common stock (including, without limitation, voting rights and rights to receive any dividends or other distributions, if

any, on our common stock), but you will be subject to all changes affecting our common stock. You will have rights with respect to our common stock only when we deliver shares of common stock to you upon conversion of your New Convertible Notes and, in limited cases, under the conversion rate adjustments applicable to the new notes, or upon exercise of warrants granted in connection with the issuance of the New Senior Secured Notes. For example, if an amendment is proposed to our restated articles of incorporation or amended and restated bylaws requiring stockholder approval and the record date for determining the stockholders of record entitled to vote on the amendment occurs prior to the delivery of common stock, if any, to you, you will not be entitled to vote on the amendment, although you will nevertheless be subject to any changes in the powers, preferences or special rights of our common stock.

The repurchase rights in the new notes triggered by a change of control could discourage a potential acquiror.

The repurchase rights in the new notes triggered by a change of control, as described under the headings "Description of New Senior Secured Notes—Certain Covenants—Change of Control" and "Description of New Convertible Notes—Certain Covenants—Change of Control," could discourage a potential acquiror from engaging in a transaction that may be beneficial to the holders of our common stock and might impact the value of the new notes.

We may not have the ability to purchase the new notes upon a change of control or upon certain sales or other dispositions of assets, or to make the cash payment due upon conversion or at maturity.

If a change of control, as described under the headings "Description of New Senior Secured Notes—Certain Covenants—Change of Control" and "Description of New Convertible Notes—Certain Covenants—Change of Control," occurs, holders of the new notes may require us to repurchase, for cash, all or a portion of their new notes. In addition, upon certain sales or other dispositions of assets, we may be obligated to make offers to purchase the new notes with a portion of the net available cash of such sales or other dispositions. We may not have sufficient funds to pay the repurchase price when due. In addition, our current and future debt or other agreements may restrict our ability to make cash payments in connection with the repurchase of the new notes upon a change of control or upon certain asset sales or other dispositions. For example, the existing revolving credit facility does not permit cash payments in connection with the repurchase of the notes upon a change of control if an event of default under the revolving credit facility then exists or would result from such payment. If we fail to repurchase the new notes when required, we will be in default under the indentures governing the new notes. See "Description of New Senior Secured Notes—Certain Covenants—Change of Control"; and "—Limitation on Asset Sales" and "Description of New Convertible Notes—Certain Covenants—Change of Control"; and "—Limitation on Asset Sales."

While the issuance of the New Convertible Notes to holders who tender their old notes will not be subject to Nevada's "Combination with Interested Stockholders" statute, a transferee of such New Convertible Notes could be subject to such statute.

Under Nevada's Combination With Interested Stockholders statute, an "interested stockholder" may not enter into a "combination" with a Nevada corporation for a period of two years after becoming an interested stockholder. While each initial holder of the New Convertible Notes (those parties that tender old notes) could be considered an "interested stockholder" upon conversion of the New Convertible Notes, the statute contains an exception which would prevent application of the statute to the initial holders because the Exchange Offer received prior approval of our board of directors. However, this exception would not apply to any transferee of such notes, and each transferee could be considered an "interested stockholder" if the transferee otherwise meets the definition of "interested stockholder" and thus would be subject to the provisions of the statute. The application of the statute could have a negative effect on your ability to transfer the New Convertible Notes. See "Description of Common Stock—Anti-Takeover Provisions—Combination with Interested Stockholders Statute."

Risks Related to Our Business

An extended period of depressed oil and natural gas prices will adversely affect our business, financial condition, cash flow, liquidity, results of operations and our ability to meet our capital expenditure obligations and financial commitments.

Our business is heavily dependent upon the prices of, and demand for, oil and natural gas. Historically, the prices for oil and natural gas have been volatile and are likely to remain volatile in the future. Oil and natural gas prices have declined substantially since mid 2014 and have continued to decline into 2016. For example, during the year ended December 31, 2015, commodity prices changed significantly, with the settlement price for West Texas Intermediate ("WTI") crude oil ranging from a high of approximately $61.43 per barrel to a low of approximately $34.73 per barrel and settlement prices for Henry Hub natural gas ranging from a high of approximately $3.23 per Mcf to a low of approximately $1.76 per Mcf. Oil and natural gas price weakness continued into 2016 and, through June 30, 2016, the WTI settlement price of crude oil had a low of approximately $26.21 per barrel, and the Henry Hub settlement price of natural gas had a low of approximately $1.78 per Mcf.

The prices we receive for our oil and natural gas production are subject to wide fluctuations and depend on numerous factors beyond our control, including the following:

- the domestic and foreign supply of oil, NGLs and natural gas;
- weather conditions;
- the price and quantity of imports of oil and natural gas;
- political conditions and events in other oil-producing and natural gas-producing countries, including embargoes, hostilities in the Middle East and other sustained military campaigns, and acts of terrorism or sabotage;
- the actions of the Organization of Petroleum Exporting Countries, or OPEC;
- domestic government regulation, legislation and policies;
- the level of global oil and natural gas inventories;
- technological advances affecting energy consumption;
- the price and availability of alternative fuels; and
- overall economic conditions.

Lower oil and natural gas prices will adversely affect:

- our revenues, profitability and cash flow from operations;
- the value of our proved oil and natural gas reserves;
- the economic viability of certain of our drilling prospects;
- our borrowing capacity; and
- our ability to obtain additional capital.

Our debt service requirements could adversely affect our operations and limit our growth.

We had $1.2 billion principal amount of debt as of August 29, 2016.

Our outstanding debt has important consequences, including, without limitation:

- a portion of our cash flow from operations is required to make debt service payments;
- our ability to borrow additional amounts for capital expenditures (including acquisitions) or other purposes is limited; and
- our debt limits our ability to capitalize on significant business opportunities, our flexibility in planning for or reacting to changes in market conditions and our ability to withstand competitive pressures and economic downturns.

In addition, future acquisition or development activities may require us to alter our capitalization significantly. These changes in capitalization may significantly increase our debt. Moreover, our ability to meet our debt service obligations and to reduce our total debt will be dependent upon our future performance, which will be subject to general economic conditions and financial, business and other factors affecting our operations, many of which are beyond our control. If we are unable to generate sufficient cash flow from operations in the future to service our indebtedness and to meet other commitments, we will be required to adopt one or more alternatives, such as refinancing or restructuring our indebtedness, selling material assets or seeking to raise additional debt or equity capital. We cannot assure you that any of these actions could be effected on a timely basis or on satisfactory terms or that these actions would enable us to continue to satisfy our capital requirements.

Our debt agreements contain a number of significant covenants. These covenants limit our ability to, among other things:

- borrow additional money;
- merge, consolidate or dispose of assets;
- make certain types of investments;
- enter into transactions with our affiliates; and
- pay dividends.

Our failure to comply with any of these covenants could cause a default under our revolving credit facility and the respective indentures governing the old notes and new notes. A default, if not waived, could result in acceleration of our indebtedness, in which case the debt would become immediately due and payable. If this occurs, we may not be able to repay our debt or borrow sufficient funds to refinance it given the current status of the credit markets. Even if new financing is available, it may not be on terms that are acceptable to us. Complying with these covenants may cause us to take actions that we otherwise would not take or not take actions that we otherwise would take.

Our access to capital markets may be limited in the future.

Adverse changes in the financial and credit markets could negatively impact our ability to grow production and reserves and meet our future obligations. In addition, the continuation of the current low oil and natural gas price environment, or further declines of oil and natural gas prices, will affect our ability to obtain financing for acquisitions and drilling activities and could result in a reduction in drilling activity which results in the loss of acreage through lease expirations, both of which could negatively affect our ability to replace reserves.

Our future production and revenues depend on our ability to replace our reserves.

Our future production and revenues depend upon our ability to find, develop or acquire additional oil and natural gas reserves that are economically recoverable. Our proved reserves will generally decline as reserves are depleted, except to the extent that we conduct successful exploration or development activities or acquire

properties containing proved reserves, or both. To increase reserves and production, we must continue our acquisition and drilling activities. We cannot assure you that we will have adequate capital resources to conduct acquisition and drilling activities or that our acquisition and drilling activities will result in significant additional reserves or that we will have continuing success drilling productive wells at low finding and development costs. Furthermore, while our revenues may increase if prevailing oil and natural gas prices increase significantly, our finding costs for additional reserves could also increase.

Prospects that we decide to drill may not yield oil or natural gas in commercially viable quantities or quantities sufficient to meet our targeted rate of return.

A prospect is a property in which we own an interest or have operating rights and that has what our geoscientists believe, based on available seismic and geological information, to be an indication of potential oil or natural gas. Our prospects are in various stages of evaluation, ranging from a prospect that is ready to be drilled to a prospect that will require substantial additional evaluation and interpretation. There is no way to predict in advance of drilling and testing whether any particular prospect will yield oil or natural gas in sufficient quantities to recover drilling or completion costs or to be economically viable. The use of seismic data and other technologies and the study of producing fields in the same area will not enable us to know conclusively prior to drilling whether oil or natural gas will be present or, if present, whether oil or natural gas will be present in commercial quantities. The analysis that we perform using data from other wells, more fully explored prospects and/or producing fields may not be useful in predicting the characteristics and potential reserves associated with our drilling prospects. If we drill additional unsuccessful wells, our drilling success rate may decline and we may not achieve our targeted rate of return.

Our business involves many uncertainties and operating risks that can prevent us from realizing profits and can cause substantial losses.

Our success depends on the success of our exploration and development activities. Exploration activities involve numerous risks, including the risk that no commercially productive natural gas or oil reserves will be discovered. In addition, these activities may be unsuccessful for many reasons, including weather, cost overruns, equipment shortages and mechanical difficulties. Moreover, the successful drilling of a natural gas or oil well does not ensure we will realize a profit on our investment. A variety of factors, both geological and market-related, can cause a well to become uneconomical or only marginally economical. In addition to their costs, unsuccessful wells can hurt our efforts to replace production and reserves.

Our business involves a variety of operating risks, including:

- unusual or unexpected geological formations;
- fires;
- explosions;
- blow-outs and surface cratering;
- uncontrollable flows of natural gas, oil and formation water;
- natural disasters, such as hurricanes, tropical storms and other adverse weather conditions;
- pipe, cement, or pipeline failures;
- casing collapses;
- mechanical difficulties, such as lost or stuck oil field drilling and service tools;
- abnormally pressured formations; and
- environmental hazards, such as natural gas leaks, oil spills, pipeline ruptures and discharges of toxic gases.

If we experience any of these problems, well bores, gathering systems and processing facilities could be affected, which could adversely affect our ability to conduct operations.

We could also incur substantial losses as a result of:

- injury or loss of life;
- severe damage to and destruction of property, natural resources and equipment;
- pollution and other environmental damage;
- clean-up responsibilities;
- regulatory investigation and penalties;
- suspension of our operations; and
- repairs to resume operations.

We maintain insurance against "sudden and accidental" occurrences, which may cover some, but not all, of the risks described above. Most significantly, the insurance we maintain will not cover the risks described above which occur over a sustained period of time. Further, there can be no assurance that such insurance will continue to be available to cover all such cost or that such insurance will be available at a cost that would justify its purchase. The occurrence of a significant event not fully insured or indemnified against could have a material adverse effect on our financial condition and results of operations.

We operate in a highly competitive industry, and our failure to remain competitive with our competitors, many of which have greater resources than we do, could adversely affect our results of operations.

The oil and natural gas industry is highly competitive in the search for and development and acquisition of reserves. Our competitors often include companies that have greater financial and personnel resources than we do. These resources could allow those competitors to price their products and services more aggressively than we can, which could hurt our profitability. Moreover, our ability to acquire additional properties and to discover reserves in the future will be dependent upon our ability to evaluate and select suitable properties and to close transactions in a highly competitive environment.

If oil and natural gas prices decline further or remain depressed for an extended period of time, we may be required to further write-down the carrying values and/or the estimates of total reserves of our oil and natural gas properties, which would constitute a non-cash charge to earnings and adversely affect our results of operations.

Accounting rules applicable to us require that we review periodically the carrying value of our oil and natural gas properties for possible impairment. Based on specific market factors and circumstances at the time of prospective impairment reviews and the continuing evaluation of development plans, production data, economics and other factors, we may be required to write down the carrying value of our oil and natural gas properties. A write-down constitutes a non-cash charge to earnings. During 2015, we recognized impairments of $801.3 million which reduced the carrying value of our oil and natural gas properties. We may incur additional non-cash charges in the future, which could have a material adverse effect on our results of operations in the period taken. We may also reduce our estimates of the reserves that may be economically recovered, which could have the effect of reducing the total value of our reserves.

Our reserve estimates depend on many assumptions that may turn out to be inaccurate. Any material inaccuracies in our reserve estimates or underlying assumptions will materially affect the quantities and present value of our reserves.

Reserve engineering is a subjective process of estimating the recovery from underground accumulations of oil and natural gas that cannot be precisely measured. The accuracy of any reserve estimate depends on the quality of available data, production history and engineering and geological interpretation and judgment. Because all reserve estimates are to some degree imprecise, the quantities of oil and natural gas that are ultimately recovered, production and operating costs, the amount and timing of future development expenditures and future oil and natural gas prices may all differ materially from those assumed in these estimates. The information regarding present value of the future net cash flows attributable to our proved oil and natural gas reserves is only estimated and should not be construed as the current market value of the oil and natural gas reserves attributable to our properties. Thus, such information includes revisions of certain reserve estimates attributable to proved properties included in the preceding year's estimates. Such revisions reflect additional information from subsequent activities, production history of the properties involved and any adjustments in the projected economic life of such properties resulting from changes in product prices. Any future downward revisions could adversely affect our financial condition, our borrowing ability, our future prospects and the value of our common stock.

As of December 31, 2015, 41% of our total proved reserves were undeveloped and 10% were developed non-producing. These reserves may not ultimately be developed or produced. Furthermore, not all of our undeveloped or developed non-producing reserves may be ultimately produced at the time periods we have planned, at the costs we have budgeted, or at all. As a result, we may not find commercially viable quantities of oil and natural gas, which in turn may result in a material adverse effect on our results of operations.

Some of our undeveloped leasehold acreage is subject to leases that will expire unless production is established on units containing the acreage.

Leases on oil and gas properties normally have a term of three to five years and will expire unless, prior to expiration of the lease term, production in paying quantities is established. If the leases expire and we are unable to renew them, we will lose the right to develop the related properties. Our drilling plans for these areas are subject to change based upon various factors, including drilling results, commodity prices, the availability and cost of capital, drilling and production costs, availability of drilling services and equipment, gathering system and pipeline transportation constraints and regulatory approvals.

We pursue acquisitions as part of our growth strategy and there are risks in connection with acquisitions.

Our growth has been attributable in part to acquisitions of producing properties and companies. More recently we have been focused on acquiring acreage for our drilling program. We expect to continue to evaluate and, where appropriate, pursue acquisition opportunities on terms we consider favorable. However, we cannot assure you that suitable acquisition candidates will be identified in the future, or that we will be able to finance such acquisitions on favorable terms. In addition, we compete against other companies for acquisitions, and we cannot assure you that we will successfully acquire any material property interests. Further, we cannot assure you that future acquisitions by us will be integrated successfully into our operations or will increase our profits.

The successful acquisition of producing properties requires an assessment of numerous factors beyond our control, including, without limitation:

- recoverable reserves;
- exploration potential;
- future oil and natural gas prices;

- operating costs; and
- potential environmental and other liabilities.

In connection with such an assessment, we perform a review of the subject properties that we believe to be generally consistent with industry practices. The resulting assessments are inexact and their accuracy uncertain, and such a review may not reveal all existing or potential problems, nor will it necessarily permit us to become sufficiently familiar with the properties to fully assess their merits and deficiencies. Inspections may not always be performed on every well, and structural and environmental problems are not necessarily observable even when an inspection is made.

Additionally, significant acquisitions can change the nature of our operations and business depending upon the character of the acquired properties, which may be substantially different in operating and geologic characteristics or geographic location than our existing properties. While our current operations are focused in Texas, Louisiana and Mississippi, we may pursue acquisitions or properties located in other geographic areas.

If we are unsuccessful at marketing our oil and natural gas at commercially acceptable prices, our profitability will decline.

Our ability to market oil and natural gas at commercially acceptable prices depends on, among other factors, the following:

- the availability and capacity of gathering systems and pipelines;
- federal and state regulation of production and transportation;
- changes in supply and demand; and
- general economic conditions.

Our inability to respond appropriately to changes in these factors could negatively affect our profitability.

Market conditions or operational impediments may hinder our access to oil and natural gas markets or delay our production.

Market conditions or the unavailability of satisfactory oil and natural gas transportation arrangements may hinder our access to oil and natural gas markets or delay our production. The availability of a ready market for our oil and natural gas production depends on a number of factors, including the demand for and supply of oil and natural gas and the proximity of reserves to pipelines and processing facilities. Our ability to market our production depends in a substantial part on the availability and capacity of gathering systems, pipelines and processing facilities, in some cases owned and operated by third parties. Our failure to obtain such services on acceptable terms could materially harm our business. We may be required to shut in wells for a lack of a market or because of the inadequacy or unavailability of pipelines or gathering system capacity. If that were to occur, then we would be unable to realize revenue from those wells until arrangements were made to deliver our production to market.

We are subject to extensive governmental laws and regulations that may adversely affect the cost, manner or feasibility of doing business.

Our operations and facilities are subject to extensive federal, state and local laws and regulations relating to the exploration for, and the development, production and transportation of, oil and natural gas, and operating safety. Future laws or regulations, any adverse changes in the interpretation of existing laws and regulations or our failure to comply with existing legal requirements may harm our business, results of operations and financial condition. We may be required to make large and unanticipated capital expenditures to comply with governmental laws and regulations, such as:

- lease permit restrictions;

- drilling bonds and other financial responsibility requirements, such as plug and abandonment bonds;
- spacing of wells;
- unitization and pooling of properties;
- safety precautions;
- regulatory requirements; and
- taxation.

Under these laws and regulations, we could be liable for:

- personal injuries;
- property and natural resource damages;
- well reclamation costs; and
- governmental sanctions, such as fines and penalties.

Our operations could be significantly delayed or curtailed and our cost of operations could significantly increase as a result of regulatory requirements or restrictions. We are unable to predict the ultimate cost of compliance with these requirements or their effect on our operations.

Our operations are substantially dependent on the availability of water. Restrictions on our ability to obtain water may have an adverse effect on our financial condition, results of operations and cash flows.

Water is an essential component of both the drilling and hydraulic fracturing processes. Historically, we have been able to purchase water from various sources for use in our operations. In recent years South Texas has experienced the lowest inflows of water in recent history. As a result of this severe drought, some local water districts may begin restricting the use of water subject to their jurisdiction for drilling and hydraulic fracturing in order to protect the local water supply. If we are unable to obtain water to use in our operations from local sources, we may be unable to economically produce oil and natural gas, which could have an adverse effect on our financial condition, results of operations and cash flows.

Our operations may incur substantial liabilities to comply with environmental laws and regulations.

Our oil and natural gas operations are subject to stringent federal, state and local laws and regulations relating to the release or disposal of materials into the environment and otherwise relating to environmental protection. These laws and regulations:

- require the acquisition of one or more permits before drilling commences;
- impose limitations on where drilling can occur and/or requires mitigation before authorizing drilling in certain locations;
- restrict the types, quantities and concentration of substances that can be released into the environment in connection with drilling and production activities;
- require reporting of significant releases, and annual reporting of the nature and quantity of emissions, discharges and other releases into the environment;
- limit or prohibit drilling activities on certain lands lying within wilderness, wetlands and other protected areas; and
- impose substantial liabilities for pollution resulting from our operations.

Failure to comply with these laws and regulations may result in:

- the assessment of administrative, civil and criminal penalties;
- the incurrence of investigatory and/or remedial obligations; and
- the imposition of injunctive relief.

Changes in environmental laws and regulations occur frequently, and any changes that result in more stringent or costly restrictions on emissions, and/or waste handling, storage, transport, disposal or cleanup requirements could require us to make significant expenditures to reach and maintain compliance and may otherwise have a material adverse effect on our industry in general and on our own results of operations, competitive position or financial condition. Under these environmental laws and regulations, we could be held strictly liable for the removal or remediation of previously released materials or property contamination regardless of whether we were responsible for the release or contamination or if our operations met previous standards in the industry at the time they were performed. Future environmental laws and regulations, including proposed legislation regulating climate change, may negatively impact our industry. The costs of compliance with these requirements may have an adverse impact on our financial condition, results of operations and cash flows.

Our hedging transactions could result in financial losses or could reduce our income. To the extent we have hedged a significant portion of our expected production and actual production is lower than we expected or the costs of goods and services increase, our profitability would be adversely affected.

To achieve more predictable cash flows and to reduce our exposure to adverse fluctuations in the prices of oil and gas, we have entered into and may in the future enter into hedging transactions for certain of our expected oil and natural gas production. These transactions could result in both realized and unrealized hedging losses. Further, these hedges may be inadequate to protect us from continuing and prolonged decline in the price of oil and natural gas. To the extent that the price of oil and natural gas remain at current levels or declines further, we will not be able to hedge future production at the same level as our current hedges, and our results of operations and financial condition would be negatively impacted.

The extent of our commodity price exposure is related largely to the effectiveness and scope of our derivative activities. For example, the derivative instruments we utilize are primarily based on NYMEX futures prices, which may differ significantly from the actual crude oil and gas prices we realize in our operations. Furthermore, we have adopted a policy that requires, and our revolving credit facility also requires, that we enter into derivative transactions related to only a portion of our expected production volumes and, as a result, we will continue to have direct commodity price exposure on the portion of our production volumes not covered by these derivative financial instruments.

Our actual future production may be significantly higher or lower than we estimate at the time we enter into derivative transactions. If our actual future production is higher than we estimated, we will have greater commodity price exposure than we intended. If our actual future production is lower than the nominal amount that is subject to our derivative financial instruments, we might be forced to satisfy all or a portion of our derivative transactions without the benefit of the cash flow from our sale or purchase of the underlying physical commodity, resulting in a substantial diminution in our profitability and liquidity. As a result of these factors, our derivative activities may not be as effective as we intend in reducing the volatility of our cash flows, and in certain circumstances may actually increase the volatility of our cash flows.

In addition, our hedging transactions are subject to the following risks:

- we may be limited in receiving the full benefit of increases in oil and gas prices as a result of these transactions;
- a counterparty may not perform its obligation under the applicable derivative financial instrument or may seek bankruptcy protection;

- there may be a change in the expected differential between the underlying commodity price in the derivative instrument and the actual price received; and
- the steps we take to monitor our derivative financial instruments may not detect and prevent violations of our risk management policies and procedures, particularly if deception or other intentional misconduct is involved.

The enactment of derivatives legislation and regulation could have an adverse effect on our ability to use derivative instruments to reduce the effect of commodity price, interest rate and other risks associated with our business.

In 2010, new comprehensive financial reform legislation, known as the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank"), was enacted that established federal oversight regulation of over-the-counter derivatives market and entities, such as us, that participate in that market. Dodd-Frank requires the Commodities Futures Trading Commission, or CFTC, the SEC and other regulators to promulgate rules and regulations implementing the new legislation. The final rules adopted under Dodd-Frank identify the types of products and the classes of market participants subject to regulation and will require us in connection with certain derivatives activities to comply with clearing and trade-execution requirements (or take steps to qualify for an exemption from such requirements). While most of the regulations have been finalized, it is not possible at this time to predict with certainty the full effects of Dodd-Frank and CFTC rules on us or the timing of such effects. We believe that Dodd-Frank and associated regulations could significantly increase the cost of derivative contracts from additional recordkeeping and reporting requirements and through requirements to post collateral which could adversely affect our available liquidity. If we reduce our use of derivatives as a result of Dodd-Frank and associated regulations, our results of operations may become more volatile and our cash flows may be less predictable, which could adversely affect our ability to plan for and fund capital expenditures. These consequences could have a material adverse effect on our consolidated financial position, results of operations and cash flows.

Federal and state legislation and regulatory initiatives relating to hydraulic fracturing could result in increased costs and additional operating restrictions or delays as well as restrict our access to our oil and gas reserves.

Hydraulic fracturing is an essential and common practice that is used to stimulate production of oil and natural gas from dense subsurface rock formations such as shale and tight sands. We routinely apply hydraulic fracturing techniques in completing our wells. The process involves the injection of water, sand and additives under pressure into a targeted subsurface formation. The water and pressure create fractures in the rock formations, which are held open by the grains of sand, enabling the oil or natural gas to flow to the wellbore. The use of hydraulic fracturing is necessary to produce commercial quantities of oil and natural gas from many reservoirs including the Haynesville shale, Bossier shale, Eagle Ford shale, Tuscaloosa Marine shale, Cotton Valley and other tight natural gas and oil reservoirs. Substantially all of our proved oil and gas reserves that are currently not producing and our undeveloped acreage require hydraulic fracturing to be productive. All of the wells currently being drilled by us utilize hydraulic fracturing in their completion.

The use of hydraulic fracturing in our well completion activities could expose us to liability for negative environmental effects that might occur. Although we have not had any incidents related to hydraulic fracturing operations that we believe have caused any negative environmental effects, we have established operating procedures to respond and report any unexpected fluid discharge which might occur during our operations, including plans to remediate any spills that might occur. In the event that we were to suffer a loss related to hydraulic fracturing operations, our insurance coverage will be net of a deductible per occurrence and our ability to recover costs will be limited to a total aggregate policy limit of $26.0 million, which may or may not be sufficient to pay the full amount of our losses incurred.

Drilling and completion activities are typically regulated by state oil and natural gas commissions. Our drilling and completion activities are conducted primarily in Louisiana and Texas. Texas adopted a law in June 2012

requiring disclosure to the Railroad Commission of Texas and the public of certain information regarding the components used in the hydraulic-fracturing process. Several proposals are before the United States Congress that, if implemented, would subject the process of hydraulic fracturing to regulation under the Safe Drinking Water Act. In June 2015, the EPA released a draft report on the potential impacts of hydraulic fracturing on drinking water resources, which concluded that hydraulic fracturing activities have not led to widespread, systemic impacts on drinking water resources in the United States, although there may be above and below ground mechanisms by which hydraulic fracturing activities have the potential to impact drinking water resources. The draft report is expected to be finalized after a public comment period and a formal review by the EPA's Science Advisory Board. Other governmental agencies, including the U.S. Department of Energy, have evaluated or are evaluating various other aspects of hydraulic fracturing. These ongoing or proposed studies have the potential to impact the likelihood or scope of future legislation or regulation.

State and federal regulatory agencies recently have focused on a possible connection between the hydraulic fracturing related activities and the increased occurrence of seismic activity. When caused by human activity, such events are called induced seismicity. In a few instances, operators of injection wells in the vicinity of seismic events have been ordered to reduce injection volumes or suspend operations. Some state regulatory agencies, including those in Colorado, Ohio, Oklahoma, and Texas, have modified their regulations to account for induced seismicity. Regulatory agencies at all levels are continuing to study the possible linkage between oil and gas activity and induced seismicity. A 2012 report published by the National Academy of Sciences concluded that only a very small fraction of the tens of thousands of injection wells have been suspected to be, or have been, the likely cause of induced seismicity; and a 2015 report by researchers at the University of Texas has suggested that the link between seismic activity and wastewater disposal may vary by region. In 2015, the United States Geological Survey identified eight states, including Texas, with areas of increased rates of induced seismicity that could be attributed to fluid injection or oil and gas extraction. More recently, in March 2016, the United States Geological Survey identified six states with the most significant hazards from induced seismicity, including Texas, Colorado, Oklahoma, Kansas, New Mexico, and Arkansas. In addition, a number of lawsuits have been filed, most recently in Oklahoma, alleging that disposal well operations have caused damage to neighboring properties or otherwise violated state and federal rules regulating waste disposal. These developments could result in additional regulation and restrictions on the use of injection wells and hydraulic fracturing.

Potential changes to US federal tax regulations, if passed, could have an adverse effect on us.

The United States Congress continues to consider imposing new taxes and repealing many tax incentives and deductions that are currently used by independent oil and gas producers. Such changes include, but are not limited to:

- the elimination of current deductions for intangible drilling and development costs;
- the repeal of the percentage depletion allowance for oil and gas properties;
- an elimination of the deduction for U.S. oil and gas production activities;
- an extension of the amortization period for certain geological and geophysical expenditures; and
- implementation of a fee on non-producing leases located on federal lands.

It is unclear, however, whether any such changes will be enacted or how soon such changes could be effective. The passage of any legislation containing these or similar changes in U.S. federal income tax law could eliminate or defer certain tax deductions that are currently available with respect to oil and gas exploration and development, and any such changes could negatively affect our financial condition and results of operations. A reduction in operating cash flow could require us to reduce our drilling activities. Since none of these proposals have yet been included in new legislation, we do not know the ultimate impact they may have on our business.

Loss of our information and computer systems could adversely affect our business.

We are heavily dependent on our information systems and computer-based programs, including our well operations information, seismic data, electronic data processing and accounting data. If any of such programs or systems were to fail or create erroneous information in our hardware or software network infrastructure or we were subject to cyberspace breaches or attacks, possible consequences include our loss of communication links, inability to find, produce, process and sell oil and natural gas and inability to automatically process commercial transactions or engage in similar automated or computerized business activities. Any such consequence could have a material effect on our business.

Our business could be negatively impacted by security threats, including cyber-security threats and other disruptions.

As an oil and natural gas producer, we face various security threats, including cyber-security threats to gain unauthorized access to sensitive information or to render data or systems unusable, threats to the safety of our employees, threats to the security of our facilities and infrastructure or third party facilities and infrastructure, such as processing plants and pipelines, and threats from terrorist acts. Cyber-security attacks in particular are evolving and include, but are not limited to, malicious software, attempts to gain unauthorized access to data, and other electronic security breaches that could lead to disruptions in critical systems, unauthorized release of confidential or otherwise protected information and corruption of data. Although we utilize various procedures and controls to monitor and protect against these threats and to mitigate our exposure to such threats, there can be no assurance that these procedures and controls will be sufficient in preventing security threats from materializing. If any of these events were to materialize, they could lead to losses of sensitive information, critical infrastructure, personnel or capabilities, essential to our operations and could have a material adverse effect on our reputation, financial position, results of operations, or cash flows.

We are exposed to the credit risk of our customers and counterparties, and our credit risk management may not be adequate to protect against such risk.

We are subject to the risk of loss resulting from nonpayment and/or nonperformance by our customers and counterparties in the ordinary course of our business. Our credit procedures and policies may not be adequate to fully eliminate customer and counterparty credit risk particularly in light of the sustained declines in oil and natural gas prices since mid 2014. We cannot predict to what extent our business would be impacted by deteriorating conditions in the economy, including declines in our customers' and counterparties' creditworthiness. If we fail to adequately assess the creditworthiness of existing or future customers and counterparties, unanticipated deterioration in their creditworthiness and any resulting increase in nonpayment and/or nonperformance by them could cause us to write-down or write-off doubtful accounts. Such write-downs or write-offs could negatively affect our operating results in the periods in which they occur and, if significant, could have a material adverse effect on our business, results of operations, cash flows and financial condition.

Substantial exploration and development activities could require significant outside capital, which could dilute the value of our common shares and restrict our activities. Also, we may not be able to obtain needed capital or financing on satisfactory terms, which could lead to a limitation of our future business opportunities and a decline in our oil and natural gas reserves.

We expect to expend substantial capital in the acquisition of, exploration for and development of oil and natural gas reserves. In order to finance these activities, we may need to alter or increase our capitalization substantially through the issuance of debt or equity securities, the sale of non-strategic assets or other means. The issuance of additional equity securities could have a dilutive effect on the value of our common shares, and may not be possible on terms acceptable to us given the current volatility in the financial markets. The issuance of additional debt would require that a portion of our cash flow from operations be used for the payment of interest on our debt, thereby reducing our ability to use our cash flow to fund working capital, capital expenditures, acquisitions,

dividends and general corporate requirements, which could place us at a competitive disadvantage relative to other competitors. Our cash flow from operations and access to capital is subject to a number of variables, including:

- our estimated proved reserves;
- the level of oil and natural gas we are able to produce from existing wells;
- our ability to extract NGLs from the natural gas we produce;
- the prices at which oil, NGLs and natural gas are sold; and
- our ability to acquire, locate and produce new reserves.

If our revenues decrease as a result of lower oil or natural gas prices, operating difficulties or declines in reserves, our ability to obtain the capital necessary to undertake or complete future exploration and development programs and to pursue other opportunities may be limited, which could result in a curtailment of our operations relating to exploration and development of our prospects, which in turn could result in a decline in our oil and natural gas reserves.

We depend on our key personnel and the loss of any of these individuals could have a material adverse effect on our operations.

We believe that the success of our business strategy and our ability to operate profitably depend on the continued employment of M. Jay Allison, our Chief Executive Officer, and Roland O. Burns, our President and Chief Financial Officer, and a limited number of other senior management personnel. Loss of the services of Mr. Allison, Mr. Burns or any of those other individuals could have a material adverse effect on our operations.

Our insurance coverage may not be sufficient or may not be available to cover some liabilities or losses that we may incur.

If we suffer a significant accident or other loss, our insurance coverage will be net of our deductibles and may not be sufficient to pay the full current market value or current replacement value of our lost investment, which could result in a material adverse impact on our operations and financial condition. Our insurance does not protect us against all operational risks. We do not carry business interruption insurance. For some risks, we may not obtain insurance if we believe the cost of available insurance is excessive relative to the risks presented. Because third party drilling contractors are used to drill our wells, we may not realize the full benefit of workers' compensation laws in dealing with their employees. In addition, some risks, including pollution and environmental risks, generally are not fully insurable.

Provisions of our restated articles of incorporation, amended and restated bylaws, Nevada law and our rights plan will make it more difficult to effect a change in control of us, which could adversely affect the price of our common stock.

Nevada corporate law and our restated articles of incorporation and amended and restated bylaws contain provisions that could delay, defer or prevent a change in control of us. These provisions include:

- allowing for authorized but unissued shares of common and preferred stock;
- requiring special stockholder meetings to be called only by our chairman of the board, our chief executive officer, a majority of the board, a majority of our executive committee or the holders of at a majority of our outstanding stock;
- requiring removal of directors by a supermajority stockholder vote;

- prohibiting cumulative voting in the election of directors; and
- Nevada control share laws that may limit voting rights in shares representing a controlling interest in us.

These provisions could make an acquisition of us by means of a tender offer or proxy contest or removal of our incumbent directors more difficult. As a result, these provisions could make it more difficult for a third party to acquire us, even if doing so would benefit our stockholders, which may limit the price that investors are willing to pay in the future for shares of our common stock.

We adopted a rights plan in October 2015 to preserve our accumulated net operating losses. While this rights plan is intended to preserve our tax net operating losses, it effectively deters current and potential future purchases of our common stock above 4.9% of the total outstanding shares. This rights plan could make it more difficult for a third party to acquire us, even if doing so would benefit our stockholders, which may limit the price that investors are willing to pay in the future for shares of our common stock.

We have received a notice of non-compliance with continued listing standards from the New York Stock Exchange (the "NYSE") for our common stock. If we are unable to avoid the delisting of our common stock from the NYSE, it could have a substantial effect on the trading price and liquidity of our common stock.

On March 24, 2016, we received a notification from the NYSE informing us that we were no longer in compliance with the NYSE's continued listing standards for our common stock because the average closing price of our common stock and our average market capitalization have fallen below the NYSE's requirements. The NYSE's continued listing standards require that (i) the average closing price of a listed company's common stock be at least $1.00 per share and (ii) a listed company's equity market capitalization be at least $50 million, in each case over a consecutive 30 trading-day period. As of July 29, 2016, the average closing price of our common stock over the preceding 30 trading-day period was $0.84 per share (prior to the reverse stock split) and our average equity market capitalization over the same period was $52.5 million.

We have submitted and the NYSE has accepted a business plan to regain compliance with the NYSE's continued listing standards. We may regain compliance with the NYSE's stock price standard at any time during a six-month cure period commencing on receipt of the NYSE notification if our common stock has a closing stock price of at least $1.00 and an average closing stock price of at least $1.00 over the 30 trading-day period ending on the last trading day of that month or the last trading day of the cure period. We must regain compliance with respect to our market capitalization within eighteen months of receipt of the NYSE notification. Failure to regain compliance with the NYSE's continued listing standards within the applicable time periods will result in the commencement of suspension and delisting procedures. To address the minimum stock price requirement, on July 20, 2016, we announced a one-for-five (1:5) reverse split of our common stock, which became effective on July 29, 2016.

The NYSE notification did not affect our business operations or our SEC reporting requirements and did not conflict with or cause an event of default under any of our material debt or other agreements. However, if our common stock ultimately were to be delisted for any reason, it could negatively impact us by (i) reducing the liquidity and market price of our common stock; (ii) reducing the number of investors willing to hold or acquire our common stock, which could negatively impact our ability to raise equity financing; (iii) limiting our ability to use a registration statement to offer and sell freely tradable securities, thereby preventing us from accessing the public capital markets; and (iv) impairing our ability to provide equity incentives to our employees.

USE OF PROCEEDS

We will not receive any cash proceeds from the Exchange Offer. In consideration for the exchange consideration, we will receive the old notes. Old notes acquired by us pursuant to the Exchange Offer will be cancelled upon receipt thereof.

RATIO OF EARNINGS TO FIXED CHARGES

The following table sets forth our ratios of earnings to fixed charges on a consolidated basis for the periods shown. You should read these ratios in connection with our consolidated financial statements, including the notes to those statements.

	Year Ended December 31,					Six Months Ended June 30,	
	2011	2012	2013	2014	2015	2015	2016
Ratio of earnings to fixed charges	—	—	—	—	—	—	—
Coverage deficiency (in millions)	$ (61.2)	$ (165.1)	$ (165.6)	$ (92.0)	$ (1,202.4)	$ (328.8)	$ (47.2)

PRICE RANGE OF COMMON STOCK, OLD NOTES AND DIVIDEND POLICY

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. All amounts below have been adjusted to give effect to the one-for-five (1:5) reverse stock split which became effective on July 29, 2016.

		High	Low
2014 –	First Quarter	$ 115.75	$ 81.10
	Second Quarter	$ 145.75	$ 112.10
	Third Quarter	$ 147.45	$ 91.50
	Fourth Quarter	$ 94.00	$ 25.05
2015 –	First Quarter	$ 36.10	$ 16.15
	Second Quarter	$ 27.20	$ 16.45
	Third Quarter	$ 20.35	$ 4.95
	Fourth Quarter	$ 16.90	$ 8.00
2016 –	First Quarter	$ 9.40	$ 3.20
	Second Quarter	$ 5.45	$ 2.75
	Third Quarter (through August 29, 2016)	$ 7.38	$ 2.64

As of August 29, 2016, we had approximately 12,504,562 shares of common stock outstanding after giving effect to the one-for-five (1:5) reverse stock split which became effective on July 29, 2016 (subject to minor variations resulting from the treatment of fractional shares). Such shares were held by 194 holders of record and approximately 11,600 beneficial owners who maintain their shares in “street name” accounts.

We paid a quarterly cash dividend on our common stock in 2014, resulting in total dividends paid of $23.8 million. On February 13, 2015, we announced that the dividend was being suspended until oil and natural gas prices improve. 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.

The old notes are not listed on any national or regional securities exchange or authorized to be quoted in any inter-dealer quotation system of any national securities association. Reliable pricing information for the old notes may not always be available. The Company believes trading in the old notes has been limited and sporadic. Quotations for securities that are not widely traded, such as the old notes, may differ from actual trading prices

and should be viewed as approximations. To the extent such information is available, holders of old notes are urged to contact their brokers or financial advisors or call the Information and Exchange Agent at the number set forth on the back cover of this prospectus with respect to current information regarding the trading price of the old notes.

To the extent that the old notes are tendered and accepted in the Exchange Offer, such old notes will cease to be outstanding. A debt security with a smaller outstanding principal amount available for trading (a smaller “float”) may command a lower price and trade with greater volatility than would a comparable debt security with a greater float. Consequently, any old notes that the Company acquires in the Exchange Offer will reduce the float and may negatively impact the liquidity, market value and price volatility of the old notes that remain outstanding following the Exchange Offer.

We cannot assure you that a trading market will exist for the old notes following the Exchange Offer. The extent of the market for the old notes following the consummation of the Exchange Offer will depend upon, among other things, the remaining outstanding principal amount of the old notes at such time, the number of holders of old notes remaining at such time and the interest in maintaining a market in such old notes on the part of securities firms.

CAPITALIZATION

The following table sets forth our cash and cash equivalents and our capitalization as of June 30, 2016 on:

- an a historical basis; and
- on a pro forma basis to give effect to the exchange by us of exchange consideration for our outstanding old notes, assuming the tender and acceptance of all of the outstanding old notes and other transactions related to the Exchange Offer.

This information should be read in conjunction with the sections entitled “Selected Historical Consolidated Financial Data,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations” elsewhere in this prospectus and our historical consolidated financial statements and related notes thereto included in this prospectus.

	As of June 30, 2016	
	Historical	As Adjusted
	(In thousands)	
Cash and Cash equivalents	$ 67,412	$ 58,212
Long-term debt:		
Principal:		
Revolving credit facility(1)	$ -	$ -
10% senior secured notes due 2020	700,000	-
7 ¾% senior notes due 2019	288,516	-
9 ½% senior notes due 2020	174,607	-
Senior secured toggle notes due 2020	-	700,000
7 ¾% convertible secured PIK notes due 2019	-	288,516
9 ½% convertible secured PIK notes due 2020	-	174,607
Premiums (discounts) on notes:		
7 ¾% senior notes due 2019	2,325	-
9 ½% senior notes due 2020	(4,008)	-
Senior secured toggle notes due 2020(3)	-	(11,820)
7 ¾% convertible secured PIK notes due 2019(3)	-	(17,975)
9 ½% convertible secured PIK notes due 2020(3)	-	(17,408)
Deferred financing costs	(16,250)	(16,250)
Total long-term debt	1,145,190	1,099,670
Stockholders’ Deficit:		
Common stock(2)	6,253	6,253
Additional paid in capital(2)	518,905	518,905
Stock warrants(3)	-	11,820
Accumulated deficit	(732,425)	(732,425)
Total stockholders’ deficit	(207,267)	(195,447)
Total capitalization	$ 937,923	$ 904,223

(1) As of June 30, 2016, there was no outstanding balance under our revolving credit facility.
(2) Common stock and additional paid-in capital has been adjusted to reflect the one-for-five (1:5) reverse stock split of our common stock which became effective on July 29, 2016.
(3) Reflects the impact of the Exchange Offer with amounts of the new notes being adjusted for the estimated value of the stock warrants issued in connection with the senior secured toggle notes due 2020 and the estimated value of the mandatory conversion feature in connection with the 7 ¾% convertible secured PIK notes due 2019 and 9 ½% convertible secured PIK notes due 2020, assuming the approval of our stockholders of the authorized share proposal at a special meeting of the stockholders.

SELECTED HISTORICAL CONSOLIDATED FINANCIAL DATA

The following tables present selected historical financial data as of and for the periods indicated. The financial results are not necessarily indicative of our future operations or future financial results. In the opinion of management, such information contains all adjustments, consisting only of normal recurring accruals, necessary for a fair presentation of the results of such periods. The data presented below should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" contained elsewhere in this prospectus and our consolidated financial statements and the notes thereto contained in the exhibits to the registration statement to which this prospectus relates. All share and per share data presented below has been adjusted to give effect to the Company's one-for-five (1:5) reverse stock split which became effective on July 29, 2016, unless the context otherwise requires.

Statement of Operations Data:

	Year Ended December 31,					Six Months Ended June 30,	
	2011	2012	2013	2014	2015	2015	2016
	(In thousands, except per share data)						
Revenues:							
Natural gas sales	$ 354,123	$ 203,651	$ 188,453	$ 165,461	$ 109,753	$ 46,757	$ 50,874
Oil sales	80,244	181,163	231,837	389,770	142,669	97,077	26,004
Total oil and gas sales	434,367	384,814	420,290	555,231	252,422	143,834	76,878
Gain on sales and exchanges of oil and gas properties	—	24,271	—	—	—	—	—
Total revenues	434,367	409,085	420,290	555,231	252,422	143,834	76,878
Operating expenses:							
Production taxes	3,670	11,727	14,524	23,797	10,286	6,781	2,513
Gathering and transportation	28,491	26,265	17,245	12,897	14,298	6,113	8,390
Lease operating(1)	46,552	51,248	52,844	60,283	64,502	32,963	25,948
Exploration	10,148	61,449	33,423	19,403	70,694	65,269	7,753
Depreciation, depletion and amortization	290,776	343,858	337,134	378,275	321,323	182,462	74,865
General and administrative, net	35,172	33,798	34,767	32,379	23,541	15,142	11,238
Impairment of oil and gas properties	60,817	25,368	652	60,268	801,347	2,387	24,460
Loss on sales of oil and gas properties	57	—	2,033	—	112,085	111,830	907
Total operating expenses	475,683	553,713	492,622	587,302	1,418,076	422,947	156,074
Operating loss	(41,316)	(144,628)	(72,332)	(32,071)	(1,165,654)	(279,113)	(79,196)
Other income (expenses):							
Gain on sale of marketable securities	35,118	26,621	7,877	—	—	—	—
Gain (loss) from derivative financial instruments	—	21,256	(8,388)	8,175	2,676	627	674
Net gain (loss) on extinguishment of debt	(1,096)	—	(17,854)	—	78,741	4,532	89,576
Other income	790	944	1,059	727	1,275	643	595
Interest expense	(41,592)	(57,906)	(73,242)	(58,631)	(118,592)	(54,561)	(58,826)
Total other income (expenses)	(6,780)	(9,085)	(90,548)	(49,729)	(35,900)	(48,759)	32,019
Loss from continuing operations before income taxes	(48,096)	(153,713)	(162,880)	(81,800)	(1,201,554)	(327,872)	(47,177)
Benefit from income taxes	14,624	50,634	56,157	24,689	154,445	114,302	(4,548)
Loss from continuing operations	(33,472)	(103,079)	(106,723)	(57,111)	(1,047,109)	(213,570)	(51,725)
Income from discontinued operations, net of income taxes	—	3,019	147,752	—	—	—	—
Net income (loss)	$ (33,472)	$ (100,060)	$ 41,029	$ (57,111)	$ (1,047,109)	$ (213,570)	$ (51,725)
Basic and diluted net income (loss) per share:							
Loss from continuing operations	$ (3.64)	$ (11.10)	$ (11.09)	$ (6.20)	$ (113.53)	$ (23.18)	$ (4.82)
Income from discontinued operations	—	0.32	15.36	—	—	—	—
Net Income (loss)	$ (3.64)	$ (10.78)	$ 4.27	$ (6.20)	$ (113.53)	$ (23.18)	(4.82)
Dividends per common share	$ —	$ —	$ 1.88	$ 2.50	$ —	$ —	$ —
Basic and diluted weighted average shares outstanding	9,199	9,284	9,311	9,309	9,223	9,215	10,729

(1) Includes ad valorem taxes.

Balance Sheet Data:

	As of December 31,					Six Months Ended June 30,	
	2011	2012	2013	2014	2015	2015	2016
				(In thousands)			
Cash and cash equivalents	$ 8,460	$ 4,471	$ 2,967	$ 2,071	$ 134,006	$ 130,214	$ 67,412
Property and equipment, net	2,155,568	1,958,687	2,066,735	2,198,169	1,038,420	1,911,807	915,350
Total assets(1)	2,632,009	2,554,930	2,130,112	2,264,546	1,195,850	2,181,640	1,047,226
Total debt(1)	1,186,319	1,309,416	789,414	1,060,654	1,249,330	1,355,816	1,145,190
Stockholders' equity (deficit)	1,037,625	933,534	952,005	870,272	(171,258)	658,255	(207,267)

(1) Restated to reclassify debt issuance costs from total assets to total debt in the amount of $10,589, $14,967, $9,286 and $9,791 as of December 31, 2011, 2012, 2013, and 2014, respectively and $23,618 for the six-months ended June 30, 2015.

Cash Flow Data:

	Year Ended December 31,					Six Months Ended June 30,	
	2011	2012	2013	2014	2015	2015	2016
				(In thousands)			
Cash flows provided by (used for) operating activities from continuing operations	$ 275,433	$ 219,721	$ 268,994	$ 400,984	$ 30,086	24,238	(31,204)
Cash flows used for investing activities from continuing operations	(597,809)	(205,393)	(408,678)	(634,787)	(161,725)	(197,263)	(31,587)
Cash flows provided by (used for) financing activities from continuing operations	673,381	117,502	(576,140)	232,907	263,574	301,168	(3,803)
Cash flows provided by (used for) operating activities of discontinued operations	—	42,508	(7,715)	—	—	—	—
Cash flows provided by (used for) investing activities of discontinued operations	(344,277)	(178,327)	722,035	—	—	—	—

Summary Operating Data:

The following table sets forth certain of our summary operating data for the periods indicated:

	Year Ended December 31,					Six Months Ended June 30,	
	2011	2012	2013	2014	2015	2015	2016
Oil & Gas Sales (in thousands):							
Natural gas sales	$ 354,123	$ 203,651	$ 188,453	$ 165,461	$ 109,753	$ 46,757	$ 50,874
Oil sales	80,244	181,163	231,837	389,770	142,669	97,077	26,004
Total oil and gas sales	$ 434,367	$ 384,814	$ 420,290	$ 555,231	$ 252,422	$ 143,834	$ 76,878
Net Production Data:							
Natural gas (MMcf)	90,593	81,762	55,694	39,768	47,676	19,273	27,344
Oil (MBbls)	838	1,792	2,314	4,313	3,089	1,960	772
Natural gas equivalent (MMcfe)	95,622	92,515	69,577	65,645	66,207	31,034	31,974
Average Sales Price:							
Natural gas ($/Mcf)	$ 3.91	$ 2.49	$ 3.38	$ 4.16	$ 2.30	$ 2.43	$ 1.86
Oil ($/Bbl)	$ 95.73	$ 101.09	$ 100.20	$ 90.37	$ 46.19	$ 49.53	$ 33.69
Average equivalent price ($/Mcfe)	$ 4.54	$ 4.16	$ 6.04	$ 8.46	$ 3.81	$ 4.63	$ 2.40
Expenses ($ per Mcfe):							
Production taxes	$ 0.04	$ 0.13	$ 0.21	$ 0.36	$ 0.16	$ 0.22	$ 0.08
Gathering and transportation	$ 0.30	$ 0.28	$ 0.25	$ 0.20	$ 0.22	$ 0.20	$ 0.26
Lease operating(1)	$ 0.48	$ 0.55	$ 0.76	$ 0.92	$ 0.97	$ 1.06	$ 0.81
Depreciation, depletion and amortization(2)	$ 3.03	$ 3.76	$ 4.83	$ 5.74	$ 4.84	$ 5.86	$ 2.32

(1) Includes ad valorem taxes.
(2) Represents depreciation, depletion and amortization of oil and gas properties only.

SELECTED QUARTERLY FINANCIAL DATA

Set forth below are unaudited quarterly financial data (in thousands, except per share amounts):

	2016	
	First Quarter	Second Quarter
	(In thousands, except per share data)	
Total oil and gas sales	$ 36,163	$ 40,715
Operating loss	$ (56,490)	$ (22,706)
Net income (loss)	$ (56,577)	$ 4,852
Income (loss) per share:		
Basic and diluted	$ (5.71)	$ 0.41

	2015			
	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
	(In thousands, except per share data)			
Total oil and gas sales	$ 66,522	$ 77,312	$ 61,360	$ 47,228
Operating loss	$ (96,928)	$ (182,185)	$ (596,026)	$ (290,515)
Net loss	$ (78,502)	$ (135,068)	$ (544,996)	$ (288,543)
Loss per share:				
Basic and diluted	$ (8.53)	$ (14.64)	$ (59.05)	$ (31.26)

	2014			
	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
	(In thousands, except per share data)			
Total oil and gas sales	$ 141,909	$ 155,723	$ 144,983	$ 112,616
Operating income (loss)	$ 20,228	$ 27,729	$ 263	$ (80,291)
Net income (loss)	$ 1,165	$ 1,898	$ (1,903)	$ (58,271)
Income (loss) per share:				
Basic and diluted	$ 0.11	$ 0.19	$ (0.22)	$ (6.31)

Basic and diluted per share amounts are the same for each of the quarters and for the years ended where a net loss was reported. All share and per share data presented above has been adjusted to give effect to the Company's one-for-five (1:5) reverse stock split which became effective on July 29, 2016.

SUMMARY OIL AND NATURAL GAS RESERVES

The following table summarizes the estimates of our net proved oil and natural gas reserves relating to our continuing operations as of the dates indicated and the present value attributable to these reserves at such dates based on reserve reports prepared by Lee Keeling and Associates, Inc. For additional information relating to our oil and natural gas reserves, see “Risk Factors—Risks Related to Our Business—Our reserve estimates depend on many assumptions that may turn out to be inaccurate. Any material inaccuracies in our reserve estimates or underlying assumptions will materially affect the quantities and present value of our reserves” and “Business and Properties,” contained in this prospectus.

	As of December 31,		
	2013	2014	2015
PROVED RESERVES:			
Natural Gas (MMcf)	452,653	495,266	569,596
Oil (Mbbls)	21,976	20,854	9,229
Total (MMcfe)	584,511	620,388	624,971
PROVED DEVELOPED RESERVES:			
Natural Gas (MMcf)	344,278	324,598	311,130
Oil (Mbbls)	13,914	16,247	9,229
Total (MMcfe)	427,764	422,077	366,505

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis should be read in conjunction with our selected historical consolidated financial data and our accompanying consolidated financial statements and the notes to those financial statements included elsewhere in this prospectus. The following discussion includes forward-looking statements that reflect our plans, estimates and beliefs. Our actual results could differ materially from those discussed in these forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those discussed below and elsewhere in this prospectus, particularly in "Risk Factors" and "Cautionary Note Regarding Forward-Looking Statements." The following discussion should be read in conjunction with the consolidated financial statements and notes thereto included in this prospectus and in our annual report filed on Form 10-K for the year ended December 31, 2015, as adjusted by our Current Report on Form 8-K filed on August 1, 2016, and our quarterly report filed on Form 10-Q for the three months ended June 30, 2016. All share and per share data presented below has been restated to give effect to our one-for-five (1:5) reverse stock split that became effective on July 29, 2016, unless the context otherwise requires.

Overview

We are an independent energy company engaged in the acquisition, exploration, development and production of oil and natural gas in the United States. At December 31, 2015 we owned interests in 1,575 producing oil and natural gas wells (859.7 net to us) and we operated 952 of these wells. In managing our business, we are concerned primarily with maximizing return on our stockholders' equity. To accomplish this goal, we focus on profitably increasing our oil and natural gas reserves and production.

In 2011, we acquired an undeveloped acreage position and some producing oil wells in Gaines and Reeves Counties in West Texas. We operated these properties, which we designated as our West Texas region, through May 2013 when we sold all of these properties for total proceeds of $823.1 million. Accordingly, we are presenting our West Texas operations as discontinued operations in our financial statements for all periods presented. Unless indicated otherwise, the amounts in the accompanying tables and discussion relate to our continuing operations.

We use the successful efforts method of accounting, which allows only for the capitalization of costs associated with developing proven oil and natural gas properties as well as exploration costs associated with successful exploration activities. Accordingly, our exploration costs consist of costs we incur to acquire and reprocess 3-D seismic data, impairments of our unevaluated leasehold where we were not successful in discovering reserves and the costs of unsuccessful exploratory wells that we drill.

We generally sell our oil and natural gas at current market prices at the point our wells connect to third party purchaser pipelines or terminals. We have entered into certain transportation and treating agreements with midstream and pipeline companies to transport a substantial portion of our natural gas production in North Louisiana to long-haul gas pipelines. We market our products several different ways depending upon a number of factors, including the availability of purchasers for the product, the availability and cost of pipelines near our wells, market prices, pipeline constraints and operational flexibility. Accordingly, our revenues are heavily dependent upon the prices of, and demand for, oil and natural gas. Oil and natural gas prices have historically been volatile and are likely to remain volatile in the future. Oil and natural gas prices have declined substantially since June 2014 and have continued to decline into 2016.

Our operating costs are generally comprised of several components, including costs of field personnel, insurance, repair and maintenance costs, production supplies, fuel used in operations, transportation costs, workover expenses and state production and ad valorem taxes.

Like all oil and natural gas exploration and production companies, we face the constant challenge of replacing our reserves. Although in the past we have offset the effect of declining production rates from existing properties

through successful acquisition and drilling efforts, there can be no assurance that we will be able to continue to offset production declines or maintain production at current rates through future acquisitions or drilling activity. Our future growth will depend on our ability to continue to add new reserves in excess of production.

Our operations and facilities are subject to extensive federal, state and local laws and regulations relating to the exploration for, and the development, production and transportation of, oil and natural gas, and operating safety. Future laws or regulations, any adverse changes in the interpretation of existing laws and regulations or our failure to comply with existing legal requirements may have an adverse effect on our business, results of operations and financial condition. Applicable environmental regulations require us to remove our equipment after production has ceased, to plug and abandon our wells and to remediate any environmental damage our operations may have caused. The present value of the estimated future costs to plug and abandon our oil and gas wells and to dismantle and remove our production facilities is included in our reserve for future abandonment costs, which was $16.0 million as of June 30, 2016.

Prices for crude oil and natural gas have been highly volatile, and we are currently experiencing a period of extraordinarily low prices primarily due to an oversupply of crude oil and natural gas. As prices remain depressed, we will continue to experience low revenues and cash flows. We expect our oil production to remain depressed until we resume drilling on these properties. We expect our natural gas production to remain depressed to the extent that we do not offset this decline from production from the new wells we plan to drill in 2016 and future periods. Depending upon future prices and our production volumes, our cash flows from our operating activities may not be sufficient to fund our capital expenditures, and we will need to either continue to curtail drilling activity or we may seek additional borrowings which would increase our interest expense.

We recognized significant impairments of our proved oil and gas properties in 2015. We may need to recognize further impairments if oil and natural gas prices remain depressed, and as a result, the expected future cash flows from these properties becomes insufficient to recover their carrying value. In addition, we may recognize additional impairments of our unevaluated oil and gas properties should we determine that we no longer intend to retain these properties for future oil and natural gas development.

Six Months Ended June 30, 2016 Compared to Six Months Ended June 30, 2015

Results of Operations

Revenues –

In the first six months of 2016, our oil and natural gas sales decreased by $66.9 million (47%) to $76.9 million from $143.8 million in the first six months of 2015. Natural gas sales in the first six months of 2016 increased by $4.1 million (9%) from 2015 while oil sales decreased by $71.1 million (73%) from 2015. Our natural gas production increased by 42% from 2015 while our realized natural gas price decreased by 23%. The increase in our natural gas production has been driven by our successful natural gas drilling program that we commenced in 2015. The decrease in oil sales is attributable to the 61% decline in our production and the 32% decrease in realized oil prices. The decline in oil production is attributable to the sale of our East Texas Eagle Ford shale properties in or near Burleson, Texas in 2015 and the lack of drilling activity in our South Texas Eagle Ford shale properties in South Texas.

Costs and Expenses –

Production taxes of $2.5 million for the first six months of 2016 decreased $4.3 million as compared with production taxes of $6.8 million for the first six months of 2015. These decreases are mainly related to our lower oil and gas sales in 2016 as well as state exemptions on our Haynesville shale wells drilled in 2015 and 2016.

Gathering and transportation costs for the first six months of 2016 increased $2.3 million to $8.4 million as compared to $6.1 million for the first six months of 2015. Our gathering and transportation costs have increased due to the volume growth from our Haynesville shale drilling program.

Our lease operating expense for the first six months of 2016 of $25.9 million decreased $7.1 million or 21% from our lease operating expense of $33.0 million for the first six months of 2015. This decrease primarily reflects lower costs associated with our declining oil production. Our lease operating expense of $0.81 per Mcfe produced for the six months ended June 30, 2016 was $0.25 per Mcfe lower than the lease operating expense of $1.06 per Mcfe for the same period in 2015.

Exploration costs of $7.8 million in the six months ended June 30, 2016 primarily related to impairments of unevaluated leases. Exploration costs of $65.3 million in the six months ended June 30, 2015 primarily include impairments of unevaluated leases and rig termination fees.

Depreciation, depletion and amortization ("DD&A") for the first six months of 2016 of $74.9 million decreased $107.6 million (59%) from DD&A expense of $182.5 million for the six months ended June 30, 2015. For the first six months of 2016, our per unit DD&A rate of $2.32 decreased $3.54 (60%) from our DD&A rate of $5.86 for the first six months of 2015. The lower rates in 2016 reflect the impairments we recognized in 2015 as well as the increase in production from the lower cost Haynesville shale properties.

General and administrative expenses, which are reported net of overhead reimbursements, decreased $3.9 million (26%) to $11.2 million for the first six months of 2016 from general and administrative expenses for the six months ended June 30, 2015 of $15.1 million. Included in general and administrative expense is stock-based compensation of $2.5 million and $4.0 million for the six months ended June 30, 2016 and 2015, respectively. The lower general and administrative costs are attributable to a reduction in personnel and related compensation costs in 2016.

We assess the need for impairment of the capitalized costs for our oil and gas properties on a property basis. We recognized impairment charges of $3.7 million and $2.4 million on our oil and gas properties during the six months ended June 30, 2016 and June 30, 2015, respectively, primarily due to the decline in management's oil and natural gas price outlook. Also included in impairments for the six months ended June 30, 2016 is an impairment of $20.8 million to reduce the carrying value of our South Texas natural gas properties classified as assets held for sale to their net realizable value less costs to sell. The net loss on sales and exchange of oil and gas properties of $0.9 million for the first six months of 2016 reflects the non-monetary exchange we completed in January, 2016 and the sale of certain other oil and gas properties. The loss on sale of oil and gas properties of $111.8 million for the six months ended June 30, 2015 relates to our sale of our Burleson County, Texas oil properties.

Interest expense increased $4.2 million to $58.8 million for the first six months of 2016 from interest expense of $54.6 million in the first six months of 2015. We did not capitalize any interest during the six months ended June 30, 2016 and we capitalized interest of $0.9 million on our unevaluated properties during the six months ended June 30, 2015. The increase in interest expense for the six months ended June 30, 2016 primarily relates to the issuance of $700.0 million of senior secured notes in March 2015, which was partially offset by the lower interest from our debt reduction program.

We utilize oil and natural gas price swaps to manage our exposure to oil and natural gas prices and protect returns on investment from our drilling activities. Gains related to our natural gas derivative financial instruments that covered a portion of our production were $0.7 million for the six months ended June 30, 2016. We had no cash settlements for crude oil or natural gas swaps during the six months ended June 30, 2015. The following table presents our natural gas prices before and after the effect of cash settlements of our derivative financial instruments:

	Six Months Ended June 30,	
	2015	2016
Average Realized Oil Price:		
Natural gas, per Mcf	$ 2.43	$ 1.86
Cash settlements of derivative financial instruments, per Mcf	—	0.08
Price per Mcf, including cash settlements of derivative financial instruments	$ 2.43	$ 1.94

During the six months ended June 30, 2016 and 2015, we recognized a net gain on extinguishment of debt of $89.6 million and $4.5 million, respectively. We retired $87.5 million and $19.8 million of principal of the 2019 Notes and the 2020 Notes in the six months ended June 30, 2016 and 2015, respectively, as part of our debt reduction program.

Income taxes for the six months ended June 30, 2016 were a provision of $4.5 million as compared to a benefit of $114.3 million for the six months ended June 30, 2015. Our effective tax rate was a provision of 9.6% for the first six months of 2016 as compared to a benefit of 34.9% for the first six months of 2015. During the first quarter of 2016, Louisiana changed its tax laws with respect to the utilization of net operating losses. As a result of this tax law change we increased our deferred income tax liability related to state income taxes by $4.5 million. No benefit for income taxes was reflected on the loss in the first six months of 2016 due to the increase to our valuation allowances related to federal and certain state net operating losses. The effective tax rate for the first six months of 2015 differed slightly from the expected rate of 35% primarily because of state taxes.

We reported a net loss of $51.7 million, or $4.82 per share, for the six months ended June 30, 2016, as compared to a net loss of $213.6 million, or $23.18 per share, for the six months ended June 30, 2015. The net loss in the six months ended June 30, 2016 was primarily due to the oil and gas property impairment charges recognized, lower oil and natural gas prices and higher interest expense.

Year Ended December 31, 2015 Compared to Year Ended December 31, 2014

Results of Operations

Revenues –

Our oil and gas sales decreased $302.8 million (55%) in 2015 to $252.4 million from $555.2 million in 2014. Oil sales decreased by $247.1 million (63%) from 2014 while our natural gas sales decreased by $55.7 million (34%) from 2014. The decrease in oil sales was attributable to the 28% decline in oil production and a 49% decrease in our realized oil price in 2015. Our natural gas production increased by 20% from 2014 while our realized natural gas price decreased by 45%. Our drilling activity in the Haynesville and Bossier shale fields in East Texas and North Louisiana generated the natural gas production growth.

Costs and Expenses –

Production taxes decreased $13.5 million or 57% to $10.3 million in 2015 from $23.8 million in 2014. The decrease in 2015 is due to the 63% decline in our oil sales during the year. Much of our natural gas sales in 2014 and 2015 qualified for temporary exemption from state production taxes.

Gathering and transportation costs in 2015 increased $1.4 million (11%) to $14.3 million as compared to $12.9 million in 2014 due to the 20% increase in natural gas we produced during 2015. Gathering and transportation per Mcf produced improved from 2014 as the additional volumes produced in the Haynesville shale properties allowed us to lower our unit transportation costs.

Our lease operating expenses, including ad valorem taxes, of $64.5 million in 2015 were $4.2 million or 7% higher than our operating expenses of $60.3 million in 2014. Our lease operating expense per Mcfe produced rose by 6% to $0.97 per Mcfe in 2015 as compared to $0.92 per Mcfe in 2014. The increase in operating costs mainly reflects the higher lifting costs associated with our oil wells including additional costs incurred related to adding artificial lift to many of our producing oil wells.

We incurred $70.7 million in exploration expense in 2015 as compared to $19.4 million in 2014. Exploration expense in 2015 consisted of $69.0 million in impairments of unevaluated leasehold costs and $1.7 million in rig termination fees. Our 2014 exploration cost consisted of $11.8 million in dry hole costs, $6.7 million in rig termination fees, $0.5 million of impairments of unevaluated leasehold costs and $0.4 million for the acquisition of seismic data.

Depreciation, depletion and amortization expense ("DD&A") of $321.3 million decreased by $57.0 million (15%) from DD&A of $378.3 million in 2014. Our DD&A rate per Mcfe produced averaged $4.84 in 2015 as compared to $5.74 for 2014. The decrease in DD&A expense and the DD&A rate primarily resulted from higher production from our lower cost natural gas properties.

General and administrative expense of $23.5 million for 2015 was 27% lower than general and administrative expense of $32.4 million for 2014 primarily due to lower employee compensation in 2015 including stock based compensation which decreased to $8.1 million in 2015 as compared to $10.7 million in 2014.

We assess the need for impairment of the capitalized costs for our oil and gas properties on a property basis. During 2015, with the substantial decline in management's estimates of future oil and natural gas prices, we recognized an impairment charge of $801.3 million on our oil and gas properties. During 2014 we recognized an impairment charge of $60.3 million.

We utilized oil and natural gas price swaps to manage our exposure to commodity prices and protect returns on investment from our drilling activities. We had gains of $2.7 million and $8.2 million on derivative financial instruments in 2015 and 2014, respectively. Our total net cash received from derivative financial instruments was $1.2 million and $9.1 million in 2015 and 2014, respectively.

The following tables present our oil and natural gas prices before and after the effect of cash settlements of our derivative financial instruments:

Average Realized Natural Gas Price:	2014	2015
Natural gas, per Mcf	$4.16	$2.30
Cash settlements on derivative financial instruments, per Mcf	—	0.03
Price per Mcf, including cash settlements on derivative financial instruments	$4.16	$2.33

Average Realized Oil Price:	2014	2015
Oil, per barrel	$90.37	$46.19
Cash settlements on derivative financial instruments, per barrel	2.13	—
Price per barrel, including cash settlements on derivative financial instruments	$92.50	$46.19

Interest expense increased $60.0 million (102%) to $118.6 million in 2015 from interest expense of $58.6 million in 2014. The increase was primarily related to the refinancing of our bank credit facility with 10% secured senior notes in March 2015 and a reduction in the interest we capitalized in 2015. We issued $700.0 million of senior secured notes in March 2015. We capitalized interest of $0.9 million and $10.2 million in 2015 and 2014, respectively.

The benefit from income taxes from continuing operations increased in 2015 to $154.4 million from $24.7 million in 2014 due to the higher net loss in 2015. Our effective tax rate of 12.9% in 2015 differed from the federal income tax rate of 35% primarily due to a valuation allowance on deferred tax assets of $282.9 million.

We reported a loss of $1.0 billion or $113.53 per share for 2015 as compared to a loss of $57.1 million or $6.20 per share for 2014. The loss in 2015 was primarily due to the oil and gas property impairment charges recognized, the loss on sale of oil and gas properties, lower oil and natural gas prices, higher exploration costs and higher interest expense. The net loss in 2014 was primarily due to impairments of proved and unproved properties, and other exploration costs.

Year Ended December 31, 2014 Compared to Year Ended December 31, 2013

Revenues –

Our oil and gas sales increased $134.9 million (32%) in 2014 to $555.2 million from $420.3 million in 2013. Oil sales in 2014 increased by $157.9 million (68%) from 2013 while our natural gas sales decreased by $23.0 million (12%) from 2013. The increase in oil sales was attributable to the 86% growth in oil production offset by a 10% decrease in our realized oil prices in 2014. Our drilling activity in the Eagleville and Giddings fields in South Texas principally generated the growth in the oil production. With limited drilling in our natural gas properties in 2014, our natural gas production fell by 29% from 2013 while our realized natural gas prices increased by 23%.

Costs and Expenses –

Production taxes increased $9.3 million or 64% to $23.8 million in 2014 from $14.5 million in 2013. The increase in 2014 was due to the 68% growth in our oil sales during the year. Much of our natural gas sales in 2013 and 2014 qualified for a temporary exemption from state production taxes.

Gathering and transportation costs in 2014 decreased $4.3 million (25%) to $12.9 million as compared to $17.2 million in 2013 due to the lower natural gas volumes that we produced in North Louisiana in 2014.

Our lease operating expenses, including ad valorem taxes, of $60.3 million in 2014 were $7.5 million or 14% higher than our operating expenses of $52.8 million in 2013. Our lease operating expense per Mcfe produced increased by 21% to $0.92 per Mcfe in 2014 as compared to $0.76 per Mcfe in 2013. The increase in operating costs mainly reflects our growing oil production. Our oil wells are typically more costly to operate on a per Mcfe basis than our natural gas wells. The increase in our per unit costs is also partially attributable to the lower production on a Mcfe basis. Oil production comprised 39% of our total production in 2014 as compared to 20% in 2013.

We incurred $19.4 million in exploration expense in 2014 as compared to $33.4 million in 2013. Exploration expense in 2014 consisted of $11.8 million in dry hole costs, $6.7 million in rig termination fees, $0.5 million of impairments of unevaluated leasehold costs and $0.4 million for the acquisition of seismic data. Our 2013 exploration cost consisted of $33.0 million of impairments of unevaluated leasehold costs and $0.4 million for the acquisition of seismic data.

DD&A of $378.3 million increased by $41.2 million (12%) from DD&A of $337.1 million in 2013. Our DD&A rate per Mcfe produced averaged $5.74 in 2014 as compared to $4.83 for 2013. The increase in DD&A primarily resulted from the increased development costs per Mcfe associated with the oil wells drilled in 2014 and 2013.

General and administrative expense of $32.4 million for 2014 was 7% lower than general and administrative expense of $34.8 million for 2013. The decrease is primarily related to stock-based compensation which decreased by $2.1 million to $10.7 million in 2014 as compared to $12.8 million in 2013.

We recorded impairments to our oil and gas properties of $60.3 million and $0.7 million in 2014 and 2013, respectively. These impairments relate to older, conventional oil and gas properties with declining production and limited potential for future investments.

We utilized oil price swaps to manage our exposure to oil prices and protect returns on investment from our drilling activities in 2013 and 2014. We had a gain of $8.2 million and a loss of $8.4 million on derivative financial instruments in 2014 and 2013, respectively. Our total net cash received from derivative financial instruments was $9.1 million in 2014 and $2.3 million in 2013.

The following table presents our crude oil equivalent prices before and after the effect of cash settlements of our derivative financial instruments:

Average Realized Oil Price:	2013	2014
Oil, per barrel	$100.20	$90.37
Cash settlements on derivative financial instruments, per barrel	0.99	2.13
Price per barrel, including cash settlements on derivative financial instruments	$101.19	$92.50

Interest expense decreased $14.6 million (20%) to $58.6 million in 2014 from interest expense of $73.2 million in 2013. The decrease was primarily related to lower interest expense due to the retirement in September 2013 of our 8 3/8% senior notes due in 2017. We capitalized interest of $10.2 million and $4.7 million in 2014 and 2013, respectively, which reduced interest expense. We had interest expense allocated to discontinued operations of $8.4 million in 2013 of which $2.0 million was capitalized. Average borrowings under our bank credit facility increased to $319.2 million in 2014 as compared to $201.5 million for 2013 and the average interest rate on the outstanding borrowings under our bank credit facility of 2.0% in 2014 was lower than the interest rate of 2.6% in 2013. Interest expense related to our outstanding senior notes decreased by 21% due to the retirement of our 8 3/8% senior notes offset partially by the issuance an additional $100.0 million of our 7 3/4% senior notes in 2014.

The benefit from income taxes from continuing operations decreased in 2014 to $24.7 million from $56.2 million in 2013 due to the lower net loss from continuing operations in 2014. Our effective tax rate of 30.2% in 2014 differed from the federal income tax rate of 35% primarily due to the effect of nondeductible compensation, state income taxes and an increase in the valuation allowance for state income tax net operating loss carry forwards.

We reported a net loss from continuing operations of $57.1 million or $6.20 per share for 2014 as compared to a loss of $106.7 million or $11.09 per share for 2013. The net loss in 2014 was primarily due to impairments of proved and unproved properties and other exploration costs. The loss in 2013 was due to impairments of proved and unproved properties and a loss on early extinguishment of debt.

Net income from discontinued operations for 2013 of $147.8 million, or $15.36 per share, included a gain on the sale of our West Texas oil and gas properties of $230.0 million ($148.6 million after income taxes). Excluding the gain, the net loss from discontinued operations for the year ended December 31, 2013 was $0.8 million.

Liquidity and Capital Resources

Funding for our activities has historically been provided by our operating cash flow, debt or equity financings or proceeds from asset sales. For the six months ended June 30, 2016, our primary source of funds was cash on hand. Cash used for operating activities for the six months ended June 30, 2016 was $31.2 million as compared to cash provided by operating activities of $24.2 million for the first six months of 2015. This decrease primarily reflects our lower revenues from oil and gas sales and working capital changes.

For 2015, our primary source of funds was operating cash flow, borrowings and net proceeds from asset sales. Cash provided by operating activities in 2015 of $30.1 million decreased $370.9 million from $401.0 million in 2014. Cash flow was lower than 2014 due to decreased revenues related to the decreased oil production and lower oil and gas prices along with higher interest expense from our senior notes issued in 2015. Our other primary source of funds in 2015 included net proceeds from the issuance of the senior secured notes of $683.8 million, $40.0 million of net borrowings under our bank credit facility and net proceeds from asset sales of $102.5 million. In 2014, our primary source of funds was operating cash flow and borrowings. Cash provided by operating activities from continuing operations in 2014 of $401.0 million increased $132.0 million (49%) from $269.0 million in 2013 primarily due to the higher revenues related to increased oil production and higher natural gas prices in 2014. Our other primary source of funds during 2014 included $103.3 million of proceeds from an additional issuance of our 7 3/4% senior unsecured notes and $165.0 million of borrowings under our bank revolving credit facility.

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 the first six months of 2016, we incurred capital expenditures of $30.4 million primarily for our development and exploration activities. In 2015, our capital expenditures of $243.2 million represented a decrease of $345.4 million as compared to 2014 capital expenditures of $588.6 million, mainly due to our significant reduction in drilling activity during 2015 in response to the low commodity price environment throughout the year. During 2014 our capital expenditures of $588.6 million represented an increase of $107.7 million as compared to 2013 capital expenditures of $480.9 million due primarily to our high level of drilling activity during 2014.

Our capital expenditure activity related to our continuing operations, on an accrual basis, is summarized in the following table:

	Year Ended December 31,			Six Months Ended June 30,	
	2013	2014	2015	2015	2016
			(In thousands)		
Exploration and development:					
Acquisitions of proved oil and gas properties	$ 6,450	$ 2,400	$ —	$ —	$ —
Acquisitions of unproved oil and gas properties	130,113	91,960	12,972	6,928	—
Developmental leasehold costs	461	3,386	767	377	1,089
Development drilling	317,241	398,604	184,393	133,870	26,798
Exploratory drilling	—	51,725	11,985	11,534	—
Other development costs	26,348	39,282	31,237	23,938	2,455
	480,613(1)	587,357(1)	241,354	176,647	30,342
Other	260	1,257	1,893	1,849	11
Total	$ 480,873(1)	$ 588,614(1)	$ 243,247	$ 178,496	$ 30,353

(1) Net of reimbursements received from joint venture partner of $51.5 million and $28.7 million in 2013 and 2014, respectively.

We expect to fund our development and exploration activities with future operating cash flow, proceeds from anticipated asset sales and from cash on hand. Our cash flows for the first six months of 2016 were significantly impacted by the low oil and natural gas prices and a reduction in accounts payable due to our lower drilling activity. 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 presently have no contracts for future drilling services. We have maximum commitments of $5.3 million to transport and treat natural gas through July 2019. We also have obligations to incur future payments for dismantlement, abandonment and restoration costs of oil and gas properties which are currently estimated to be incurred primarily after 2020.

With the substantial decline in oil and natural gas prices in 2015, which have continued into 2016, we continue to experience declining cash flows and reductions in our overall liquidity. At current oil and natural gas prices, operating cash flow was not sufficient to cover our fixed debt service costs. Our capital expenditures have been funded with asset sale proceeds or from cash on hand. Beginning in 2015, we redirected our drilling program to natural gas and drilled ten successful horizontal wells on Haynesville and Bossier shale properties in North Louisiana employing an enhanced completion design using longer laterals and larger well stimulations. The well results were successful but natural gas prices substantially declined in response to a very warm winter. In order to preserve liquidity, we recently released our last operated rig after drilling and completing three additional successful Haynesville shale wells in 2016. While the reduction in drilling activity will allow us to preserve more of the cash on our balance sheet, it will result in future reductions to natural gas production and proved oil and natural gas reserves.

If the Exchange Offer is consummated, we are planning to resume our drilling program later this year. We are planning to drill five (4.5 net) additional wells in 2016 and 19 (15.7 net) wells in 2017. Capital expenditures for this program would approximate $46.0 million in the second half of 2016 and $147.0 million in 2017. Restarting

the drilling program is dependent on successful completion of the Exchange Offer. The Exchange Offer, if successful, would free up cash flow from operations to allow us to fund our capital expenditures. To the extent that the Exchange Offer is not completed, we will pursue other initiatives to enhance liquidity, which may not be sufficient to fund this drilling program. Such initiatives could include additional asset divestitures or entering into a drilling joint venture on our Haynesville shale properties.

In March 2015, we issued $700.0 million of 10% senior secured notes (the "Secured Notes") which are due on March 15, 2020. Interest on the Secured Notes is payable semi-annually on each March 15 and September 15. Net proceeds from the issuance of the Secured Notes of $683.8 million were used to retire our bank credit facility and for general corporate purposes. We also have outstanding (i) $288.5 million of 7 ¾% senior notes (the "2019 Notes") which are due on April 1, 2019 and bear interest which is payable semi-annually on each April 1 and October 1 and (ii) $174.6 million of 9 ½% senior notes (the "2020 Notes") which are due on June 15, 2020 and bear interest which is payable semi-annually on each June 15 and December 15. The Secured Notes are secured on a first priority basis equally and ratably with our revolving credit facility described below, subject to payment priorities in favor of the revolving credit facility by the collateral securing the revolving credit facility, which consists of, among other things, at least 80% of our and its subsidiaries' oil and gas properties. The Secured Notes, the 2019 Notes and 2020 Notes are our general obligations and are guaranteed by all of our subsidiaries. Such subsidiary guarantors are 100% owned and all of the guarantees are full and unconditional and joint and several obligations. There are no restrictions on our ability to obtain funds from our subsidiaries through dividends or loans. As of June 30, 2016, we had no material assets or operations which are independent of our subsidiaries.

During 2015 we purchased $23.9 million in principal amount of the 2019 Notes and $105.6 million in principal amount of the 2020 Notes for an aggregate purchase price of $42.7 million. The gain of $82.4 million recognized on the purchase of the 2019 Notes and 2020 Notes and the loss resulting from the write-off of deferred loan costs associated with our prior bank credit facility of $3.7 million are included in the net gain on extinguishment of debt, which is reported as a component of other income (expense). During the six months ended June 30, 2016, we retired $87.5 million in principal amount of the 2019 Notes and $19.8 million of the 2020 Notes in exchange in the aggregate for the issuance of 2,748,403 shares of common stock and $3.5 million in cash. A gain of $89.6 million was recognized on the exchanges and purchases of the 2019 Notes and the 2020 Notes during the six months ended June 30, 2016 for the difference between the market value of the stock on the closing date of the exchanges and sales and the net carrying value of the debt and the related net premium and net debt issuance costs. The gain is included in the net gain on extinguishment of debt, which is reported as a component of other income (loss).

We have a $50.0 million revolving credit facility with Bank of Montreal and Bank of America, N.A. The revolving credit facility is a four year credit commitment that matures on March 4, 2019. Indebtedness under the revolving credit facility is secured by substantially all of our and our subsidiaries' assets and is guaranteed by all of our subsidiaries. Borrowings under the revolving credit facility bear interest at our option at either (1) LIBOR plus 2.5% or (2) the base rate (which is the higher of the administrative agent's prime rate, the federal funds rate plus 0.5% or 30 day LIBOR plus 1.0%) plus 1.5%. A commitment fee of 0.5% per annum is payable quarterly on the unused credit line. The revolving credit facility contains covenants that, among other things, restrict the payment of cash dividends and repurchases of common stock, limit the amount of consolidated debt that we may incur and limit our ability to make certain loans, investments and divestitures. The only financial covenants are the maintenance of a current ratio of at least 1.0 to 1.0 and the maintenance of an asset coverage ratio of proved developed reserves to total debt outstanding under the revolving credit facility of at least 2.5 to 1.0. We were in compliance with these covenants as of June 30, 2016.

Upon successful completion of the Exchange Offer, we believe that our future cash flow from operations, proceeds from asset sales, cash on hand and available borrowings under our revolving 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 or we do not consummate the

Exchange Offer, we may be required to seek asset dispositions, joint ventures, additional debt or other alternatives, all of which involve uncertainties, potential delays and other risks. We cannot provide any assurance that we will be able to achieve such alternatives, or if such alternatives are achieved, that we will be able to achieve them on acceptable terms.

The following table summarizes our aggregate liabilities and commitments as of December 31, 2015 by year of maturity:

	2016	2017	2018	2019	2020	Thereafter	Total
				(In thousands)			
10% senior secured notes	$ —	$ —	$ —	$ —	$ 700,000	$ —	$ 700,000
7 ¾% senior unsecured notes	—	—	—	376,090	—	—	376,090
9 ½% senior unsecured notes	—	—	—	—	194,367	—	194,367
Interest on debt	117,612	117,612	117,612	95,752	23,046	—	471,634
Operating leases	1,994	2,021	2,060	1,560	1,560	1,560	10,755
Natural gas transportation and treating agreements	2,199	1,780	1,696	690	—	—	6,365
Contracted drilling services	1,593	—	—	—	—	—	1,593
	$ 123,398	$ 121,413	$ 121,368	$ 474,092	$ 918,973	$ 1,560	$ 1,760,804

Future interest costs are based upon the effective interest rates of our outstanding senior notes.

We have obligations to incur future payments for dismantlement, abandonment and restoration costs of oil and gas properties. These payments are currently estimated to be incurred primarily after 2020. We record a separate liability for the fair value of these asset retirement obligations, which totaled $16.0 million as of June 30, 2016.

Federal and State Taxation

As of December 31, 2015, we had $558.7 million in U.S. federal net operating loss carryforwards. The utilization of $34.7 million of the U.S. federal net operating loss carryforward is limited to approximately $1.1 million per year pursuant to a prior change of control of an acquired company. Accordingly, as of December 31, 2014, a valuation allowance of $23.0 million, with a tax effect of $8.0 million, has been established for the estimated U.S. federal net operating loss carryforwards that will not be utilized as a result of the prior change in control. As of December 31, 2015, we have also established a valuation allowance of $775.3 million, with a tax effect of $271.4 million, against our other U.S. federal net operating loss carryforwards that are not subject a change in control, due to the uncertainty of generating future taxable income prior to the expiration of the carry-over period. In addition, as of December 31, 2015, we have established a valuation allowance of $957.7 million, with a tax effect of $49.8 million, against our Louisiana state net deferred tax assets due to the uncertainty of generating taxable income in the state of Louisiana prior to the expiration of the carry-over period. As of December 31, 2014, we had a valuation allowance of $742.2 million, with a tax effect of $38.6 million, against our Louisiana state deferred tax assets.

Future use of our net operating loss carryforwards may be limited in the event that a cumulative change in the ownership of our common stock by more than 50% occurs within a three-year period. Such a change in ownership could result in a substantial portion of our net operating loss carryforwards being eliminated or becoming restricted, and we would need to recognize a valuation allowance reflecting the restricted use of these net operating loss carryforwards in the period when such an ownership change occurred. We may also need to recognize additional valuation allowances on our net operating loss carryforwards in future periods if we incur significant losses and accordingly a tax benefit may not be recognized on such losses. In 2015, we adopted a Rights Plan intended to prevent these potential limitations on our ability to utilize our net operating loss carryforwards. Completion of the Exchange Offer could result in a change of control and impact the utilization of our net operating loss carry-forwards. See “Certain United States Federal Income Tax Consequences.”

Our federal income tax returns for the years subsequent to December 31, 2011 remain subject to examination. Our income tax returns in one major state income tax jurisdiction remain subject to examination for the year ended December 31, 2008 and various periods subsequent to December 31, 2010. We currently believe that our significant filing positions are highly certain and that all of our other significant income tax filing positions and deductions would be sustained upon audit or the final resolution would not have a material effect on our consolidated financial statements. Therefore, we have not established any significant reserves for uncertain tax positions. Interest and penalties resulting from audits by tax authorities have been immaterial and are included in the provision for income taxes in the consolidated statements of operations.

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.

Successful efforts accounting. We are 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 natural 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 natural 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.

Oil and natural gas reserve quantities. The determination of depreciation, depletion and amortization expense is highly dependent on the estimates of the proved oil and natural gas reserves attributable to our properties. The determination of whether impairments should be recognized on our oil and gas properties is also dependent on these estimates, as well as estimates of probable reserves. Reserve engineering is a subjective process of estimating underground accumulations of oil and natural gas that cannot be precisely measured. The accuracy of any reserve estimate depends on the quality of available data, production history and engineering and geological interpretation and judgment. Because all reserve estimates are to some degree imprecise, the quantities and timing of oil and natural gas that are ultimately recovered, production and operating costs, the amount and timing of future development expenditures and future oil and natural gas prices may all differ materially from those assumed in these estimates. The information regarding present value of the future net cash flows attributable to our proved oil and natural gas reserves are estimates only and should not be construed as the current market value of the estimated oil and natural gas reserves attributable to our properties. Thus, such information includes revisions of certain reserve estimates attributable to proved properties included in the preceding year’s estimates. Such revisions reflect additional information from subsequent activities, production history of the properties involved and any adjustments in the projected economic life of such properties resulting from changes in product prices. Any future downward revisions could adversely affect our financial condition, our future prospects and the value of our common stock.

Impairment of oil and gas properties. We evaluate our properties on a field area basis for potential impairment when circumstances indicate that the carrying value of an asset may not be recoverable. If impairment is indicated based on a comparison of the asset’s carrying value to its undiscounted expected future net cash flows, then it is recognized to the extent that the carrying value exceeds fair value. A significant amount of judgment is involved in performing these evaluations since the results are based on estimated future events. Expected future cash flows are determined using estimated future prices based on market based forward prices applied to projected future production volumes. The projected production volumes are based on the property’s proved and risk adjusted probable oil and natural gas reserves estimates at the end of the period. At December 31, 2015, we excluded probable undeveloped reserves from our impairment analysis given our limited capital resources available for future drilling activities. The estimated future cash flows that we use in our assessment of the need

for an impairment are based on a corporate forecast which considers forecasts from multiple independent price forecasts. Prices are not escalated to levels that exceed observed historical market prices. Costs are also assumed to escalate at a rate that is based on our historical experience, currently estimated at 2% per annum. The oil and natural gas prices used for determining asset impairments will generally differ from those used in the standardized measure of discounted future net cash flows because the standardized measure requires the use of the average first day of the month historical price for the year. During 2015, our oil and natural gas price outlook declined significantly and our access to capital to develop our proved and probable undeveloped reserves was limited. Accordingly, we recognized impairment charges of $801.3 million to reduce the capitalized costs of our evaluated oil and natural gas properties. It is reasonably possible that our estimates of undiscounted future net cash flows attributable to its oil and gas properties may change in the future. The primary factors that may affect estimates of future cash flows include future adjustments, both positive and negative, to proved and appropriate risk-adjusted probable oil and gas reserves, results of future drilling activities, future prices for oil and natural gas, and increases or decreases in production and capital costs. As a result of these changes, there may be further impairments in the carrying values of our evaluated oil and gas properties. Specifically, as part of the impairment review performed at December 31, 2015, we observed that a decline in excess of 30% for our future cash flow estimates for our Eagleville field in South Texas could result in an additional impairment being recorded in an amount that could be at least $130.0 million. In addition, we may recognize additional impairments of our unevaluated oil and gas properties should we determine that we no longer intend to retain these propertied for future oil and natural gas development.

Income Taxes. The Company 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 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 the change in rate is enacted.

In recording deferred income tax assets, we consider whether it is more likely than not that some portion or all of our deferred income tax assets will be realized in the future. The ultimate realization of deferred income tax assets is dependent upon the generation of future taxable income during the periods in which those deferred income tax assets would be deductible. We believe that after considering all the available objective evidence, historical and prospective, with greater weight given to historical evidence, we are not able to determine that it is more likely than not that all of our deferred tax assets will be realized. As a result, in 2015 we established an additional valuation allowance of $775.3 million, with a tax effect of $271.4 million, for our estimated U.S. federal net operating loss carryforwards and other U.S. federal tax assets and an additional valuation allowance of $215.5 million, with a tax effect of $11.2 million, for our estimated Louisiana state net operating loss carryforwards that are not expected be utilized due to the uncertainty of generating taxable income prior to the expiration of the respective U.S. federal and Louisiana state carry-over periods. During the six months ended June 30, 2016, we recorded an additional valuation allowance of $17.9 million and $4.9 million against our net federal deferred tax assets and our state deferred tax assets (net of the federal tax benefit). We will continue to assess the valuation allowance against deferred tax assets considering all available information obtained in future reporting periods.

Stock-based compensation. We follow the fair value based method in accounting for equity-based compensation. Under the fair value based method, compensation cost is measured at the grant date based on the fair value of the award and is recognized on a straight-line basis over the award vesting period.

Recent accounting pronouncements. In May 2014, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2014-09, *Revenue from Contracts with Customers (Topic 606)* (“ASU 2014-09”), which supersedes nearly all existing revenue recognition guidance under existing generally

accepted accounting principles. This new standard is based upon the principal that revenue is recognized to depict the transfer of goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. ASU 2014-09 also requires additional disclosure about the nature, amount, timing and uncertainty of revenue and cash flows arising from customer contracts. ASU 2014-09 is effective for annual and interim periods beginning after December 15, 2017. Early adoption is permitted beginning with periods after December 15, 2016 and entities have the option of using either a full retrospective or modified approach to adopt ASU 2014-09. We are currently evaluating the new guidance and have not determined the impact this standard may have on our financial statements or decided upon the method of adoption.

In August 2014, the FASB issued ASU No. 2014-15, *Presentation of Financial Statements - Going Concern (Subtopic 205-40): Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern* ("ASU 2014-15"). ASU 2014-15 provides guidance about management's responsibility to evaluate whether there is substantial doubt about an entity's ability to continue as a going concern and sets rules for how this information should be disclosed in the financial statements. ASU 2014-15 is effective for annual periods ending after December 15, 2016 and interim periods thereafter. Early adoption is permitted. We have elected to not adopt ASU 2014-15 early and do not expect adoption of ASU 2014-15 to have any impact on our consolidated financial condition, results of operations or cash flows.

In February 2016, the FASB issued ASU No. 2016-02, *Leases*, ("ASU 2016-02"). ASU 2016-02 requires lessees to put most leases on their balance sheets, but recognize lease costs in their financial statements in a manner similar to accounting for leases prior to ASC 2016-02. ASU 2016-02 is effective for annual periods ending after December 15, 2018 and interim periods thereafter. Early adoption is permitted. The Company is currently evaluating the new guidance and has not determined the impact this standard may have on its financial statements or decided upon the method of adoption.

In March 2016, the FASB issued ASU No. 2016-09, *Improvements to Employee Share-Based Payment Accounting*, ("ASU 2016-09"). ASU 2016-09 will change how companies account for certain aspects of share-based payments, including recognizing the income tax effects of awards in the income statement when the awards vest or are settled. ASC 2016-09 revises guidance on employers' accounting for employee's use of shares to satisfy the employer's statutory income tax withholding obligation and the treatment of forfeitures. ASU 2016-09 is effective for annual periods ending after December 15, 2016 and interim periods thereafter. Early adoption is permitted, but all guidance must be adopted in the same period. The Company is currently evaluating the new guidance and has not determined the impact this standard may have on its financial statements or decided upon the method of adoption.

Related Party Transactions

Along with M. Jay Allison, our Chairman and CEO, and Roland O. Burns, our President, Chief Financial Officer and a director, we formed an entity in 2010 in which we jointly owned and operated a private airplane. The entity was owned 80% by us and 10% by each of Messrs. Allison and Burns. Each party funded their respective share of the acquisition costs of the airplane in exchange for their ownership interest. This arrangement was approved by our audit committee and board of directors. In January 2015, we acquired from Messrs. Allison and Burns their collective 20% interest in the entity for aggregate consideration of $1,680,000, which amount was based upon the then fair market value of the airplane (the only asset owned by the entity). The airplane is leased to and managed by a third party operator. The airplane, which is intended to be used primarily for company business, also provides charter services to third parties. The termination of this related party relationship was approved by our audit committee and the board of directors in accordance with our policy on related party transactions. We have not entered into any other business transactions with our significant stockholders or any other related parties.

QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK

Oil and Natural Gas Prices

Our financial condition, results of operations and capital resources are highly dependent upon the prevailing market prices of natural gas and oil. These commodity prices are subject to wide fluctuations and market uncertainties due to a variety of factors, some of which 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 that 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 natural gas and oil 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 natural gas and oil reserves, including reductions due to price fluctuations, can have an adverse effect on our ability to obtain capital for our exploration and development activities. Similarly, any improvements in natural gas and oil prices can have a favorable impact on our financial condition, results of operations and capital resources. Based on our oil and natural gas production for the six months ended June 30, 2016 and our outstanding natural gas price swap agreements, a $0.10 change in the price per Mcf of natural gas would have changed our cash flow by approximately $2.5 million and a $1.00 change in the price per barrel of oil would have resulted in a change in our cash flow from continuing operations for such period by approximately $0.7 million.

Interest Rates

At June 30, 2016, we had approximately $1.2 billion of long-term debt outstanding. Of this amount, $700.0 million bears interest at a fixed rate of 10%, $288.5 million bears interest at a fixed rate of 7 ¾% and $174.6 million bears interest at a fixed rate of 9 ½%. The fair market value of our fixed rate debt as of June 30, 2016 was $730.2 million based on the market price of approximately 64% of the face amount. At June 30, 2016, we had no borrowings outstanding under our revolving credit facility, which is subject to variable rates of interest that are tied at our option to either LIBOR or the corporate base rate.

BUSINESS AND PROPERTIES

The following table summarizes the estimated proved oil and natural gas reserves for our ten largest fields as of December 31, 2015:

	Oil (MBbls)	Natural Gas (MMcf)	Total (MMcfe)(1)	%
East Texas / North Louisiana:				
Logansport	18	422,504	422,614	67.6%
Beckville	105	23,923	24,551	3.9%
Toledo Bend	—	18,796	18,796	3.0%
Waskom	48	8,642	8,931	1.4%
Blocker	29	6,707	6,881	1.1%
Other	101	13,062	13,667	2.3%
	301	493,634	495,440	79.3%
South Texas:				
Eagleville	8,701	9,119	61,327	9.8%
Fandango	—	27,487	27,487	4.4%
Rosita	—	20,258	20,258	3.2%
Javelina	35	4,251	4,459	0.7%
Las Hermanitas	—	3,210	3,210	0.5%
Other	35	2,998	3,207	0.6%
	8,771	67,323	119,948	19.2%
Other	157	8,639	9,583	1.5%
Total	9,229	569,596	624,971	100.0%

(1) Oil is converted to natural gas equivalents by using a conversion factor of one barrel of oil for six Mcf of natural gas based upon the approximate relative energy content of oil to natural gas, which is not indicative of oil and natural gas prices.

East Texas/North Louisiana Region

Approximately 79%, or 495.4 Bcfe of our proved reserves are located in East Texas and North Louisiana where we own interests in 921 producing wells (573.0 net to us) in 28 field areas. We operate 644 of these wells. The largest of our fields in this region are the Logansport, Beckville, Toledo Bend, Waskom and Blocker fields. Production from this region averaged 107 MMcf of natural gas per day and 158 barrels of oil per day during 2015 or 108 MMcfe per day. Most of the reserves in this area produce from the upper Jurassic aged Haynesville or Bossier shale or Cotton Valley formations and the Cretaceous aged Travis Peak/Hosston formation. In 2015, we spent $109.9 million drilling ten wells (9.6 net to us), $1.4 million on other development and $0.8 million on leasehold costs in this region.

Logansport

The Logansport field located in DeSoto Parish, Louisiana primarily produces from the Haynesville and Bossier shale formations at a depth of 11,100 to 11,500 feet and from multiple sands in the Cotton Valley and Hosston formations at an average depth of 8,000 feet. Our proved reserves of 422.6 Bcfe in the Logansport field represent approximately 68% of our proved reserves. We own interests in 250 wells (168.7 net to us) and operate 182 of these wells in this field. In 2015 we drilled nine wells (8.6 net to us) in the Logansport field. Our 2016 drilling program will be focused primarily on drilling additional horizontal wells in Logansport targeting the Haynesville shale formation each with a planned lateral length of 7,500 to 10,000 feet.

Beckville

The Beckville field, located in Panola and Rusk Counties, Texas, has estimated proved reserves of 24.6 Bcfe which represents approximately 4% of our proved reserves. We operate 187 wells in this field and own interests in 72 additional wells for a total of 259 wells (156.2 net to us). The Beckville field produces primarily from the Cotton Valley formation at depths ranging from 9,000 to 10,000 feet. The field is also prospective for future Haynesville shale development.

Toledo Bend

The Toledo Bend field, located in DeSoto and Sabine Parishes in Louisiana, is productive in the Haynesville shale from 11,400 to 11,800 feet and in the Bossier shale from 10,880 to 11,300 feet. Our proved reserves of 18.8 Bcfe in the Toledo Bend field represent approximately 3% of our reserves. We own interests in 76 producing wells (39.3 net to us) and operate 41 of these wells in this field. During 2015 we drilled one well (0.9 net to us) in the Toledo Bend field.

Waskom

The Waskom field, located in Harrison and Panola Counties in Texas, represents approximately 1% (8.9 Bcfe) of our proved reserves. We own interests in 59 wells (35.5 net to us) and operate 43 wells in this field. The Waskom field produces from the Cotton Valley formation at depths ranging from 9,000 to 10,000 feet and from the Haynesville shale formation at depths of 10,800 to 10,900 feet.

Blocker

Our proved reserves of 6.9 Bcfe in the Blocker field located in Harrison County, Texas represent approximately 1% of our proved reserves. We own interests in 74 wells (68.4 net to us) and operate 69 of these wells. Most of this production is from the Cotton Valley formation between 8,600 and 10,150 feet and the Haynesville shale formation between 11,100 and 11,450 feet.

South Texas Region

Approximately 19%, or 20.0 MMBOE (119.9 Bcfe), of our proved reserves are located in South Texas, where we own interests in 322 producing wells (208.2 net to us). We own interests in 13 field areas in the region, the largest of which are the Eagleville, Fandango, Rosita, Javelina and Las Hermanitas fields. Net daily production rates from this region averaged 8,105 barrels of oil and 20 MMcf of natural gas during 2015 or 11,485 BOE per day. We have no current plans to drill or recomplete wells in South Texas during 2016 due to the continued low oil price environment.

Eagleville

We have 26,416 acres (19,293 net to us) in McMullen, Atascosa, Frio, La Salle, Karnes and Wilson Counties which comprise our Eagleville field. The Eagle Ford shale is found between 7,500 feet and 11,500 feet across our acreage position. At December 31, 2015 we had 196 wells (138.1 net to us) producing in the Eagleville field. Our proved reserves in this field are estimated to be 10.2 MMBOE (61.3 Bcfe) (85% oil) and represent 10% of our total proved reserves. We spent $17.4 million in 2015 to complete four oil wells (4.0 net to us) and $24.2 million for other development activity in Eagleville.

Fandango

We own interests in 17 wells (17.0 net to us) in the Fandango field located in Zapata County, Texas. We operate all of these wells which produce from the Wilcox formation at depths from approximately 13,000 to 18,000 feet. Our proved reserves of 27.5 Bcfe in this field represent approximately 4% of our total proved reserves.

Rosita

We own interests in 24 wells (13.2 net to us) in the Rosita field, located in Duval County, Texas. We operate 23 of these wells which produce from the Wilcox formation at depths from approximately 9,300 to 17,000 feet. Our proved reserves of 20.3 Bcfe in this field represent approximately 3% of our total proved reserves.

Javelina

We own interests in and operate 17 wells (17.0 net to us) in the Javelina field in Hidalgo County in South Texas. These wells produce primarily from the Vicksburg formation at a depth of approximately 10,900 to 12,500 feet. Proved reserves attributable to our interests in the Javelina field are 4.5 Bcfe, which represents approximately 1% of our total proved reserves.

Las Hermanitas

We own interests in and operate 11 natural gas wells (11.0 net to us) in the Las Hermanitas field, located in Duval County, Texas. These wells produce from the Wilcox formation at depths from approximately 11,400 to 11,800 feet. Our proved reserves of 3.2 Bcfe in this field represent approximately 1% of our total proved reserves.

Other Regions

Approximately 2%, or 9.6 Bcfe, of our proved reserves are in other regions, primarily in New Mexico and the Mid-Continent region. We also have a large acreage position in Mississippi and Louisiana in the emerging Tuscaloosa Marine shale play. We own interests in 332 producing wells (78.5 net to us) in 15 fields within these regions. Net daily production from our other regions during 2015 totaled 3 MMcf of natural gas and 199 barrels of oil or 5 MMcfe per day.

Major Property Acquisitions

As a result of our acquisitions of producing oil and gas properties, we have added 1.1 Tcfe of proved oil and natural gas reserves over the past 25 years. In recent years we have focused more on acreage acquisition and drilling for reserve growth and have not completed any significant acquisitions of producing properties.

Regulation

General. Various aspects of our oil and natural gas operations are subject to extensive and continually changing regulation, as legislation affecting the oil and natural gas industry is under constant review for amendment or expansion. Numerous departments and agencies, both federal and state, are authorized by statute to issue, and have issued, rules and regulations binding upon the oil and natural gas industry and its individual members. The Federal Energy Regulatory Commission, or “FERC”, regulates the transportation and sale for resale of natural gas in interstate commerce pursuant to the Natural Gas Act of 1938, or “NGA”, and the Natural Gas Policy Act of 1978, or “NGPA”. In 1989, however, Congress enacted the Natural Gas Wellhead Decontrol Act, which removed all remaining price and nonprice controls affecting all “first sales” of natural gas, effective January 1, 1993, subject to the terms of any private contracts that may be in effect. While sales by producers of natural gas and all sales of crude oil, condensate and natural gas liquids can currently be made at uncontrolled market prices, in the future Congress could reenact price controls or enact other legislation with detrimental impact on many aspects of our business. Under the provisions of the Energy Policy Act of 2005 (the “2005 Act”), the NGA has been amended to prohibit any form of market manipulation with the purchase or sale of natural gas, and the FERC has issued new regulations that are intended to increase natural gas pricing transparency. The 2005 Act has also significantly increased the penalties for violations of the NGA. The FERC has issued Order No. 704 et al. which requires a market participant to make an annual filing if it has sales or purchases equal to or greater than 2.2 million MMBtu in the reporting year to facilitate price transparency.

Regulation and transportation of natural gas. Our sales of natural gas are affected by the availability, terms and cost of transportation. The price and terms for access to pipeline transportation are subject to extensive regulation. The FERC requires interstate pipelines to provide open-access transportation on a not unduly discriminatory basis for similarly situated shippers. The FERC frequently reviews and modifies its regulations regarding the transportation of natural gas, with the stated goal of fostering competition within the natural gas industry.

Intrastate natural gas transportation is subject to regulation by state regulatory agencies. The Texas Railroad Commission has been changing its regulations governing transportation and gathering services provided by intrastate pipelines and gatherers. While the changes by these state regulators affect us only indirectly, they are intended to further enhance competition in natural gas markets. We cannot predict what further action the FERC or state regulators will take on these matters; however, we do not believe that we will be affected differently in any material respect than other natural gas producers with which we compete by any action taken.

Additional proposals and proceedings that might affect the natural gas industry are pending before Congress, the FERC, state commissions and the courts. The natural gas industry historically has been very heavily regulated; therefore, there is no assurance that the less stringent regulatory approach pursued by the FERC, Congress and state regulatory authorities will continue.

Federal leases. Some of our operations are located on federal oil and natural gas leases that are administered by the Bureau of Land Management (“BLM”) of the United States Department of the Interior. These leases are issued through competitive bidding and contain relatively standardized terms. These leases require compliance with detailed Department of Interior and BLM regulations and orders that are subject to interpretation and change. These leases are also subject to certain regulations and orders promulgated by the Department of Interior’s Bureau of Ocean Energy Management, Regulation & Enforcement (“BOEMRE”), through its Minerals Revenue Management Program, which is responsible for the management of revenues from both onshore and offshore leases.

Oil and natural gas liquids transportation rates. Our sales of crude oil, condensate and natural gas liquids are not currently regulated and are made at market prices. In a number of instances, however, the ability to transport and sell such products is dependent on pipelines whose rates, terms and conditions of service are subject to FERC jurisdiction under the Interstate Commerce Act. In other instances, the ability to transport and sell such products is dependent on pipelines whose rates, terms and conditions of service are subject to regulation by state regulatory bodies under state statutes. The price received from the sale of these products may be affected by the cost of transporting the products to market.

The FERC’s regulation of pipelines that transport crude oil, condensate and natural gas liquids under the Interstate Commerce Act is generally more light-handed than the FERC’s regulation of natural gas pipelines under the NGA. FERC-regulated pipelines that transport crude oil, condensate and natural gas liquids are subject to common carrier obligations that generally ensure non-discriminatory access. With respect to interstate pipeline transportation subject to regulation of the FERC under the Interstate Commerce Act, rates generally must be cost-based, although settlement rates agreed to by all shippers are permitted and market-based rates are permitted in certain circumstances. Effective January 1, 1995, the FERC implemented regulations establishing an indexing system (based on inflation) for transportation rates governed by the Interstate Commerce Act that allowed for an increase or decrease in the transportation rates. The FERC’s regulations include a methodology for such pipelines to change their rates through the use of an index system that establishes ceiling levels for such rates. The mandatory five year review in 2005 revised the methodology for this index to be based on Producer Price Index for Finished Goods (PPI-FG) plus 1.3 percent for the period July 1, 2006 through June 30, 2011. The mandatory five year review in 2012 revised the methodology for this index to be based on PPI-FG plus 2.65 percent for the period July 1, 2011 through June 30, 2016. The regulations provide that each year the Commission will publish the oil pipeline index after the PPI-FG becomes available.

With respect to intrastate crude oil, condensate and natural gas liquids pipelines subject to the jurisdiction of state agencies, such state regulation is generally less rigorous than the regulation of interstate pipelines. State agencies have generally not investigated or challenged existing or proposed rates in the absence of shipper complaints or protests. Complaints or protests have been infrequent and are usually resolved informally.

We do not believe that the regulatory decisions or activities relating to interstate or intrastate crude oil, condensate or natural gas liquids pipelines will affect us in a way that materially differs from the way it affects other crude oil, condensate and natural gas liquids producers or marketers.

Environmental regulations. We are subject to stringent federal, state and local laws. These laws, among other things, govern the issuance of permits to conduct exploration, drilling and production operations, the amounts and types of materials that may be released into the environment, the discharge and disposition of waste materials, the remediation of contaminated sites and the reclamation and abandonment of wells, sites and facilities. Numerous governmental departments issue rules and regulations to implement and enforce such laws, which are often difficult and costly to comply with and which carry substantial civil and even criminal penalties for failure to comply. Some laws, rules and regulations relating to protection of the environment may, in certain circumstances, impose strict liability for environmental contamination, rendering a person liable for environmental damages and cleanup cost without regard to negligence or fault on the part of such person. Other laws, rules and regulations may restrict the rate of oil and natural gas production below the rate that would otherwise exist or even prohibit exploration and production activities in sensitive areas. In addition, state laws often require various forms of remedial action to prevent pollution, such as closure of inactive pits and plugging of abandoned wells. The regulatory burden on the oil and natural gas industry increases our cost of doing business and consequently affects our profitability. These costs are considered a normal, recurring cost of our on-going operations. Our domestic competitors are generally subject to the same laws and regulations.

We believe that we are in substantial compliance with current applicable environmental laws and regulations and that continued compliance with existing requirements will not have a material adverse impact on our operations. However, environmental laws and regulations have been subject to frequent changes over the years, and the imposition of more stringent requirements or new regulatory schemes such as carbon “cap and trade” programs could have a material adverse effect upon our capital expenditures, earnings or competitive position, including the suspension or cessation of operations in affected areas. As such, there can be no assurance that material cost and liabilities will not be incurred in the future.

The Comprehensive Environmental Response, Compensation and Liability Act, or “CERCLA”, imposes liability, without regard to fault, on certain classes of persons that are considered to be responsible for the release of a “hazardous substance” into the environment. These persons include the current or former owner or operator of the disposal site or sites where the release occurred and companies that disposed or arranged for the disposal of hazardous substances. Under CERCLA, such persons may be subject to joint and several liability for the cost of investigating and cleaning up hazardous substances that have been released into the environment, for damages to natural resources and for the cost of certain health studies. In addition, companies that incur liability frequently also confront third party claims because it is not uncommon for neighboring landowners and other third parties to file claims for personal injury and property damage allegedly caused by hazardous substances or other pollutants released into the environment from a polluted site.

The Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, or “RCRA”, regulates the generation, transportation, storage, treatment and disposal of hazardous wastes and can require cleanup of hazardous waste disposal sites. RCRA currently excludes drilling fluids, produced waters and other wastes associated with the exploration, development or production of oil and natural gas from regulation as “hazardous waste”. Disposal of such non-hazardous oil and natural gas exploration, development and production wastes usually are regulated by state law. Other wastes handled at exploration and production sites or used in the course of providing well services may not fall within this exclusion. Moreover, stricter standards for waste handling and disposal may be imposed on the oil and natural gas industry in the future. From time to time,

legislation is proposed in Congress that would revoke or alter the current exclusion of exploration, development and production wastes from RCRA's definition of "hazardous wastes", thereby potentially subjecting such wastes to more stringent handling, disposal and cleanup requirements. If such legislation were enacted, it could have a significant impact on our operating costs, as well as the oil and natural gas industry in general. The impact of future revisions to environmental laws and regulations cannot be predicted.

Our operations are also subject to the Clean Air Act, or "CAA", and comparable state and local requirements. Amendments to the CAA were adopted in 1990 and contain provisions that may result in the gradual imposition of certain pollution control requirements with respect to air emissions from our operations. On April 17, 2012, the U. S. Environmental Protection Agency or "EPA" promulgated new emission standards for the oil and gas industry. These rules require a nearly 95 percent reduction in volatile organic compounds ("VOCs") emitted from hydraulically fractured gas wells by January 1, 2015. This significant reduction in emissions is to be accomplished primarily through the use of "green completions" (i.e., capturing natural gas that currently escapes to the air). These rules also have notification and reporting requirements. On September 23, 2014, EPA revised the emission requirements for storage tanks emitting certain levels of VOCs requiring a 95% reduction of VOC emissions by April 15, 2014 and April 15, 2015 (depending upon the date of construction of the storage tank). On December 19, 2014, EPA finalized updates and clarifications to these emission standards for the oil and gas industry. We believe our operations comply in all material respects with these emission limitations. In June 2016, the EPA finalized new regulations that require further reductions in VOC and methane emissions. In addition to reducing emissions from hydraulically fractured wells, the rules require emission reductions further downstream, including equipment in the natural gas transmission segment of the industry. As a result of these rules, we may be required to incur certain capital expenditures in the future for air pollution control equipment in connection with obtaining and maintaining operating permits and approvals for air emissions. However, we believe our operations will not be materially adversely affected by any such requirements, and the requirements are not expected to be any more burdensome to us than to other similarly situated companies involved in oil and natural gas exploration and production activities.

The Federal Water Pollution Control Act of 1972, as amended, or the "Clean Water Act", imposes restrictions and controls on the discharge of produced waters and other wastes into navigable waters. Permits must be obtained to discharge pollutants into state and federal waters and to conduct construction activities in waters and wetlands. Certain state regulations and the general permits issued under the Federal National Pollutant Discharge Elimination System program prohibit the discharge of produced waters and sand, drilling fluids, drill cuttings and certain other substances related to the oil and natural gas industry into certain coastal and offshore waters, unless otherwise authorized. Further, the EPA has adopted regulations requiring certain oil and natural gas exploration and production facilities to obtain permits for storm water discharges. Costs may be associated with the treatment of wastewater or developing and implementing storm water pollution prevention plans. The Clean Water Act and comparable state statutes provide for civil, criminal and administrative penalties for unauthorized discharges for oil and other pollutants and impose liability on parties responsible for those discharges for the cost of cleaning up any environmental damage caused by the release and for natural resource damages resulting from the release. We believe that our operations comply in all material respects with the requirements of the Clean Water Act and state statutes enacted to control water pollution.

The Federal Safe Drinking Water Act of 1974, as amended, requires EPA to develop minimum federal requirements for Underground Injection Control ("UIC") programs and other safeguards to protect public health by preventing injection wells from contaminating underground sources of drinking water. The UIC program does not regulate wells that are solely used for production. However, EPA has authority to regulate hydraulic fracturing when diesel fuels are used in fluids or propping agents. In February 2014, EPA issued new guidance on when UIC permitting requirements apply to fracking fluids containing diesel. We believe our operations will not be materially adversely affected by the new guidance, and the requirements are not expected to be any more burdensome to us than to other similarly situated companies involved in oil and natural gas exploration and production activities.

Federal regulators require certain owners or operators of facilities that store or otherwise handle oil to prepare and implement spill prevention, control, countermeasure and response plans relating to the possible discharge of oil into surface waters. The Oil Pollution Act of 1990 ("OPA") contains numerous requirements relating to the prevention and response to oil spills in the waters of the United States. The OPA subjects owners of facilities to strict joint and several liability for all containment and cleanup costs and certain other damages relating to a spill. Non-compliance with OPA may result in varying civil and criminal penalties and liabilities.

Executive Order 13158, issued on May 26, 2000, directs federal agencies to safeguard existing Marine Protected Areas, or "MPAs", in the United States and establish new MPAs. The order requires federal agencies to avoid harm to MPAs to the extent permitted by law and to the maximum extent practicable. It also directs the EPA to propose new regulations under the Clean Water Act to ensure appropriate levels of protection for the marine environment. This order has the potential to adversely affect our operations by restricting areas in which we may carry out future exploration and development projects and/or causing us to incur increased operating expenses.

Certain flora and fauna that have officially been classified as "threatened" or "endangered" are protected by the Endangered Species Act. This law prohibits any activities that could "take" a protected plant or animal or reduce or degrade its habitat area. If endangered species are located in an area we wish to develop, the work could be prohibited or delayed and/or expensive mitigation might be required.

Other statutes that provide protection to animal and plant species and which may apply to our operations include, but are not necessarily limited to, the Oil Pollution Act, the Emergency Planning and Community Right to Know Act, the Marine Mammal Protection Act, the Marine Protection, Research and Sanctuaries Act, the Fish and Wildlife Coordination Act, the Fishery Conservation and Management Act, the Migratory Bird Treaty Act and the National Historic Preservation Act. These laws and regulations may require the acquisition of a permit or other authorization before construction or drilling commences and may limit or prohibit construction, drilling and other activities on certain lands lying within wilderness or wetlands and other protected areas and impose substantial liabilities for pollution resulting from our operations. The permits required for our various operations are subject to revocation, modification and renewal by issuing authorities. In addition, laws such as the National Environmental Policy Act and the Coastal Zone Management Act may make the process of obtaining certain permits more difficult or time consuming, resulting in increased costs and potential delays that could affect the viability or profitability of certain activities.

Certain statutes such as the Emergency Planning and Community Right to Know Act require the reporting of hazardous chemicals manufactured, processed, or otherwise used, which may lead to heightened scrutiny of the company's operations by regulatory agencies or the public. In 2012, the EPA adopted a new reporting requirement, the Petroleum and Natural Gas Systems Greenhouse Gas Reporting Rule (40 C.F.R. Part 98, Subpart W), which requires certain onshore petroleum and natural gas facilities to begin collecting data on their emissions of greenhouse gases ("GHGs") in January 2012, with the first annual reports of those emissions due on September 28, 2012. GHGs include gases such as methane, a primary component of natural gas, and carbon dioxide, a byproduct of burning natural gas. Different GHGs have different global warming potentials with CO_2 having the lowest global warming potential, so emissions of GHGs are typically expressed in terms of CO_2 equivalents, or CO_2e. The rule applies to facilities that emit 25,000 metric tons of CO_2e or more per year, and requires onshore petroleum and natural gas operators to group all equipment under common ownership or control within a single hydrocarbon basin together when determining if the threshold is met. These greenhouse gas reporting rules were amended on October 22, 2015 to expand the number of sources and operations that are subject to these rules. We have determined that these reporting requirements apply to us and we believe we have met all of the EPA required reporting deadlines and strive to ensure accurate and consistent emissions data reporting. Other EPA actions with respect to the reduction of greenhouse gases (such as EPA's Greenhouse Gas Endangerment Finding, and EPA's Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule) and various state actions have or could impose mandatory reductions in greenhouse gas emissions. We are unable to predict at this time how much the cost of compliance with any legislation or regulation of greenhouse gas emissions will be in future periods.

Such changes in environmental laws and regulations which result in more stringent and costly reporting, or waste handling, storage, transportation, disposal or cleanup activities, could materially affect companies operating in the energy industry. Adoption of new regulations further regulating emissions from oil and gas production could adversely affect our business, financial position, results of operations and prospects, as could the adoption of new laws or regulations which levy taxes or other costs on greenhouse gas emissions from other industries, which could result in changes to the consumption and demand for natural gas. We may also be assessed administrative, civil and/or criminal penalties if we fail to comply with any such new laws and regulations applicable to oil and natural gas production.

In June 2009, the United States House of Representatives passed the American Clean Energy and Security Act of 2009. A similar bill, the Clean Energy Jobs and American Power Act, introduced in the Senate, did not pass. Both bills contained the basic feature of establishing a “cap and trade” system for restricting greenhouse gas emissions in the United States. Under such a system, certain sources of greenhouse gas emissions would be required to obtain greenhouse gas emission “allowances” corresponding to their annual emissions of greenhouse gases. The number of emission allowances issued each year would decline as necessary over time to meet overall emission reduction goals. As the number of greenhouse gas emission allowances declines each year, the cost or value of allowances is expected to escalate significantly. It appears that the prospects for a cap and trade system such as that proposed in these bills have dimmed significantly; however, the EPA has moved ahead with its efforts to regulate GHG emissions from certain sources by rule. The EPA issued Subpart W of the Final Mandatory Reporting of Greenhouse Gases Rule, which required petroleum and natural gas systems that emit 25,000 metric tons of CO_2e or more per year to begin collecting GHG emissions data under a new reporting system. We believe we have met all of the reporting requirements under these new regulations. Beyond measuring and reporting, the EPA issued an “Endangerment Finding” under section 202(a) of the Clean Air Act, concluding greenhouse gas pollution threatens the public health and welfare of current and future generations. The EPA has adopted regulations that would require permits for and reductions in greenhouse gas emissions for certain facilities. States in which we operate may also require permits and reductions in GHG emissions. Since all of our oil and natural gas production is in the United States, these laws or regulations that have been or may be adopted to restrict or reduce emissions of greenhouse gases could require us to incur substantial increased operating costs, and could have an adverse effect on demand for the oil and natural gas we produce. In June 2016, the EPA finalized rules that regulate methane and volatile organic compound emissions from new and modified oil and gas sources.

Other federal agencies, including the Bureau of Land Management, have also imposed new or more stringent regulations on the oil and gas sector that will have the effect of further reducing methane emissions. In 2010 the Bureau of Land Management began implementation of a proposed oil and gas leasing reform. The leasing reform requires, among other things, a more detailed environmental review prior to leasing oil and natural gas resources on federal lands, increased public engagement in the development of Master Leasing Plans prior to leasing areas where intensive new oil and gas development is anticipated, and a comprehensive parcel review process with greater public involvement in the identification of key environmental resource values before a parcel is leased. New leases would incorporate adaptive management stipulations, requiring lessees to monitor and respond to observed environmental impacts, possibly through the implementation of expensive new control measures or curtailment of operations, potentially reducing profitability. The leasing reform policy could have the effect of reducing the amount of new federal lands made available for lease, increasing the competition for and cost of available parcels. On March 26, 2015, the Bureau of Land Management adopted a new rule concerning hydraulic fracturing on federal land. On June 21, 2016, a federal district judge in Wyoming struck down the rule, finding that the Bureau of Land Management lacked the authority to promulgate environmental regulations relating to hydraulic fracturing. The federal government has appealed this decision to the 10th Circuit Court of Appeals. Due to the ongoing litigation, we cannot at this time predict what effect the new rule will have on our operations.

On August 16, 2012, the EPA adopted final regulations under the Clean Air Act that, among other things, require additional emissions controls for natural gas and natural gas liquids production, including New Source

Performance Standards to address emissions of sulfur dioxide and volatile organic compounds ("VOCs") and a separate set of emission standards to address hazardous air pollutants frequently associated with such production activities. The final regulations require the reduction of VOC emissions from natural gas wells through the use of reduced emission completions or "green completions" on all hydraulically fractured wells constructed or refractured after January 1, 2015. For well completion operations occurring at such well sites before January 1, 2015, the final regulations allow operators to capture and direct flowback emissions to completion combustion devices, such as flares, in lieu of performing green completions. These regulations also establish specific new requirements regarding emissions from dehydrators, storage tanks and other production equipment. On September 23, 2014, the EPA revised the emission requirements for storage tanks emitting certain levels of VOCs requiring a 95% reduction of VOC emissions by April 15, 2014 and April 15, 2015 (depending on the date of construction of the storage tank). In June 2016, the EPA finalized additional amendments to these rules that would require further reductions in VOC and methane emissions. In addition to reducing emissions from hydraulically fractured wells, the rules require emission reductions further downstream, including equipment in the natural gas transmission segment of the industry. As a result of these rules, we may be required to incur certain capital expenditures in the future for air pollution control equipment in connection with obtaining and maintaining operating permits and approvals for air emissions. However, we believe our operations will not be materially adversely affected by any such requirements, and the requirements are not expected to be any more burdensome to us than to other similarly situated companies involved in oil and natural gas exploration and production activities.

In addition, efforts have been made and continue to be made in the international community toward the adoption of international treaties or protocols that would address global climate change issues. Most recently in 2015, the United States participated in the United Nations Conference on Climate Change, which led to the creation of the Paris Agreement. The United States signed the Paris Agreement on April 22, 2016 and indicated that it intends to ratify the agreement in 2016. The Paris Agreement, once effective, would require ratifying countries to review and "represent a progression" in the ambitions of their nationally determined contributions, which set GHG emission reduction goals, every five years.

Regulation of oil and natural gas exploration and production. Our exploration and production operations are subject to various types of regulation at the federal, state and local levels. Such regulations include requiring permits and drilling bonds for the drilling of wells, regulating the location of wells, the method of drilling and casing wells and the surface use and restoration of properties upon which wells are drilled. Many 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 natural gas wells and the regulation of spacing, plugging and abandonment of such wells. Some state statutes limit the rate at which oil and natural gas can be produced from our properties.

State regulation. Most states regulate the production and sale of oil and natural gas, including requirements for obtaining drilling permits, the method of developing new fields, the spacing and operation of wells and the prevention of waste of oil and gas resources. The rate of production may be regulated and the maximum daily production allowable from both oil and gas wells may be established on a market demand or conservation basis or both.

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 lease office space in Frisco, Texas covering 66,382 square feet at a monthly rate of $124,466. This lease expires on December 31, 2021. We also own production offices and pipe yard facilities near Marshall, Jourdanton and Zapata, Texas and Logansport, Louisiana.

Employees

As of August 29, 2016, we had 117 employees and utilized contract employees for certain of our field operations. We consider our employee relations to be satisfactory.

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.

MANAGEMENT

Directors and Executive Officers

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

Name	Age	Position with Company
M. Jay Allison	60	Chief Executive Officer and Chairman of the Board of Directors
Roland O. Burns	56	President, Chief Financial Officer, Secretary and Director
Mack D. Good	65	Chief Operating Officer
D. Dale Gillette	70	Vice President of Legal and General Counsel
Michael D. McBurney	60	Vice President of Marketing
Daniel K. Presley	55	Vice President of Accounting, Controller and Treasurer
Russell W. Romoser	64	Vice President of Reservoir Engineering
LaRae L. Sanders	54	Vice President of Land
Richard D. Singer	62	Vice President of Financial Reporting
Blaine M. Stribling	45	Vice President of Corporate Development
Elizabeth B. Davis	53	Director
David K. Lockett	62	Director
Cecil E. Martin	75	Director
Frederic D. Sewell	81	Director
David W. Sledge	59	Director
Jim L. Turner	70	Director

A brief biography of each person who serves as a director or executive officer follows below.

Executive Officers

M. Jay Allison has been our Chief Executive Officer since 1988. Mr. Allison was elected Chairman of the Board in 1997 and has been a director since 1987. From 1988 to 2013, Mr. Allison served as our President. From 1981 to 1987, he was a practicing oil and gas attorney with the firm of Lynch, Chappell & Alsup in Midland, Texas. Mr. Allison was Chairman of the board of directors of Bois d'Arc Energy, Inc. from the time of its formation in 2004 until its merger with Stone Energy Corporation in 2008. Mr. Allison currently also serves as a Director of Tidewater, Inc. and is on the Board of Regents for Baylor University. Mr. Allison has 28 years of executive leadership experience in the oil and gas industry. Mr. Allison combines his educational background in business and in commercial law, along with his entrepreneurial spirit, his driven work ethic and extensive knowledge of the oil and gas industry, to pursue disciplined investments intended to enhance stockholder value. Mr. Allison's service on the board of directors and audit committee of Tidewater, Inc. also provides him with knowledge, experience and insight from a global perspective.

Roland O. Burns has been our President since 2013, Chief Financial Officer since 1990, Secretary since 1991 and a director since 1999. Mr. Burns served as our Senior Vice President from 1994 to 2013 and Treasurer from 1990 to 2013. From 1982 to 1990, Mr. Burns was employed by the public accounting firm, Arthur Andersen. During his tenure with Arthur Andersen, Mr. Burns worked primarily in the firm's oil and gas audit practice. Mr. Burns was a director, Senior Vice President and the Chief Financial Officer of Bois d'Arc Energy, Inc. from the time of its formation in 2004 until its merger with Stone Energy Corporation in 2008. Mr. Burns currently serves on the Board of Directors of the Cotton Bowl Athletic Association. Mr. Burns is an experienced financial executive with extensive knowledge and experience in financial reporting, internal controls in the oil and gas industry, treasury and risk management, mergers and acquisitions, and regulatory compliance. Mr. Burns works with Mr. Allison to evaluate and consider business development opportunities and financing proposals. Mr. Burns, who is our principal contact with investors and investment bankers, updates the Board on trends in the capital markets, including the availability of debt and equity financing and transactional activity in the oil and gas industry.

Mack D. Good returned as our Chief Operating Officer in March 2015. Mr. Good previously served as our Chief Operating Officer from 2004 until 2011, when he retired. From 1997 until 2004 he served in various other management and engineering positions with us. From 1983 until 1997 Mr. Good was with Enserch Exploration, Inc., serving in various engineering and operations management positions. Mr. Good received a B.S. of Biology/Chemistry from Oklahoma State University in 1975 and a B.S. degree of Petroleum Engineering from the University of Tulsa in 1983.

D. Dale Gillette became our General Counsel and Vice President of Legal in 2014. He has been our General Counsel since 2006. From 2006 until November 2014, Mr. Gillette was also our Vice President of Land. Prior to joining us, Mr. Gillette practiced law extensively in the energy sector for 34 years, most recently as a partner with Gardere Wynne Sewell LLP, and before that with Locke Liddell & Sapp LLP (now known as Locke Lord LLP). During that time he represented independent exploration and production companies and large financial institutions in numerous oil and gas transactions. Mr. Gillette has also served as corporate counsel in the legal department of Mesa Petroleum Co. and in the legal department of Enserch Corp. Mr. Gillette holds B.A. and J.D. degrees from the University of Texas and is a member of the State Bar of Texas.

Michael D. McBurney has been our Vice President of Marketing since 2013. Mr. McBurney has over 33 years of energy industry experience within the oil, natural gas, LNG, and power segments. For the past seven years Mr. McBurney worked for EXCO Resources, Inc., an independent exploration and production company where he was responsible for natural gas and natural gas liquids marketing. From 2000 to 2006, Mr. McBurney was with FPL Energy of Florida, where he was responsible for Fuel and Transportation logistics for large scale power generation facilities located throughout the U.S. Mr. McBurney received a B.B.A. in Finance from the University of North Texas in 1978.

Daniel K. Presley was named our Treasurer in 2013. Mr. Presley, who has been with us since 1989, also continues to serve as our Vice President of Accounting and Controller, positions he has had held since 1997 and 1991, respectively. 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 received a B.B.A. degree from Texas A & M University in 1983.

Russell W. Romoser has been our Vice President of Reservoir Engineering since 2012. Mr. Romoser has over 39 years of experience as a reservoir engineer both with industry and with a petroleum engineering consulting firm. Prior to joining us, Mr. Romoser served eleven years as the Acquisitions Engineering Manager for EXCO Resources, Inc. Mr. Romoser received a B.S. Degree in Petroleum Engineering in 1975 and a Masters Degree in Petroleum Engineering in 1976 from the University of Texas and is a Registered Professional Engineer in Oklahoma and Texas.

LaRae L. Sanders was named our Vice President of Land in November 2014. Ms. Sanders has been with us since 1995. She has served as Land Manager since 2007, and has been instrumental in all of our active development programs and major acquisitions. Prior to joining us, Ms. Sanders held positions with Bridge Oil Company and Kaiser-Francis Oil Company, as well as other independent exploration and production companies. Ms. Sanders is a Certified Professional Landman with 35 years of experience. She became the nation’s first Certified Professional Lease and Title Analyst in 1990.

Richard D. Singer has been our Vice President of Financial Reporting since 2005. Mr. Singer has over 39 years of experience in financial accounting and reporting. Prior to joining us, Mr. Singer most recently served as an assistant controller for Holly Corporation from 2004 to 2005 and as assistant controller for Santa Fe International Corporation from 1988 to 2002. Mr. Singer received a B.S. degree from the Pennsylvania State University in 1976 and is a Certified Public Accountant.

Blaine M. Stribling has been our Vice President of Corporate Development since 2012. From 2007 to early 2012, Mr. Stribling served as our Asset & Corporate Development Manager. Prior to joining us, Mr. Stribling managed

a development project team at Encana Oil & Gas from 2005 to 2007. Prior to 2005 he worked in various petroleum engineering operations management positions of increasing responsibility for several independent oil and gas exploration and development companies. Mr. Stribling received a B.S. Degree in Petroleum Engineering from the Colorado School of Mines.

Outside Directors

Elizabeth B. Davis has served as a director since 2014. Dr. Davis is currently the President of Furman University. Dr. Davis was the Executive Vice President and Provost for Baylor University until 2014, and served as Interim Provost from 2008 to 2010. Prior to her appointment as Provost, she was a professor of accounting in the Hankamer School of Business at Baylor University where she also served as associate dean for undergraduate programs and as acting chair for the Department of Accounting and Business Law. Prior to joining Baylor University, she worked for the public accounting firm Arthur Andersen from 1984 to 1987. Dr. Davis brings to the Board executive experience from her leadership roles in higher education as well as expertise in finance and accounting from her teaching and research experiences.

David K. Lockett has served as a director since 2001. Mr. Lockett was a Vice President with Dell Inc. and held executive management positions in several divisions within Dell from 1991 until his retirement from Dell in 2012. Since 2014, Mr. Lockett has served as President of Austex Fence & Deck in Austin, Texas. Between 2012 and 2014, Mr. Lockett, who has over 35 years of experience in the technology industry, provided consulting services to small and mid-size companies. Mr. Lockett was a director of Bois d'Arc Energy, Inc. from 2005 until its merger with Stone Energy Corporation in 2008. Mr. Lockett joined Dell during its start-up years and worked in executive level positions at Dell throughout his tenure there. He is an experienced manager, having supervised large organizations through a series of business cycles in the highly competitive personal computer/peripheral business. Mr. Lockett shares the good business judgment and insight gained from these experiences with the Board and also provides guidance from the perspective gained from a long career in a global market-focused company.

Cecil E. Martin has served as a director since 1989 and is currently the chairman of our audit committee and our Lead Director. Mr. Martin is an independent commercial real estate investor who has primarily been managing his personal real estate investments since 1991. From 1973 to 1991, he also served as chairman of a public accounting firm in Richmond, Virginia. Mr. Martin was a director and chairman of the audit committee of Bois d'Arc Energy, Inc. from 2005 until its merger with Stone Energy Corporation in 2008. Mr. Martin also served on the board of directors of Crosstex Energy, Inc. and Crosstex Energy, L.P. until their merger with EnLink Midstream and EnLink Midstream Partners LP, respectively, in March 2014. Mr. Martin currently serves on the board of directors of Garrison Capital, Inc. He served as chairman of the compensation committee at Crosstex Energy L.P. and currently serves as chairman of the Audit Committee at Garrison Capital, Inc. Mr. Martin is a Certified Public Accountant. Mr. Martin brings to our Board a combination of financial literacy and business management experience as well as an excellent understanding of the capital markets. Mr. Martin has a strong background in internal controls, financial reporting and financial analysis. He works closely with our Chief Financial Officer, independent public accountants and internal auditors on a wide range of issues. His service on the compensation and audit committees of other publicly traded companies allows him to bring a wide range of experience and insights as part of his service on our Board.

Frederic D. Sewell has served as a director since 2012. Mr. Sewell has extensive experience in the oil and gas industry, where he has had a distinguished career as an executive leader and a petroleum engineer. Mr. Sewell was the co-founder of Netherland, Sewell & Associates, Inc. ("NSAI"), a worldwide oil and gas consulting firm, where he served as the Chairman and Chief Executive Officer until his retirement in 2008. Mr. Sewell is presently the President and Chief Executive Officer of Sovereign Resources LLC, an exploration and production company that he founded. Mr. Sewell has over 50 years of experience as a petroleum engineer. During his career with NSAI, Mr. Sewell established relationships with many of the leading energy firms in the United States and gained extensive knowledge of domestic and international oil and gas operations. Mr. Sewell managed the

growth of NSAI, which he co-founded in 1969, into one of the most respected worldwide upstream petroleum consulting organizations in the world. Mr. Sewell brings expertise and extensive knowledge of petroleum engineering, the geology of North American oil and gas basins and the estimation of oil and gas reserves to our Board.

David W. Sledge has served as a director since 1996. Mr. Sledge is the Chief Operating Officer of ProPetro Services, Inc. Mr. Sledge was President and Chief Operating Officer of Sledge Drilling Company until it was acquired by Basic Energy Services, Inc. in 2007 and served as a Vice President of Basic Energy Services, Inc. from 2007 to 2009. He served as an area operations manager for Patterson-UTI Energy, Inc. from 2004 until 2006. From 2009 through 2011, and from 1996 until 2004, Mr. Sledge managed his personal investments in oil and gas exploration activities. Mr. Sledge was a director of Bois d'Arc Energy, Inc. from 2005 until its merger with Stone Energy Corporation in 2008. 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. Mr. Sledge is an experienced oil field executive who has managed and started drilling and oil field service companies during a career that spans more than 30 years. Mr. Sledge's experience ranges from founding and directing the operations of a drilling rig business to serving as an executive manager for one of the largest drilling companies in the United States. Mr. Sledge has extensive contacts in the oil and gas industry, which, coupled with his oil field experience, makes him a valuable resource in understanding industry trends, operating practices and business prospects.

Jim L. Turner has served as a director since 2014. Mr. Turner currently serves as principal of JLT Beverages, L.P., a position he has held since 1996. Mr. Turner is also Chief Executive Officer of JLT Automotive, Inc. Mr. Turner served as President and Chief Executive Officer of Dr. Pepper/Seven Up Bottling Group, Inc., from its formation in 1999 through 2005, when he sold his interest in that company. Prior to that, Mr. Turner served as Owner/Chairman of the Board and Chief Executive Officer of the Turner Beverage Group, the largest privately owned independent bottler in the United States. Mr. Turner currently serves as non-executive chairman of the board of directors for Dean Foods Company and as the chairman of the board of trustees of Baylor Scott & White Health, the largest not-for-profit healthcare system in the state of Texas. He is also a director of Crown Holdings, Inc., INSURICA, and Davaco, Inc. Mr. Turner brings his extensive business experience as chairman and chief executive officer of a large corporation to the Board. Mr. Turner has valuable experience in business development, finance and mergers and acquisitions. Mr. Turner's service as a director of two NYSE-listed companies, including his service as the chairman of the board and chairman of the compensation committee, provides substantial experience and insight to our Board.

Determinations of Director Independence

Under rules adopted by the NYSE, we must have a majority of independent directors on our Board. No Board member qualifies as independent unless the Board affirmatively determines that the director has no material relationship with us (either directly, or as a partner, stockholder or officer of an organization that has a relationship with us). In evaluating each director's independence, the Board considers all relevant facts and circumstances, relationships and transactions between each director, his or her family members or any business, charity or other entity in which the director has an interest, on the one hand, and us, our affiliates, or our executives, on the other. As a result of this review, the Board affirmatively determined that among the director nominees, Dr. Davis and Messrs. Lockett, Martin and Sewell are independent from us and our management. Of the directors continuing in office, the Board has determined that Messrs. Sledge and Turner are independent according to the NYSE's rules. The Board evaluates independence on an on-going basis.

Board Committees

In addition to the executive committee, the Board has three committees which are composed entirely of independent directors. Membership of these committees is as follows:

Audit	Compensation	Corporate Governance/Nominating
Cecil E. Martin, Chair	David K. Lockett, Chair	Frederic D. Sewell, Chair
Elizabeth B. Davis	Cecil E. Martin	David W. Sledge
Frederic D. Sewell	Jim L. Turner	Elizabeth B. Davis

Each of these committees operates pursuant to a written charter which can be found in the "Corporate Governance" section of our website at *www.comstockresources.com*. As stated earlier, documents and information on our website are not incorporated herein by reference. These documents are also available in print from the Corporate Secretary, 5300 Town and Country Blvd., Suite 500, Frisco, Texas 75034.

The audit committee reviews and approves the Company's financial statements and earnings releases, oversees the internal audit function and reviews the Company's internal accounting controls. The audit committee oversees the implementation of the Company's compliance policies and programs relating to the Company's financial statements and monitors ongoing compliance matters and concerns. The audit committee also reviews related party transactions. The audit committee has the sole authority to appoint, review and discharge our independent registered public accountants.

The compensation committee is responsible for overseeing and approving the Company's compensation programs including our non-employee director compensation program. It is also responsible for reviewing and approving the compensation plans and decisions for all executive officers. It also oversees and regularly reviews the compensation program for all our employees and supervises the compensation and benefits policies and plans of the Company. The compensation committee frequently meets in executive sessions to discuss and approve compensation plans and decisions. The compensation committee is assisted in these matters by an independent compensation consultant, hired by and serving at the pleasure of the committee.

The corporate governance/nominating committee is responsible for developing, overseeing, reviewing and monitoring compliance with the Company's policies, programs and practices relating to corporate governance, including the Company's corporate governance guidelines, and for evaluating and monitoring compliance with the Company's policies, and making recommendations to the Board on various governance issues. The committee is also responsible for reviewing and recommending to the Board director nominees, recommending committee assignments and conducting an annual review of Board and committee effectiveness.

Compensation Committee Interlocks and Insider Participation

Our compensation committee is comprised entirely of independent directors. None of the members of the committee during 2015 or as of the date of this prospectus is or has been an officer or employee of the Company and no executive officer of the Company has served on the compensation committee or board of directors of any company that employed any member of the Company's compensation committee or Board.

Related Party Transactions

The Board has in place a written policy regarding the approval of related party transactions. At regularly scheduled audit committee meetings, management will recommend any related party transactions that are contemplated, and such transactions will require the audit committee's approval. Generally, a "related party" is each of our executive officers, directors, nominees for director, any stockholder owning greater than five percent of our outstanding shares, including any immediate family member of each of the foregoing, and any entity owned or controlled by any of the foregoing. Transactions that are available to all of our employees generally or totaling less than $5,000 when aggregated with all similar transactions are excluded from the policy.

With respect to the standards applied by the audit committee when deciding whether to approve a related party transaction, the audit committee shall approve or ratify the transaction if it is on terms believed to be comparable to those that could be obtained in arm's length dealings with an unrelated third party.

COMPENSATION DISCUSSION AND ANALYSIS

Comstock's executive compensation programs are intended to align pay outcomes with performance achievements, grow stockholder value, attract and retain executive talent and support the Company's business strategy. We believe that our executive compensation programs as currently designed align executive pay with Company performance, stockholder expectations and prevailing market practices.

90% of the shares voted at this year's annual meeting approved our 2015 executive compensation by supporting our "Say on Pay" proposal.

2015 was a very challenging year for the Company as oil and natural gas prices fell by 49% and 45%, respectively. Given the difficult industry conditions, the compensation committee determined that no employee bonuses would be paid, including awards earned by our executive officers under the Annual Incentive Plan.

Key Compensation Program Features

- Aligns pay and performance, using an annual incentive bonus plan that is based entirely on achieving financial performance goals and by providing 50% of LTI equity awards in PSUs based on relative TSR versus our peer group
- Market competitive, by benchmarking compensation against a revised peer group of appropriately sized oil and gas exploration and production companies and by implementing pay changes that directly reflect the practices of this peer group
- Incorporates stockholder interests, by aligning pay with stockholder value creation, holding discussions with large stockholders to obtain their feedback on our compensation programs and implementing many of their suggestions
- Employs best practices in corporate governance, including adopting stock ownership guidelines, clawback and anti-hedging policies and eliminating excise and other tax gross ups in our compensation plans
- Governed by independent directors that are advised by independent consultants

Company Performance

2015 was a challenging year for us and for the industry generally. Oil and natural gas prices fell by 49% and 45%, respectively. The low prices significantly reduced our revenues and cash flow. The successful results from our return to development of our Haynesville/Bossier shale assets in North Louisiana was the highlight of 2015. We drilled ten enhanced completion horizontal natural gas wells which all had the highest initial production rates of any wells drilled in the Company's history. The successful drilling program added 161 billion cubic feet to our proved reserves base which offset much of the effect of low oil and gas prices. We were also able to grow our natural gas production by 20% with a limited capital expenditure budget.

Compensation Program Objectives

Our compensation committee has responsibility for establishing and administering the compensation objectives, policies and plans for our executive officers. The compensation program and the executive officers' compensation are determined by the compensation committee. The committee bases its decisions concerning specific compensation elements and total compensation paid or awarded to our executive officers on several different objectives, which include:

- Providing compensation that is competitive with the compensation of companies that have operations similar to us and are in similar markets for executive talent;

- Encouraging focus on both short-term and long-term performance, promoting stockholder value through strategic business decisions and the achievement of performance objectives;
- Providing performance-based incentive compensation intended to vary with company and individual performance, while appropriately moderating the impact of the cyclical nature of our business; and
- Facilitating ownership of our common stock by our executive officers through equity-based incentives so that management's interests are closely aligned with those of stockholders in terms of both risk and reward.

Our executive team, led by M. Jay Allison, our CEO, and Roland O. Burns, our President and Chief Financial Officer, is highly regarded in the industry. The long tenure of Messrs. Allison and Burns leading our company is a key factor in driving stockholder value. The committee believes it is critical to continually invest in retaining this leadership team and reward them for performance. Their experience is particularly critical at this time as we continue to strategically position the Company to be more balanced between oil and natural gas production and reserves. The executive team's compensation will reflect our performance when measured against these objectives.

Our compensation committee held five meetings during 2015 and it has met once during 2016. In December 2015, the committee approved base salaries for 2016. In February 2016, the achievement of performance-based annual incentives for 2015 was reviewed and approved and LTI awards were approved.

Compensation Components

The purpose and key features of each component of our executive compensation program are summarized below:

Component	Objective	Key Features
Base salary	Reflects each executive's level of responsibility, leadership, tenure, and contribution to the achievement of the Company's business objectives and is designed to be competitive with our peer group	Fixed compensation that is reviewed annually and adjusted as appropriate.
Annual incentive award	Measures and rewards achievement of short-term performance goals that apply to the annual business plan	Performance-based cash incentives made up 100% of our named executive officers' 2015 annual incentive awards and were based on the achievement of pre-established performance goals. The performance goals are established and target awards are approved during March for each year. A target award is established, as well as threshold performance and maximum performance award levels.
Performance-based restricted stock unit awards (PSUs)	Aligns the long-term interests of our executive officers with our stockholders by determining the number of shares earned for each performance period by our TSR in comparison to the peer group	Performance-based LTI awards represent 50% of our named executive officers' LTI awards. The ultimate number of units earned is based on the achievement of our TSR relative to the peer group.

Restricted stock awards	Motivates our executive officers to achieve our business objectives by tying incentives to the performance of our common stock over the long term; motivates our executive officers to remain with the Company by mitigating swings in incentive values during periods of high commodity price volatility	Restricted stock awards which vest over three years under which the ultimate value realized varies with our common stock price. Restricted stock awards represent 50% of our named executive officers' LTI awards.
Executive Life Insurance Program	Provides life insurance protection and retirement savings for our executive officers	The Company's contributions each year equal 5% of each executive's salary and prior year's bonus, used to purchase life insurance coverage.
Employment Agreements	Provide industry appropriate post-termination compensation in certain circumstances to our CEO, President and Chief Operating Officer	Employment agreements were amended in 2014 to align with market practice and reflect current governance standards. Severance benefits related to a change in control now require that the executive's employment has been involuntarily or constructively terminated ("double trigger"). There are no golden parachute excise tax or other tax "gross-ups".
Other Benefits	401(k) Plan participation and employee welfare plan programs designed to be competitive in recruiting and retaining employees	Our executive officers participate in the retirement and welfare plan programs on the same terms as all other employees.

The compensation committee has not established formal policies or guidelines with respect to the mix of base salary, annual cash bonus and stock-based awards to be paid or awarded to the executive officers. In general, the compensation committee believes that a greater percentage of the compensation for our executives should be stock-based awards and should be based on individual and overall corporate performance to align the interests of our executives with our stockholders.

Roles and Responsibilities

In 2015, the compensation committee and the Board made all compensation decisions for the Company's executive officers including the CEO. The committee retained Meridian Compensation Partners, LLC ("Meridian") to review our compensation program including peer benchmarking analysis to assess the competitiveness of our compensation levels, design, practices and processes. Meridian is an independent compensation consulting firm and does not provide any other services outside of matters pertaining to executive and director compensation and related corporate governance matters. Meridian reports directly to the compensation committee, which is the sole party responsible for determining the scope of services performed, the directions given regarding the performance of those services, and the approval of the payment of invoices for those services.

The compensation committee has the sole authority to retain or terminate its compensation consultant. The compensation consultant's role with the Company is limited to executive compensation matters and no such services are performed unless at the direction of and with the approval of the committee. In connection with its engagement of Meridian, the committee considered various factors bearing on their independence, including the

amount of fees paid by the Company in 2015 and the percentage of total revenues they represented; their policies and procedures for preventing conflicts of interest and compliance therewith; any personal and business relationship of any of their personnel with any of our compensation committee members or executive officers; and their policies prohibiting stock ownership by their personnel engaged in any Company matter and the compliance therewith. After reviewing these factors, the compensation committee determined that Meridian is independent and that their engagement did not present any conflict of interest.

Determining Market Compensation

Peer Group

Meridian assisted our compensation committee by making recommendations regarding market compensation. This included recommending an appropriate peer group against which to benchmark our executives' compensation. Selection of the companies within the peer group was based not only upon the total revenue and market capitalization of companies within the exploration and production industry, but also the core areas in which the companies compete and the complexity of their operations.

For 2015, the peer group companies utilized by the compensation committee were:

Approach Resources Inc.	Laredo Petroleum, Inc.	SM Energy Company
Bill Barrett Corporation	Oasis Petroleum Inc.	Stone Energy Corporation
Carrizo Oil & Gas, Inc.	PDC Energy, Inc.	Swift Energy Company
Cimarex Energy Co.	Rosetta Resources Inc.*	Ultra Petroleum Corp.

**Removed from Peer Group for 2015.*

During 2015, the stock of Rosetta Resources, Inc. ceased trading on public markets, and accordingly, this company was removed from our peer group for 2015.

For 2016, the compensation committee adopted a new peer group comprised of fifteen companies that have median revenues of approximately $293 million, median assets of $1.4 billion, median market capitalization of $405 million and median enterprise value of $1.2 billion. For 2016, the peer group companies are:

Approach Resources Inc.	Eclipse Resources Corporation	PDC Energy, Inc.
Bill Barrett Corporation	Jones Energy, Inc.	Parsley Energy Corporation
Bonanza Creek Energy, Inc.	Laredo Petroleum, Inc.	Rex Energy Corporation
Callon Petroleum Holdings, Inc.	Matador Resources, Inc.	Stone Energy Corporation
Carrizo Oil & Gas, Inc.	Oasis Petroleum, Inc.	Ultra Petroleum Corp.

The composition of our peer group is reviewed each year and may change based on business combinations, asset acquisitions and/or sales, and other types of transactions that cause peer companies to no longer exist or no longer be comparable.

Benchmarking Compensation

On an annual basis, the compensation of our executives and all our employees are benchmarked against our peer group and reviewed for market competitiveness. Meridian compiled compensation data for the peer group from a variety of sources, including proxy statements and other publicly filed documents. Peer benchmarking is only one of many considerations used to determine market compensation. Meridian also provided the compensation committee with compensation data from the 2015 North America Oil and Gas Exploration & Production Compensation Survey, administered by Meridian (data effective as of June 1, 2015).

Determination of Base Salaries

Base salaries for executive officers are based on each individual's responsibilities, experience and performance, taking into account among other things, the individual's initiative, contributions to our overall performance, managerial ability and handling of special projects. These same factors are applied to establish base salaries for other key management employees. Base salaries for executive officers generally are reviewed annually for possible adjustment. The compensation committee determines the base salary of our executive officers including the CEO.

In December 2015, our compensation committee reviewed base salaries for all NEOs for 2016 and determined that it would hold their base salaries flat in 2016 based on benchmarking data and current industry conditions.

Determination of Annual Incentives

Annual cash bonuses are provided to promote achievement of our business objectives of increasing stockholder value by growing production and reserves on a profitable basis. All of our full-time employees participate in an annual bonus plan. In 2012, the compensation committee adopted the performance bonus plan, the 2012 Incentive Compensation Plan (the "Annual Incentive Plan"), for the CEO and President. Beginning in 2014, all of our executive officers are included in the Annual Incentive Plan. Annual bonus awards are paid from a performance-based bonus pool that will allow for full tax deductibility of the bonuses paid under Section 162(m) of the Internal Revenue Code.

The compensation committee set the funding for the 2015 performance-based bonus pool at 5% of the Company's EBITDAX (earnings before interest, tax, depreciation, amortization and exploration expense), a measure of profitability that is commonly used within the oil and gas exploration and production industry. Individual bonus awards were determined through the Annual Incentive Plan based on the achievement of financial, strategic and operational objectives. In March 2015, the compensation committee approved target bonus opportunities for the executive officers, expressed as a percentage of their annual base salary. The bonus targets were determined based on the results of Meridian's competitive benchmarking analysis, and are reviewed annually.

The 2015 threshold, target, and maximum bonus opportunities for our NEOs that were established by the compensation committee were as follows:

Position	Threshold	Target	Maximum
	(Percentage of Annual Base Salary)		
CEO	50%	100%	200%
President	45%	90%	180%
Chief Operating Officer	40%	80%	160%
General Counsel	30%	60%	120%
Vice President of Accounting	30%	60%	120%

The executives had the opportunity to earn bonus awards within a range of 0% to a maximum of 200% of their target bonus opportunity, based on the Company's performance relative to pre-determined bonus components and goal levels. For 2015, the bonus components and goal levels were as follows:

	Weighting	Threshold	Target	Maximum
Production Growth	20%	5% over 2014	10% over 2014	15% over 2014
Capital Efficiency % (Improvement in Finding Costs)	20%	15% over 2014	20% over 2014	30% over 2014
Reserve Replacement %	20%	75%	100%	125%
Other Key Objectives	40%			
* Total Shareholder Return (TSR)				
* Enhancing Liquidity				
* Total Producing costs per Mcfe				
* Leadership Development				
* Execution of Strategic Plan				

Each bonus component was weighted and up to 50% of the weighted portion of target bonus could have been earned for achievement of the threshold goal level; up to 100% could have been earned for achievement of the target goal level; and up to 200% could have been earned for achievement of the maximum goal level. For performance between the threshold, target and maximum goal levels, weighted bonus contributions were determined using straight-line interpolation. If performance for a bonus component was below the threshold goal level, no bonus was earned for that bonus component.

The Company's achievement of the defined performance goals in 2015 was as follows:

	Achievement	% of Target
Production Growth	1%	Below Threshold
Capital Efficiency %	75%	Maximum
Reserve Replacement %	148%	Maximum
Other Key Objectives	Exceeded Target	110%

Based on the achievement of goals in 2015, our NEOs would have earned payouts of 124% of their target awards. Given the difficult industry conditions, the compensation committee decided not to pay employee bonuses for 2015 and accordingly no awards were made under the Annual Incentive Plan.

Long-term Incentive Awards

Our executives are eligible to receive long-term incentive awards under our stockholder approved 2009 Plan, which allows the compensation committee to select from among a variety of award vehicles to make individual awards. The committee believes long-term incentive awards align the interests of the executives with the interests of our stockholders, provide competitive total compensation opportunities and support the attraction and retention of key talent.

Restricted stock awards typically vest over three years. One-third of the PSUs granted could be earned based on the Company's TSR performance relative to a peer group in each of one-, two- and three-year performance periods. The use of three performance periods allows us to properly manage the shares available for such awards under the 2009 Plan.

During February 2015, the compensation committee approved LTI awards to the executives which consisted of an equal mix of PSUs and restricted stock. In connection with his return to the Company, the compensation committee awarded 50,000 shares of restricted stock to Mr. Good, our Chief Operating Officer, which vest one third in each of the three subsequent years. In making decisions concerning these awards, the committee considered competitive benchmarking data, the performance of the Company, individual performance, and other factors the committee deemed relevant. The following table reflects the LTI awards made in February 2015 to our NEOs:

	PSU Awards (Units)	Restricted Stock Awards (Shares)
CEO	44,600	44,600
President	26,000	26,000
Chief Operating Officer	—	50,000
General Counsel	4,097	4,097
Vice President of Accounting	4,097	4,097

To determine the PSUs earned, the committee certifies our TSR relative percentile. The number of shares that may be earned ranges from 0% to 200% of the target PSUs granted. If our relative TSR performance is less than the 20th percentile, none of the PSUs are earned. If our relative TSR performance is the 50th percentile, 100% of the target PSUs are earned. If our relative TSR performance is at least the 90th percentile, 200% of the target PSUs are earned. Earned PSUs are interpolated between threshold, target and maximum performance. The executive's earned PSUs, as certified annually, are delivered to him in the form of shares of restricted stock, which vest only if the executive remains employed following the end of the three-year performance period. The restricted stock vests over three years, one-third per year from the date of grant.

The Company's TSR performance in 2015 resulted in one-third of the PSU grants awarded in 2012 and 2014 being forfeited by the Company's executive officers. The remaining 2014 PSUs could be earned based on the Company's relative TSR performance against its 2014 peer group for the remaining performance periods of January 1, 2014 through December 31, 2016. The Company's executive officers earned 24% of one-third of the PSU grants awarded in 2015 based on the one year TSR performance at the 27th percentile for the period January 1, 2015 through December 31, 2015. The remaining 2015 PSUs could be earned based on the Company's relative TSR performance for the remaining performance periods of January 1, 2015 through December 31, 2016 and January 1, 2015 through December 31, 2017.

Executive Life Insurance Plan

We have an executive life insurance plan for our executive officers. The purpose of this plan is to provide additional life insurance protection to our executive officers and savings for their retirement. Under this plan, we contribute five percent of each participant's annual cash compensation to purchase a variable universal life insurance policy. Each participant directs the investment of the policy's cash values among a selection of mutual funds offered by the carrier. During employment, the participants may designate a beneficiary to receive payment of the death benefit (reduced by the amount of the premiums paid by us, which are repaid to us), but have no other rights of ownership in the policy. Upon a participant's termination of employment, the policy will be transferred to the participant. Contributions to this plan totaled $218,500 in 2015.

Other Benefits

Our executive officers receive medical, group life insurance and other benefits including matching contributions under our 401(k) plan that are available generally to all of our salaried employees over 21 years of age. We have no defined benefit retirement plans for any of our employees.

Other Matters Affecting Our Executive Compensation

Limitation on Income Tax Deduction for Executive Compensation

Section 162(m) of the Internal Revenue Code generally limits the corporate income tax deduction for compensation paid to each executive officer, other than the Chief Financial Officer, shown in the summary compensation table to $1 million, unless the compensation is "performance-based compensation" and qualifies under certain other exceptions. Our policy is primarily to design and administer compensation plans which support the achievement of long-term strategic objectives and enhance stockholder value. The committee also attempts to structure compensation programs that are tax-advantageous to us to the extent the programs are consistent with our compensation philosophy. Awards of time-vested restricted stock and certain forms of cash compensation do not qualify under Section 162(m). Awards under our Annual Incentive Plan and awards of PSUs are intended to qualify as "performance-based compensation."

Risk and Our Employee Compensation Program

The compensation committee reviewed the possible relationship between risk and our incentive compensation program for all employees. The compensation committee believes that there are no compensation incentives which encourage excessive risk and are reasonably likely to have a material adverse effect on the Company. The design of our incentive compensation program, which seeks to eliminate any excessive risks, includes (1) basing cash bonuses on the achievement of our business objectives of increasing stockholder value by growing production and reserves on a profitable basis, (2) the vesting of restricted stock awards annually over three years, (3) the use of equity as a significant portion of incentive compensation, and (4) stock ownership and retention requirements for our officers.

Clawback Provisions

Our CEO and President and Chief Financial Officer are currently subject to the forfeiture of bonuses and profits stipulated by Section 304 of the Sarbanes Oxley Act of 2002. In addition, the compensation committee adopted a recoupment policy during 2012 which would allow us to recoup excess incentive compensation from current or former executives at the vice president level or above who received incentive-based compensation during the three year period preceding the date on which we are required to prepare a financial restatement. This policy applies to incentive compensation granted on or after December 1, 2012. Our compensation committee will adopt provisions consistent with the requirements of the Dodd-Frank Act when final regulatory guidance is issued by the SEC.

Summary Compensation Table

The following table reflects the elements of compensation earned by our named executive officers under our executive compensation programs.

Salary: Values shown represent the base salary earnings of the named executive officers.

Bonus: Values reflect the discretionary cash bonus earned by the named executive officers.

Grant Date Fair Value of Stock Awards: This column represents the grant date fair value of grants of restricted stock and PSUs.

Non-Equity Incentive Plan Compensation: This column represents the cash bonus earned under the Company's Annual Incentive Plan.

Non-Qualified Deferred Compensation Earnings: This column reflects "above market" earnings on non-qualified deferred compensation plans. This is the difference between (i) actual earnings on the cash surrender values of universal life insurance policies owned by us insuring each executive under our Executive Life Insurance Plan, and (ii) market interest rates, as determined pursuant to the SEC's rules.

All Other Compensation: This column represents the value of the additional benefits provided by us that include the employer match under our 401(k) plan, life insurance premiums paid by us for the benefit of certain executive officers, incremental costs incurred for personal use of our corporate aircraft, and the value of insurance provided by the Company.

Name and Principal Position	Year	Salary	Bonus	Grant Date Fair Value of Stock Awards(1)	Non-Equity Incentive Plan Compensation	Non-Qualified Deferred Compensation Earnings	All Other Compensation (2)(3)	Total
M. Jay Allison	2015	$802,000	—	$ 2,174,994	—	—	$ 161,692	$3,138,686
Chief Executive Officer	2014	$802,000	—	$ 2,444,401	$ 505,260	$ 78,490	$ 138,817	$3,968,968
	2013	$802,000	—	—	$ 1,100,000	$ 303,579	$ 136,371	$2,341,950
Roland O. Burns	2015	$543,500	—	$ 1,267,934	—	—	$ 105,097	$1,916,531
President and Chief Financial Officer	2014	$543,500	—	$ 1,425,908	$ 308,165	$ 19,571	$ 49,193	$2,346,337
	2013	$543,500	—	—	$ 617,778	$ 218,993	$ 48,513	$1,428,784
Mack D. Good	2015	$281,250	—	$ 1,445,000	—	—	$ 15,900	$1,742,150
Chief Operating Officer(4)	2014	—	—	—	—	—	—	—
	2013	—	—	—	—	—	—	—
D. Dale Gillette	2015	$346,000	—	$ 199,786	—	—	$ 22,258	$ 568,044
Vice President of Land and General Counsel	2014	$346,000	—	$ 222,727	$ 130,788	$ 9,644	$ 21,353	$ 730,512
	2013	$336,500	$295,000	—	—	$ 39,398	$ 20,468	$ 691,366
Daniel K. Presley	2015	$250,000	—	$ 199,786	—	$ 1,628	$ 16,828	$ 468,242
Vice President of Accounting, Controller and Treasurer	2014	$250,000	—	$ 207,542	$ 94,500	$ 8,782	$ 16,480	$ 577,304
	2013	$227,750	$225,000	—	—	$ 58,874	$ 16,116	$ 527,740

(1) The amounts in this column represent the aggregate grant date fair value of restricted stock grants and grants of PSUs.

(2) Perquisites provided to Mr. Allison and Mr. Burns in 2015 of $21,148 and $51,419, respectively, represent the Company's incremental costs incurred for their personal use of its corporate aircraft. Except for these amounts, perquisites provided by us to executive officers did not exceed $10,000 for 2013, 2014 and 2015 and they are accordingly excluded from this table.

(3) Amounts in this column include life insurance premiums paid by us of $101,031 for Mr. Allison and $31,460 for Mr. Burns in 2013, 2014, and 2015, respectively.

(4) Mr. Good rejoined the Company in March 2015 following a brief retirement.

Grants of Plan-Based Awards in Fiscal Year 2015

In February 2015, the compensation committee made the following awards under the Annual Incentive Plan to the NEOs:

Name and Principal Position	Estimated Future Payouts Under Non-Equity Incentive Plan Awards		
	Threshold	Target	Maximum
M. Jay Allison	$ 401,000	$802,000	$1,604,000
Chief Executive Officer			
Roland O. Burns	$ 244,575	$489,150	$ 978,300
President and Chief Financial Officer			
Mack D. Good	$ 150,000	$300,000	$ 600,000
Chief Operating Officer(1)			
D. Dale Gillette	$ 103,800	$207,600	$ 415,200
Vice President of Legal and General Counsel			
Daniel K. Presley	$ 75,000	$150,000	$ 300,000
Vice President of Accounting, Controller and Treasurer			

(1) Mr. Good rejoined the Company in March 2015 following a brief retirement.

The threshold, target and maximum amounts represent the potential amount payable under the Annual Incentive Plan based upon achievement of the performance goals established for 2015. The compensation committee elected not to pay out any awards from the Annual Incentive Plan for 2015.

In February 2015, the compensation committee also made the following equity-based awards under the 2009 Plan to the NEOs:

		Stock Awards				
		Estimated Future Payouts Under Equity Incentive Plan Awards (Units)			Restricted Stock (Shares)	
Name and Principal Position	Grant Date	Threshold(1)	Target(1)	Maximum(1)	Number of shares of Stock(2)	Grant Date Fair Value of Stock Awards(3)
M. Jay Allison *Chief Executive Officer*	February 11, 2015	22,300	44,600	89,200	44,600	$ 2,174,994
Roland O. Burns *President and Chief Financial Officer*	February 11, 2015	13,000	26,000	52,000	26,000	$ 1,267,934
Mack D. Good *Chief Operating Officer(4)*	February 23, 2015	—	—	—	50,000	$ 1,445,000
D. Dale Gillette *Vice President of Legal and General Counsel*	February 11, 2015	2,049	4,097	8,194	4,097	$ 199,786
Daniel K. Presley *Vice President of Accounting, Controller and Treasurer*	February 11, 2015	2,049	4,097	8,194	4,097	$ 199,786

(1) This amount represents PSUs granted under our 2009 Plan. PSUs represent the right to receive, upon settlement of the PSUs after the completion of a vesting period, a number of shares of our common stock that may be from zero to two times the number of PSUs granted on the award date, depending on the extent to which our performance criteria have been achieved and the extent to which the PSUs have vested. The performance criteria for the PSUs are based on the relative ranking of our TSR for the performance period and the TSR of certain peer companies for the performance period. The PSUs vest one third annually over three performance periods, one year ending December 31, 2015, two years ending December 31, 2016 and three years ending December 31, 2017.

(2) The restricted stock grants vest one third on each of February 20, 2016, 2017 and 2018.

(3) The grant date fair value of restricted stock awards was based upon the closing price for the company's stock on February 11, 2015 of $26.85 per share ($28.90 per share as of February 23, 2015 for Mr. Good). The grant date fair value of PSUs was determined to be $21.90 per unit. The grant date fair value of PSUs was computed based on the target award levels. Total PSU awards in 2015 were 94,250 units with a target value of $2,065,648.

(4) Mr. Good rejoined the Company in March 2015 following a brief retirement.

Outstanding Equity Awards at Fiscal Year-End

The following table sets forth certain information with respect to the value of outstanding equity awards held by our named executives at December 31, 2015. There were no stock option awards outstanding.

	Stock Awards			
Name and Principal Position	Number of Shares of Stock That Have Not Vested(#)	Market Value of Shares of Stock That Have Not Vested(1)	Number of Equity Incentive Awards That Have Not Vested(#)(2)	Market Value of Equity Incentive Awards That Have Not Vested(3)
M. Jay Allison	63,739(5)	$ 595,958	3,568(5)	$ 33,361
Chief Executive Officer	16,936(6)	$ 158,352	21,332(6)	$ 199,452
	14,867(7)	$ 139,005	14,867(7)	$ 139,005
Roland O. Burns	29,163(5)	$ 272,667	2,080(5)	$ 19,448
President and Chief Financial Officer	9,874(6)	$ 92,320	12,438(6)	$ 116,293
	8,667(7)	$ 81,035	8,667(7)	$ 81,035
Mack D. Good	16,667(5)	$ 155,833	—	—
Chief Operating Officer(4)	16,667(6)	$ 155,833	—	—
	16,667(7)	$ 155,835	—	—
D. Dale Gillette	4,443(5)	$ 41,541	328(5)	$ 3,065
Vice President of Land and General Counsel	1,745(6)	$ 16,315	1,761(6)	$ 16,460
	1,366(7)	$ 12,768	1,366(7)	$ 12,768
Daniel K. Presley	4,163(5)	$ 38,918	330(5)	$ 3,078
Vice President of Accounting, Controller and Treasurer	1,720(6)	$ 16,074	1,734(6)	$ 16,209
	1,366(7)	$ 12,768	1,366(7)	$ 12,768

(1) Market value was based on the closing price for our common stock on the last trading day of 2015 of $9.35 per share.

(2) This column represents the number of outstanding PSUs. The number of PSUs for unvested grants reflect the target award levels.

(3) This column represents the payout value for the PSUs which were earned in 2016 and the projected pay out values of unearned PSUs. The projected payout values are determined by multiplying the target number of shares by $9.35, the closing price of our common stock on the last business day of 2015. The actual payout will depend upon our actual performance compared to our peer group's performance at the end of each performance period and the date on which the payouts occur.

(4) Mr. Good rejoined the Company in March 2015 following a brief retirement.

(5) Vested in 2016. Only 24% of the first one-third of the 2015 PSUs vested in 2016, all other PSUs with 2016 vesting dates were forfeited.

(6) Vest in 2017.

(7) Vest in 2018.

Option Exercises and Stock Vested

There were no stock options exercised during 2015. The following table sets forth certain information with respect to the value of restricted stock and performance share units which vested during the year ended December 31, 2015.

Name and Principal Position	Restricted Stock		Performance Share Units	
	Number of Shares Acquired on Vesting(#)	Value Realized on Vesting	Number of Shares Acquired on Vesting(#)	Value Realized on Vesting
M. Jay Allison *Chief Executive Officer*	43,472	$1,473,393	—	—
Roland O. Burns *President and Chief Financial Officer*	18,296	$ 618,968	—	—
Mack D. Good *Chief Operating Officer*	—	—	—	—
D. Dale Gillette *Vice President of Land and General Counsel*	2,718	$ 91,276	—	—
Daniel K. Presley *Vice President of Accounting, Controller and Treasurer*	2,477	$ 83,155	—	—

Nonqualified Deferred Compensation

The following table sets forth certain information with respect to the non-qualified deferred compensation of the named executives in 2015. Under our Executive Life Insurance Plan, we contribute annually five percent of each executive's annual cash compensation to purchase a variable universal life insurance policy on his life. During employment, he may designate a beneficiary to receive payment of the death benefit (reduced by the amount of the premiums paid by us, which are repaid to us), but has no other rights of ownership in the policy. Upon his having attained four years of service and electing retirement, or upon a change in control, the policy is transferred to him. No withdrawals or distributions were made during 2015.

Name and Principal Position	Company Contributions(1)	Aggregate Earnings (Losses)(2)	Aggregate Balance at End of Year
M. Jay Allison *Chief Executive Officer*	$ 65,363	($2,250)	$ 2,443,803
Roland O. Burns *President and Chief Financial Officer*	$ 42,583	($2,626)	$ 1,214,423
Mack D. Good *Chief Operating Officer*	—	—	—
D. Dale Gillette *Vice President of Land and General Counsel*	$ 23,839	($3,010)	$ 241,402
Daniel K. Presley *Vice President of Accounting, Controller and Treasurer*	$ 17,225	$1,628	$ 337,443

(1) Company contributions have not been included in the Summary Compensation Table for this or any prior years.
(2) Above market portion of the aggregate earnings has been included in the Summary Compensation Table in each year.

Potential Payments upon Termination or Change in Control

Employment Agreements

We have employment agreements with our CEO, President and Chief Operating Officer. The employment agreements provide that our CEO, President and Chief Operating Officer will maintain the confidentiality of our confidential and proprietary information for as long as the information is not publicly disclosed. These agreements include separate provisions wherein our CEO, President and Chief Operating Officer will receive certain prescribed benefits based upon changes in their employment status or in the event of a change in control.

The compensation committee believes that it is in our best interests as well as the best interests of our stockholders to offer such benefits to these executive officers. We compete for executive talent in a highly competitive market in which companies routinely offer similar benefits to senior executives. The compensation committee believes that providing change in control benefits to senior executives allows them to evaluate objectively whether a potential change in control transaction is in the best interest of our stockholders, without having to be concerned regarding their future employment. It allows them to focus on the negotiations during such a transaction when we would require thoughtful leadership to ensure a successful outcome.

A “change in control” is defined to include a variety of events, including significant changes in stock ownership, changes in our Board, certain mergers and consolidations, and the sale or disposition of all or substantially all of our consolidated assets.

Potential Payments Upon Termination

Under the employment agreements, we are required to provide compensation to these officers in the event we terminate the executive’s employment without cause or the executive terminates his employment with good reason, including assignment of duties inconsistent with his position or requiring him to be based at another location. If the executive dies, the agreements provide for payment of six months of annualized total compensation (current base salary and target bonus) to the executive’s estate. The agreements provide for the payment of severance benefits if the executive’s employment is terminated by us without cause or by the executive for good reason (other than within twelve months following a change in control) in an amount equal to 150% of the sum of his then current salary and most recent bonus, plus a payment equal to the cost of continued medical benefits for eighteen months. If there is a change in control and, within twelve months thereafter, the executive terminates his employment for good reason or if the executive’s employment is terminated by us without cause, the severance benefit payable to the executive is 299% of the sum of his base salary and highest annual bonus plus a payment equal to the cost of continued medical benefits for eighteen months.

The following tables quantify compensation that would become payable under the employment agreements and other arrangements if the NEO’s employment had terminated on December 31, 2015, based on, where applicable, our closing stock price on that date. Due to the number of factors that affect the amount of any benefits provided upon the events discussed below, actual amounts paid or distributed may be different. Under the 2009 Plan, unvested equity awards will vest for all employees in the event of a change in control or in the event of death or disability. This is reflected in the table “Termination Following a Change in Control” in the “Value of Unvested Stock Awards.” Under our Executive Life Insurance Plan, the NEOs are entitled to receive a distribution of the life insurance policies insuring their lives in the event of termination of employment. This is reflected in the table below in the “Present Value of Deferred Compensation Benefits.”

Termination Following a Change in Control

Name and Principal Position	Salary(1)	Bonus(2)	Present Value of Deferred Compensation Benefits	Continuation of Health Benefits(3)	Value of Unvested Stock Awards(4)
M. Jay Allison *Chief Executive Officer*	$2,397,980	$11,960,000	$ 2,443,803	$ 59,745	$1,636,952
Roland O. Burns *President and Chief Financial Officer*	$1,625,065	$ 3,976,700	$ 1,214,423	$ 59,745	$ 879,574
Mack D. Good *Chief Operating Officer*	$1,121,250	$ 2,137,850	—	$ 59,745	$ 467,501
D. Dale Gillette *Vice President of Land and General Counsel*	—	—	$ 241,402	—	$ 135,210
Daniel K. Presley *Vice President of Accounting, Controller and Treasurer*	—	—	$ 337,443	—	$ 131,871

(1) Amount equal to 299% of annual base salary.
(2) Amount equal to 299% of highest bonus paid during the employee's tenure with the Company.
(3) Amount equal to the cost of continued medical and dental coverage for 18 months.
(4) The value of the stock awards is based on our December 31, 2015 closing stock price of $9.35 per share; PSU awards vesting in 2016 and 2017 are assumed to achieve maximum award performance.

Involuntary Termination Without Cause or Termination With Good Reason

Name and Principal Position	Salary(1)	Bonus(2)	Present Value of Deferred Compensation Benefits	Continuation of Health Benefits(3)
M. Jay Allison *Chief Executive Officer*	$1,203,000	—	$ 2,443,803	$ 59,745
Roland O. Burns *President and Chief Financial Officer*	$ 815,250	—	$ 1,214,423	$ 59,745
Mack D. Good *Chief Operating Officer*	$ 562,500	—	—	$ 59,745
D. Dale Gillette *Vice President of Land and General Counsel*	—	—	$241,402	—
Daniel K. Presley *Vice President of Accounting, Controller and Treasurer*	—	—	$337,443	—

(1) Amount equal to 150% of annual base salary.
(2) Amount equal to 150% of annual bonus.
(3) Amount equal to the cost of continued medical and dental coverage for 18 months.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

Security Ownership of Certain Beneficial Owners

Ownership of our common stock is shown in terms of "beneficial ownership." Generally, a person "beneficially owns" shares if he or she has either the right to vote those shares or dispose of them. More than one person may be considered to beneficially own the same shares. The percentages shown in this prospectus compare the stockholder's beneficially owned shares with the total number of shares of our common stock outstanding on August 29, 2016, after giving effect to a one-for-five (1:5) reverse split which became effective on July 29, 2016 (approximately 12,504,562 shares, subject to minor variations resulting from the treatment of fractional shares in the reverse stock split) plus the number of unissued shares as to which such owner has the right to acquire voting or dispositive power of on or before August 29, 2016. The following table lists the stockholders known to have been the beneficial owners of more than 5% of the common stock outstanding as of August 29, 2016:

	Shares Beneficially Owned	
Name of Beneficial Owner	**Number**	**Percent**
Dimensional Fund Advisors LP Palisades West, Building One, 6300 Bee Cave Road, Austin, Texas 78746	638,087(1)	5.1%
Galatyn Equity Holdings LP 47 Highland Park Village, Suite 200, Dallas, Texas 75205	664,587(2)	5.3%
Hodges Capital Holdings, Inc. 2905 Maple Avenue, Dallas, Texas 75201	1,240,504(3)	9.9%
Carl H. Westcott 100 Crescent Court, Suite 1620, Dallas, Texas 75201	1,212,400(4)	9.7%

(1) Represents shares held on December 31, 2015, based on filing on Schedule 13G/A dated February 9, 2016.
(2) Represents shares held on December 31, 2015, based on filing on Schedule 13G/A dated January 23, 2015.
(3) Represents shares held on December 31, 2015, based on filing on Schedule 13G dated February 10, 2016.
(4) Represents shares held on May 31, 2016, based on filing on Schedule 13D/A dated May 25, 2016, as modified by filing on Form 4 dated May 31, 2016.

Security Ownership of Management

The following table sets forth information as of June 30, 2016 concerning beneficial ownership information for our directors, nominees for director and executive officers:

Name of Beneficial Owner[1]	Shares Beneficially Owned	
	Number	Percent
M. Jay Allison		
Chairman of the Board of Directors and Chief Executive Officer	401,919[2]	3.2%
Roland O. Burns		
Director Nominee, President, Chief Financial Officer and Secretary	218,828[2]	1.7%
Elizabeth B. Davis, PhD		
Director Nominee	12,188	*
D. Dale Gillette		
Vice President of Legal and General Counsel	29,431	*
Mack D. Good		
Chief Operating Officer	78,181	*
David K. Lockett		
Director Nominee	23,851	*
Cecil E. Martin		
Director Nominee	31,024	*
Michael D. McBurney		
Vice President of Marketing	14,377	*
Daniel K. Presley		
Vice President of Accounting, Controller and Treasurer	29,844	*
Russell W. Romoser		
Vice President of Reservoir Engineering	14,796	*
LaRae L. Sanders		
Vice President of Land	16,988[3]	*
Frederic D. Sewell		
Director Nominee	17,244	*
Richard D. Singer		
Vice President of Financial Reporting	16,949	*
David W. Sledge		
Director	31,074	*
Blaine M. Stribling		
Vice President of Corporate Development	18,674	*
Jim L. Turner		
Director	31,460	*
All Executive Officers and Directors as a Group (16 Persons)	986,828	7.9%

* *Indicates less than one percent*

(1) The address of each beneficial owner is c/o Comstock Resources, Inc., 5300 Town and Country Blvd, Suite 500, Frisco, Texas 75034.
(2) 269,683 shares owned by Mr. Allison and 152,508 shares owned by Mr. Burns are pledged as security for lines of credit held in their respective names.
(3) Includes shares issuable pursuant to stock options which are presently exercisable or exercisable on or before December 14, 2016 by Ms. Sanders for 2,000 shares.

DESCRIPTION OF OTHER INDEBTEDNESS

The following descriptions are only summaries of certain of the material provisions of the agreements summarized and do not purport to be complete and are qualified in their entirety by reference to provisions of the agreements being summarized. We urge you to read the agreements governing each of the facilities and notes described below. Copies of the agreements will be contained in our filings with the SEC and can be obtained as described under the heading "Where You Can Find Additional Information." You may also request a copy of these agreements at our address set forth under the heading "Questions and Answers About the Exchange Offer—Who is making the Exchange Offer?"

Revolving Credit Facility

We have a revolving credit facility with Bank of Montreal, as administrative agent and collateral agent, and Bank of America, N.A., as syndication agent. The credit facility is a four-year revolving credit commitment with borrowing capacity of up to $50.0 million in the aggregate, none of which is currently outstanding. The credit facility terminates on March 4, 2019. Our obligations under the credit facility are guaranteed by the same subsidiary guarantors that will guarantee the new notes. Indebtedness under the credit facility is secured by substantially all of our and our subsidiaries' assets. Pursuant to the terms of the intercreditor agreement to be entered into among Bank of Montreal, as administrative agent and collateral agent, American Stock Transfer & Trust Company, LLC, as successor trustee for the Old Senior Secured Notes, and us, the revolving credit facility is secured, on an equal and ratable, first priority basis with the Old Senior Secured Notes by liens on certain of our assets, except that the proceeds of the collateral shall first be applied to repay in full our obligations under the revolving credit facility before being applied to repay the Old Senior Secured Notes. If the Exchange Offer is consummated, the trustee for the New Senior Secured Notes would enter into an intercreditor agreement with the collateral agent on substantially similar terms as the intercreditor agreement pertaining to the Old Senior Secured Notes. Further, pursuant to the Consent Solicitation, the collateral securing the Old Senior Secured Notes would be released upon completion of the Exchange Offer.

Borrowings under the revolving credit facility bear interest at our option at either (1) LIBOR plus 2.5% or (2) the base rate (which is the higher of the administrative agent's prime rate, the federal funds rate plus 0.5% or 30 day LIBOR plus 1.0%) plus 1.5%. The revolving credit facility contains various affirmative and negative covenants which, among other things, prohibit the payment of cash dividends and cash repurchases of common stock, limit the amount of additional indebtedness that we may incur, restrict asset dispositions, limit hedging arrangements and limit our ability to enter into certain transactions and make certain loans and investments. The only financial covenants are the maintenance of a current ratio, which must not be less than 1.0 to 1.0, and a coverage ratio of the value of our developed oil and gas reserves as compared to the amounts outstanding under the revolving credit facility, which must not be less than 2.5 to 1.0.

10% Senior Secured Notes due 2020

In March 2015, we issued $700.0 million of Old Senior Secured Notes, all of which are currently outstanding. Interest on the Old Senior Secured Notes accrues at the rate of 10% per annum and is payable in cash on March 15 and September 15 of each year. The Old Senior Secured Notes mature on March 15, 2020. The Old Senior Secured Notes are secured on a first priority basis equally and ratably with our revolving credit facility, subject to payment priorities in favor of the revolving credit facility by the collateral securing the revolving credit facility, which consists of, among other things, at least 80% of our and our subsidiaries' oil and gas properties. The Old Senior Secured Notes are our general obligations and are guaranteed by all of our subsidiaries. The indenture governing the Old Senior Secured Notes (the "Existing Secured Notes Indenture") restricts our ability and the ability of our restricted subsidiaries to, among other things: (i) incur or guarantee additional indebtedness; (ii) pay distributions or dividends on capital stock or repurchase capital stock or make certain restricted payments; (iii) make certain investments; (iv) sell certain assets; and (v) enter into transactions with affiliates. These covenants are subject to a number of exceptions and qualifications.

7 ¾% Senior Notes due 2019

In March 2011, we issued $300.0 million in aggregate principal amount of the Old 2019 Notes. In May 2014, we issued an additional $100.0 million in aggregate principal amount of the Old 2019 Notes. There is currently outstanding $288.5 million aggregate principal amount of the Old 2019 Notes. Interest on the Old 2019 Notes accrues at the rate of 7 ¾% per annum and is payable on April 1 and October 1 of each year. The Old 2019 Notes mature on April 1, 2019. The Old 2019 Notes are guaranteed on a senior unsecured basis by the same subsidiary guarantors that will guarantee the new notes. The Old 2019 Notes and the guarantees are our and the guarantors' general unsecured senior obligations and rank equal in right of payment with all of our and the guarantors' other existing and future senior unsecured indebtedness that is not by its terms subordinated to the Old 2019 Notes, including the Old 2020 Notes. The indenture and supplemental indenture governing the Old 2019 Notes (together, the "Existing 2019 Notes Indenture") restrict our ability and the ability of our restricted subsidiaries to, among other things: (i) incur or guarantee additional indebtedness; (ii) pay distributions or dividends on capital stock or repurchase capital stock or make certain restricted payments; (iii) make certain investments; (iv) sell certain assets; and (v) enter into transactions with affiliates. These covenants are subject to a number of exceptions and qualifications.

9 ½% Senior Notes due 2020

In June 2012, we issued $300.0 million in aggregate principal amount of the Old 2020 Notes. There is currently outstanding, $174.6 million aggregate principal amount of Old 2020 Notes. Interest on the Old 2020 Notes accrues at the rate of 9 ½% per annum and is payable on June 15 and December 15. The Old 2020 Notes mature on June 15, 2020. The Old 2020 Notes are guaranteed on a senior unsecured basis by the same subsidiary guarantors that will guarantee the new notes. The Old 2020 Notes and the guarantees are our and the guarantors' general unsecured senior obligations and rank equal in right of payment with all of our and the guarantors' other existing and future senior unsecured indebtedness that is not by its terms subordinated to the Old 2020 Notes, including the Old 2019 Notes. The indenture and supplemental indenture governing the Old 2020 Notes (together, the "Existing 2020 Notes Indenture" and together with the Existing 2019 Notes Indenture and the Existing Secured Notes Indenture, the "Existing Indentures") restrict our ability and the ability of our restricted subsidiaries to, among other things: (i) incur or guarantee additional indebtedness; (ii) pay distributions or dividends on capital stock or repurchase capital stock or make certain restricted payments; (iii) make certain investments; (iv) sell certain assets; and (v) enter into transactions with affiliates. These covenants are subject to a number of exceptions and qualifications.

GENERAL TERMS OF THE EXCHANGE OFFER AND CONSENT SOLICITATION

Exchange Offer

We are offering, upon the terms and subject to the conditions set forth in this prospectus, to exchange our new notes, and in certain instances, warrants, for any and all of our old notes validly tendered to the Information and Exchange Agent, and not validly withdrawn, on or prior to the Expiration Date. The exchange consideration will be in full satisfaction of the principal amount of the old notes that are tendered and accepted in the Exchange Offer, and any accrued and unpaid interest to, but excluding the Closing Date on the old notes that are tendered and accepted in the Exchange Offer, will be paid in cash on the date on which the Exchange Offer is completed.

Upon the terms and subject to the conditions of the Exchange Offer, (i) for old notes tendered at or prior to the Early Tender Date, accepted for exchange and not validly withdrawn, holders of old notes will be eligible to receive the applicable Early Exchange Consideration set forth in the table below; and (ii) in the event that we extend the Expiration Date past the Early Tender Date, for old notes tendered after the Early Tender Date and prior to the Expiration Date, accepted for exchange and not validly withdrawn, holders of old notes will be eligible to receive the applicable Late Exchange Consideration set forth in such table.

Title of Old Notes to be Tendered	Early Exchange Consideration per $1,000 Principal Amount of Old Notes if Tendered and Not Withdrawn Prior to Early Tender Date(1)(2)(3)	Late Exchange Consideration per $1,000 Principal Amount of Old Notes if Tendered After the Early Tender Date and Not Withdrawn Prior to the Expiration Date(1)(2)(3)
10% Senior Secured Notes due 2020	$1,000 principal amount of Senior Secured Toggle Notes due 2020 and warrants exercisable for 2.75 shares of common stock of the Company	$950 principal amount of Senior Secured Toggle Notes due 2020 and warrants exercisable for 2.75 shares of common stock of the Company
7 ¾% Senior Notes due 2019	$1,000 principal amount of 7 ¾% Convertible Secured PIK Notes due 2019	$950 principal amount of 7 ¾% Convertible Secured PIK Notes due 2019
9 ½% Senior Notes due 2020	$1,000 principal amount of 9 ½% Convertible Secured PIK Notes due 2020	$950 principal amount of 9 ½% Convertible Secured PIK Notes due 2020

(1) Only whole principal amounts or number of securities shall be issued (with the principal amounts or number of securities to be issued to be adjusted by rounding up or down to the nearest whole principal amount or number of securities and a half amount or more of the number of securities shall be rounded up).

(2) The warrants contain an exercise price of $0.01 per share. The share and per share data reflects the one-for-five (1:5) reverse stock split that became effective on July 29, 2016.

(3) The Early Tender Date and the Expiration Date are currently the same. Accordingly, all holders whose old notes are tendered and not validly withdrawn prior to the Expiration Date will receive the applicable Early Exchange Consideration. However, if we extend the Expiration Date past the Early Tender Date, holders whose old notes are tendered and not validly withdrawn prior to the Expiration Date but after the Early Tender Date will receive the applicable Late Exchange Consideration.

Tenders of old notes may be withdrawn prior to the Withdrawal Deadline. Any old note withdrawn pursuant to the terms of the Exchange Offer shall not thereafter be considered tendered for any purpose unless and until such old note is again tendered pursuant to the Exchange Offer.

Our obligation to accept old notes that are tendered is subject to the conditions described below under "—Conditions of the Exchange Offer and Consent Solicitation."

Holders of old notes do not have any appraisal or dissenters' rights in connection with the Exchange Offer. We intend to conduct the Exchange Offer in accordance with the applicable requirements of the Exchange Act and the rules and regulations of the SEC.

We currently expect the new notes to be recorded at the same carrying value as the old notes are reflected in our accounting records on the date of the Exchange Offer, as adjusted for the value associated with embedded derivatives, if any. All costs associated with the Exchange Offer will be expensed.

Consent Solicitation

We are soliciting consents from holders of old notes upon the terms and subject to the conditions set forth herein and in the accompanying Letter of Transmittal. We intend to obtain consents from holders representing a majority of the aggregate outstanding principal amount of the respective series of old notes; provided, that regarding a consent to release the collateral with respect to the Old Senior Secured Notes, we need to obtain consents from holders representing at least 66 ⅔% of the aggregate outstanding principal amount of such old notes. Since the Minimum Condition threshold is greater than the threshold required to approve the Proposed Amendments and because consents to the Proposed Amendments are required if holders tender their old notes, the minimum threshold for the consents will automatically be achieved if the Minimum Condition is satisfied.

If consents representing a majority of the outstanding principal amount of the respective old notes are delivered (and not revoked) prior to the Expiration Date, we will, subject to consummation of the Exchange Offer, execute a supplemental indenture with respect to each series of the old notes (the "Supplemental Indentures") with American Stock Transfer & Trust Company, LLC, as successor Trustee giving effect to the Proposed Amendments. The Proposed Amendments will be effective as to and bind all old notes at such time as the respective Supplemental Indenture has been executed and all conditions precedent to the Exchange Offer have been satisfied or validly waived and we have irrevocably accepted for exchange in the Exchange Offer all validly tendered old notes (other than those old notes that have been validly withdrawn), regardless of whether a consent was given in respect of any particular old note. If consents from holders representing at least 66 ⅔% of the aggregate outstanding principal amount of the Old Senior Secured Notes are delivered (and not revoked) prior to the Expiration Date, we will, subject to consummation of the Exchange Offer, direct the collateral agent under the Existing Secured Notes Indenture to release all liens securing the Old Senior Secured Notes.

Holders that tender old notes pursuant to the Exchange Offer prior to the Expiration Date will be deemed automatically to have delivered a consent with respect to all such old notes.

Holders may not revoke consents except as described under "—Withdrawal of Tenders; Revocation of Consents."

For a description of the Proposed Amendments, please see "Proposed Amendments to Existing Indentures and Old Notes."

Any questions or requests for assistance or for additional copies of this prospectus, the Letter of Transmittal or related documents may be directed to the Information and Exchange Agent at one of its telephone numbers set forth on the last page hereof. A holder may also contact such holder's broker, dealer, commercial bank, trust company or other nominee for assistance concerning the Exchange Offer.

Early Tender Date, Expiration Date, Extensions, Amendments or Termination

The Early Tender Date for the Exchange Offer is 11:59 P.M., New York City time, on September 2, 2016, subject to our right to extend that time and date in our sole discretion (which right is subject to applicable law), in which case the Early Tender Date means the latest time and date to which such Early Tender Date is extended. The Expiration Date is 11:59 P.M., New York City time, on September 2, 2016, subject to our right to extend that time and date in our sole discretion (which right is subject to applicable law), in which case the Expiration Date means the latest time and date to which the Exchange Offer is extended. To extend an Early Tender Date or the Expiration Date, we will notify the Information and Exchange Agent and will make a public announcement thereof before 9:00 a.m., New York City time, on the next business day after the previously scheduled Early Tender Date or Expiration Date, as applicable. During any extension of the Early Tender Date or the Expiration Date, all old notes previously tendered in the extended Exchange Offer will remain subject to the Exchange Offer and, subject to compliance with the terms of the Exchange Offer and applicable law, may be accepted for exchange by us. The Exchange Offer may not be extended without extending the Consent Solicitation, and the Consent Solicitation may not be extended without extending the Exchange Offer.

Any waiver, amendment or modification of the Exchange Offer and Consent Solicitation will apply to all old notes tendered pursuant to the Exchange Offer and Consent Solicitation. If we make a change that we determine to be material in any of the terms of the Exchange Offer or waive a condition of the Exchange Offer and Consent Solicitation that we determine to be material, we will give oral (to be confirmed in writing) or written notice of such amendment or such waiver to the Information and Exchange Agent and will disseminate additional Exchange Offer and consent documents and extend the Exchange Offer and Consent Solicitation and any withdrawal or revocation rights as we determine necessary and to the extent required by law.

We may terminate the Exchange Offer and Consent Solicitation if any condition is not satisfied on or prior to the Expiration Date. There can be no assurance that we will exercise our right to extend, terminate or amend the Exchange Offer and Consent Solicitation.

Announcements

Any extension, termination or amendment of the Exchange Offer and Consent Solicitation will be followed as promptly as practicable by announcement thereof, such announcement in the case of an extension to be issued no later than 9:00 a.m., New York City time, on the next business day following the previously scheduled Expiration Date. Without limiting the manner in which we may choose to make such announcement, we will not, unless otherwise required by law, have any obligation to publish, advertise or otherwise communicate any such announcement other than by making a release to an appropriate news agency or another means of announcement that we deem appropriate.

Acceptance of Old Notes for Exchange; Accrual of Interest

Acceptance of Old Notes for Exchange

If the conditions to the Exchange Offer are satisfied, or if we waive all of the conditions that have not been satisfied, we will accept, at the Closing Date and after we receive completed and duly executed Letters of Transmittal or Agent's Messages (as defined below) with respect to any and all of the old notes tendered for exchange at such time, the old notes for exchange by notifying the Information and Exchange Agent of our acceptance. The notice may be oral if we promptly confirm it in writing.

An "Agent's Message" is a message transmitted by The Depository Trust Company ("DTC"), received by the Information and Exchange Agent and forming part of the timely confirmation of a book entry transfer ("Book–Entry Confirmation"), which states that DTC has received an express acknowledgement from you that you have received this prospectus and agree to be bound by the terms of the Letter of Transmittal, and that we may enforce such agreement against you.

We expressly reserve the right, in our sole discretion, to delay acceptance for exchange of, or exchange of, old notes tendered under the Exchange Offer (subject to Rule 14e-1c under the Exchange Act, which requires that we issue the offered consideration or return the old notes deposited pursuant to the Exchange Offer promptly after termination or withdrawal of the Exchange Offer), or to terminate the Exchange Offer and not accept for exchange any old notes not previously accepted for exchange, (1) if any of the conditions to the Exchange Offer shall not have been satisfied or validly waived by us, or (2) in order to comply in whole or in part with any applicable law.

In all cases, the new notes will be issued only after timely receipt by the Information and Exchange Agent of (1) Book–Entry Confirmation of the old notes into the Information and Exchange Agent's account at DTC (or receipt of the old notes by the Information and Exchange Agent in certificated form, if the notes are certificated), (2) the properly completed and duly executed Letter of Transmittal (or a facsimile thereof) or an Agent's Message in lieu thereof, and (3) any other documents required by the Letter of Transmittal. The Exchange Offer is scheduled to expire at the Expiration Date, unless extended by us.

For purposes of the Exchange Offer, we will have accepted for exchange tendered old notes, if, as and when we give oral or written notice to the Information and Exchange Agent of our acceptance of the old notes for exchange pursuant to the Exchange Offer. In all cases, the exchange of old notes pursuant to the Exchange Offer will be made by the deposit of any exchange consideration with the Information and Exchange Agent, which will act as your agent for the purposes of receiving new notes and warrants, as applicable, from us, and delivering new notes and warrants, as applicable, to you. If, for any reason whatsoever, acceptance for exchange of, or exchange of, any old notes tendered pursuant to the Exchange Offer are delayed (whether before or after our acceptance for exchange of, or exchange of, the old notes) or we extend the Exchange Offer or are unable to accept for exchange the old notes tendered pursuant to the Exchange Offer, then, without prejudice to our rights set forth herein, we may instruct the Information and Exchange Agent to retain tendered old notes and those old notes may not be withdrawn, subject to the limited circumstances described in "—Withdrawal of Tenders; Revocation of Consents" below.

We will have the right, which may be waived, to reject the defective tender of old notes as invalid and ineffective. If we waive our rights to reject a defective tender of old notes, subject to the other terms and conditions set forth in the Offer Documents, you will be entitled to the new notes.

We will pay or cause to be paid all transfer taxes with respect to the exchange of any old notes unless the box titled "Special Payment or Issuance Instructions" or the box titled "Special Delivery Instructions" on the Letter of Transmittal has been completed, as described in the instructions thereto.

Accrued Interest

If old notes are validly tendered and accepted for exchange pursuant to the Exchange Offer, the holders of such old notes will be entitled to accrued and unpaid interest on those old notes in cash on the date on which the Exchange Offer is completed, and interest shall accrue on the new notes from and after the Closing Date.

Under no circumstances will any special interest be payable because of any delay in the transmission new notes to you with respect to exchanged old notes or otherwise.

We will pay all fees and expenses of the Information and Exchange Agent in connection with the Exchange Offer.

Procedures for Tendering Old Notes

General

In order to participate in the Exchange Offer, you must tender your old notes to the Information and Exchange Agent as described below. It is your responsibility to tender your old notes. We have the right to waive any defects. However, we are not required to waive defects and are not required to notify you of defects in your tender.

If you have any questions or need help in tendering your old notes, please contact the Information and Exchange Agent whose addresses and telephone numbers are listed on the back cover page of this prospectus.

If delivery is by mail, we recommend that registered mail, properly insured, with return receipt requested, be used. In all cases, sufficient time should be allowed to assure timely delivery. No Letters of Transmittal and Consent or old notes should be sent to the Company.

Proper Tender

Except as set forth below with respect to ATOP procedures, for a holder to tender old notes pursuant to the Exchange Offer, a properly completed and duly executed Letter of Transmittal (or a facsimile thereof), together

with any signature guarantees and any other documents required by the Instructions to the Letter of Transmittal, or an Agent's Message in lieu thereof, must be received by the Information and Exchange Agent at the address or facsimile number set forth on the back cover of this prospectus prior to the Expiration Date, and the old notes must be transferred pursuant to the procedures for book–entry transfer described below and a Book–Entry Confirmation must be received by the Information and Exchange Agent on or prior to the Expiration Date.

In all cases, the exchange of old notes tendered and accepted for exchange pursuant to the Exchange Offer will be made only after timely receipt by the Information and Exchange Agent of:

- a Book–Entry Confirmation with respect to such old notes (or, if certificated, old notes are to be delivered with the Letter of Transmittal);
- the Letter of Transmittal (or a facsimile thereof) properly completed and duly executed, or an Agent's Message in lieu thereof; and
- any required signature guarantees and other documents required by the Letter of Transmittal.

Deemed Consent by Tender

The tender of old notes pursuant to the Exchange Offer and in accordance with the procedures described in the Offer Documents will be deemed to automatically constitute delivery of a consent with respect to the old notes tendered, except as provided herein. All references to procedures for tendering old notes shall include such deemed delivery of consents.

Tender Procedures for Notes Held Through a Custodian

If you are a beneficial owner of old notes, but the holder is a custodial entity such as a bank, broker, dealer, trust company or other nominee, and you seek to tender old notes, you must provide appropriate instructions to such holder in order to tender through ATOP with respect to such old notes. Beneficial owners may be instructed to complete and deliver an instruction letter to such holder for this purpose. We urge you to contact such person that holds old notes for you if you wish to tender your old notes.

Book–Entry Transfer

The Information and Exchange Agent has or will establish an account with respect to the old notes at DTC for purposes of the Exchange Offer, and any financial institution that is a participant in the DTC system (a "DTC Participant") and whose name appears on a security position listing as the record owner of the old notes may make book–entry delivery of old notes by causing DTC to transfer the old notes into the Information and Exchange Agent's account at DTC in accordance with DTC's procedure for transfer. Although delivery of old notes may be effected through book–entry transfer into the Information and Exchange Agent's account at DTC, either an Agent's Message or a Letter of Transmittal (or a facsimile thereof) properly completed and duly executed, along with any required signature guarantees and any other required documents, must be transmitted to and received by the Information and Exchange Agent at one of the addresses set forth on the back cover of this prospectus prior to the Expiration Date.

Tender of Notes Through ATOP

In lieu of physically completing and signing the Letter of Transmittal and delivering it to the Information and Exchange Agent, DTC participants may electronically transmit their acceptance of the Exchange Offer through ATOP, for which the transaction will be eligible. In accordance with ATOP procedures, DTC will then verify the acceptance of the Exchange Offer and send an Agent's Message to the Information and Exchange Agent for its acceptance.

If a holder transmits its acceptance through ATOP, delivery of such tendered old notes must be made to the Information and Exchange Agent pursuant to the book–entry delivery procedures set forth herein. Unless such holder delivers the old notes being tendered to the Information and Exchange Agent by book–entry delivery, we may, at our option, treat such tender as defective for purposes of delivery of tenders, acceptance for exchange and the right to receive new notes. Delivery of documents to DTC (physically or by electronic means) does not constitute delivery to the Information and Exchange Agent. If you desire to tender your old notes prior to the Expiration Date, you must allow sufficient time for completion of the ATOP procedures during the normal business hours of DTC on such date.

Signature Guarantees

Signatures on all Letters of Transmittal and Consent must be guaranteed by a recognized participant in the Securities Transfer Agents Medallion Program, the New York Stock Exchange Medallion Signature Program or the Stock Exchange Medallion Program (a "Medallion Signature Guarantor"), unless the Letter of Transmittal is delivered, and any old notes tendered thereby are tendered (i) by a registered holder of old notes (or by a participant in DTC whose name appears on a security position listing as the owner of such old notes) who has not completed either the box entitled "Special Delivery Instructions" or "Special Issuance Instructions" on the Letter of Transmittal or (ii) for the account of a member firm of a registered national securities exchange, a member of the Financial Industry Regulatory Authority or a commercial bank or trust company having an office or correspondent in the United States (each of the foregoing being referred to as an "Eligible Institution"). If the old notes are registered in the name of a person other than the signer of the Letter of Transmittal, or if old notes not accepted for exchange or not tendered are to be returned to a person other than such holder, then the signatures on the Letters of Transmittal and Consent accompanying the tendered old notes must be guaranteed by a Medallion Signature Guarantor as described above.

Determination of Validity of Tenders

All questions as to the validity, form, eligibility (including time of receipt) and acceptance for exchange of any tendered old notes pursuant to any of the procedures described above, and the form and validity (including time of receipt of notices of withdrawal) of all documents will be determined by us in our sole discretion, which determination will be final and binding. We reserve the absolute right to reject any or all tenders of any old notes determined by us not to be in proper form, or if the acceptance of or exchange of such old notes may, in the opinion of our counsel, be unlawful. We also reserve the right to waive any conditions to the Exchange Offer that we are legally permitted to waive.

Your tender will not be deemed to have been made until all defects or irregularities in your tender have been cured or waived. All questions as to the form and validity (including time of receipt) of any delivery or withdrawal of a tender will be determined by us in our sole discretion, which determination shall be final and binding. Neither we, the Information and Exchange Agent nor any other person or entity is under any duty to give notification of any defects or irregularities in any tender or withdrawal of any old notes, or will incur any liability for failure to give any such notification.

Please send all materials to the Information and Exchange Agent only and not to us.

Withdrawal of Tenders; Revocation of Consents

Your right to withdraw old notes tendered (and also thereby revoke the consent deemed delivered with such old notes) will expire at 11:59 P.M., New York City time, on September 2, 2016, subject to our right to extend that time and date in our sole discretion (which right is subject to applicable law), in which case the Withdrawal Deadline is the latest time and date to which such Withdrawal Deadline is extended. Withdrawal of old notes prior to the Withdrawal Deadline also constitutes revocation of consent with respect to such old notes. Consents may only be revoked by properly withdrawing such tendered old notes. You may not withdraw old notes after the Withdrawal Deadline.

Subject to applicable law, if, for any reason whatsoever, acceptance for exchange of or exchange of any old notes tendered pursuant to the Exchange Offer is delayed (whether before or after our acceptance for exchange of old notes) or we extend the Exchange Offer or are unable to accept for exchange or exchange the old notes tendered pursuant to the Exchange Offer, we may instruct the Information and Exchange Agent to retain tendered old notes, and those old notes may not be withdrawn, except to the extent that you are entitled to the withdrawal rights set forth herein.

To be effective, a written or facsimile transmission notice of withdrawal of a tender or a properly transmitted "Request Message" through DTC's ATOP system must:

- be received by the Information and Exchange Agent at one of the addresses specified on the back cover of this prospectus prior to the Expiration Date;
- specify the name of the holder of the old notes to be withdrawn;
- contain the description of the old notes to be withdrawn and the aggregate principal amount represented by such old notes; and
- be signed by the holder of the old notes in the same manner as the original signature on the Letter of Transmittal or be accompanied by documents of transfer sufficient to have the trustee register the transfer of the old notes into the name of the person withdrawing the old notes.

If the old notes to be withdrawn have been delivered or otherwise identified to the Information and Exchange Agent, a signed notice of withdrawal is effective immediately upon receipt by the Information and Exchange Agent of written or facsimile transmission of the notice of withdrawal or revocation (or receipt of a Request Message) even if physical release is not yet effected. A withdrawal of old notes can only be accomplished in accordance with the foregoing procedures.

If you withdraw old notes, you will have the right to re–tender the old notes on or prior to the Expiration Date in accordance with the procedures described above for tendering outstanding old notes.

If we amend or modify the terms of the Exchange Offer and Consent Solicitation, or the information concerning the Exchange Offer and Consent Solicitation, in a manner determined by us to constitute a material change to the holders, we will disseminate additional Exchange Offer and Consent Solicitation materials and extend the period of the Exchange Offer and Consent Solicitation, including any withdrawal rights, to the extent required by law and as we determine necessary. An extension of the Expiration Date will not affect a holder's withdrawal rights, unless otherwise provided or as required by applicable law.

Conditions of the Exchange Offer and Consent Solicitation

Notwithstanding any other provisions of the Exchange Offer, we will not be required to accept for exchange or to exchange old notes tendered pursuant to the Exchange Offer, and may terminate, amend or extend the Exchange Offer or delay or refrain from accepting for exchange, or exchanging, the notes or transferring any exchange consideration, if any of the following shall occur:

- failure to obtain tenders from holders of the old notes satisfying the Minimum Condition;
- failure to obtain, secure or enter into any material agreement, understanding, arrangement or other related document, including, without limitation, an amendment to our bank credit facility, that would otherwise prevent the consummation of the Exchange Offer or the Consent Solicitation;

- consents representing at least a majority of the aggregate principal amount of the respective series of the old notes approving the Proposed Amendments are not delivered (and not withdrawn); provided, that regarding the consent to release collateral with respect to the Old Senior Secured Notes, consents representing at least 66 ⅔% of the aggregate principal amount of the Old Senior Secured Notes must be received;

- any order, statute, rule, regulation, executive order, stay, decree, judgment or injunction shall have been enacted, entered, issued, promulgated or enforced by any court or governmental authority that prohibits or materially restricts the consummation of the Exchange Offer or Consent Solicitation, including any applicable interpretation of the staff of the SEC;

- there shall be instituted or pending any action, proceeding, application, claim or counterclaim by any government or governmental authority or agency, domestic or foreign, or by any other person, domestic or foreign, before any court or governmental regulatory or administrative agency, authority or tribunal, domestic or foreign, that, in our reasonable judgment, following the receipt of advice of counsel, would make the acceptance for exchange of, or exchange of, some or all of the old notes pursuant to the Exchange Offer illegal;

- there shall have occurred or be likely to occur any event affecting our business or financial affairs that, in our reasonable judgment, would prevent or materially restrict or delay consummation of the Exchange Offer and Consent Solicitation; or

- the Exchange Offer is not completed by September 15, 2016.

In addition, pursuant to NYSE rules, we may not issue shares of our common stock representing in excess of 19.9% of our outstanding shares without the approval of our stockholders. If the Exchange Offer is completed, we intend to call a special meeting of stockholders as soon as reasonably practicable for stockholders of record as of the Closing Date (or such later date as we may designate) to consider the following matters: (1) a proposal to amend our restated articles of incorporation to increase the number of shares of our common stock authorized for issuance, in order to provide a sufficient number of authorized shares of common stock for the issuance of shares upon conversion of the new notes and exercise of the warrants; (2) a proposal to issue shares of common stock in excess of 19.9% of the currently outstanding shares that would be issued upon conversion of the new notes and exercise of the warrants; and (3) any other matters properly brought before the meeting. If the required stockholder approval is delayed, convertibility of the New 2019 Convertible Notes and New 2020 Convertible Notes will be delayed and if such approval is not obtained by December 31, 2016, convertibility of such notes will terminate and be of no further force and effect and the failure to obtain such stockholder approval will result in a default under such New Convertible Notes. If such default continues for 90 days, it will become an Event of Default. Such default may in turn result in a default under the New Senior Secured Notes.

These conditions are for our benefit and may be asserted by us or may be waived by us, including any action or inaction by us giving rise to any condition, or may be waived by us, in whole or in part, at any time and from time to time, in our reasonable discretion. We may additionally terminate the Exchange Offer if any condition is not satisfied on or prior to the Expiration Date. If any of these events occur, subject to the termination rights described above, we may (i) return tendered old notes to you, (ii) extend the Exchange Offer and Consent Solicitation and retain all tendered old notes until the expiration of the extended Exchange Offer and Consent Solicitation, or (iii) amend the Exchange Offer and Consent Solicitation in any respect by giving oral or written notice of such amendment to the Information and Exchange Agent and making public disclosure of such amendment to the extent required by law.

We have not made a decision as to what circumstances would lead us to waive any condition, and any such waiver would depend on circumstances prevailing at the time of such waiver. Although we have no present plans or arrangements to do so, we reserve the right to amend, at any time, the terms of the Exchange Offer. We will give holders notice of such amendments as may be required by applicable law.

In addition, this Exchange Offer will not be consummated until the registration statement of which this prospectus is a part has been declared effective by the Securities and Exchange Commission.

Subject to the terms and conditions of the Exchange Offer and Consent Solicitation, we will accept tendered old notes for exchange at the Closing Date. If we do not accept tendered old notes for exchange in the Exchange Offer, the Proposed Amendments will not become effective.

Soliciting Dealer Fees

We have agreed to pay a soliciting dealer fee equal to $5.00 for each $1,000 principal amount of old notes that are validly tendered for exchange and not validly withdrawn pursuant to the Exchange Offer to retail brokers that are appropriately designated by their clients to receive this fee, but only if the old notes of each applicable series that are tendered by or for that beneficial owner have an aggregate principal amount of $250,000 or less. Soliciting dealer fees will only be paid to retail brokers upon consummation of the Exchange Offer. No soliciting dealer fees will be paid if the Exchange Offer is not consummated, and the fees will be payable thereafter upon request by the soliciting dealers and presentation of such supporting documentation as we may reasonably request.

Information and Exchange Agent

We have appointed D.F. King & Co., Inc. as the Information and Exchange Agent for the Exchange Offer. You should direct questions, requests for assistance, and requests for additional copies of this prospectus and the Letter of Transmittal that may accompany this prospectus to such agent addressed as follows:

D.F. King & Co., Inc.
48 Wall Street, 22nd Floor | New York, New York 10005
Banks and Brokers Call Collect: (212) 269-5550 | All Others Call Toll Free: (877) 732-3619
Email: crk@dfking.com
By Facsimile Transmission (for Eligible Institutions only): (212) 709-3328
Confirmation: (212) 232-3235
Attn: Peter Aymar

Delivery to an address other than set forth above will not constitute a valid delivery.

Dealer Manager

We have retained Merrill Lynch, Pierce, Fenner & Smith Incorporated to act as Dealer Manager in connection with the Exchange Offer and Consent Solicitation and will pay the Dealer Manager a customary fee as compensation for its services. We will also reimburse the Dealer Manager for legal expenses related to the Exchange Offer and Consent Solicitation. The obligations of the Dealer Manager to perform this function are subject to certain conditions. We have agreed to indemnify the Dealer Manager against certain liabilities, including liabilities under the federal securities laws. Questions regarding the terms of the Exchange Offer or the Consent Solicitation may be directed to the Dealer Manager at its address and telephone number set forth below.

The Dealer Manager and its respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. The Dealer Manager and its respective affiliates have from time to time provided, and may in the future provide, a variety of these services to us and to persons and entities with relationships with us, for which it has received or will receive customary fees and expenses. The Dealer Manager was an initial purchaser and an underwriter in connection with the old notes.

In the ordinary course of their various business activities, the Dealer Manager and its respective affiliates, officers, directors and employees have from time to time, and may in the future, purchase, sell or hold a broad array of investments and actively trade debt or equity securities of the Company or its affiliates (including any of the old notes), derivatives, loans, commodities, currencies, credit default swaps and other financial instruments of the Company for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities and/or instruments of us (directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with us. To the extent that the Dealer Manager or its affiliates hold old notes during the Exchange Offer, they may tender such old notes pursuant to the terms of the Exchange Offer. The Dealer Manager and its respective affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

BofA Merrill Lynch
Attention: Debt Advisory
The Hearst Building
214 North Tryon Street, 14th Floor
Charlotte, North Carolina 28255
Toll-Free: (888) 292-0070
Collect: (980) 388-4813 and (646) 855-2464

DESCRIPTION OF COMMON STOCK

After giving effect to the one-for five (1:5) reverse stock split which became effective on July 29, 2016, our authorized capital stock consists of 50,000,000 shares of common stock, par value $0.50 per share, and 5,000,000 shares of preferred stock, par value $10.00 per share. At August 29, 2016, we had approximately 12,504,562 shares of common stock (on a split-adjusted basis and subject to minor variations resulting from the treatment of fractional shares in the reverse stock split) and no shares of preferred stock issued and outstanding. At that date, we also had options, warrants and rights outstanding to purchase 11,730 shares of our common stock and performance share units equivalent to 269,253 shares of our common stock that would be issuable based on achievement of the performance criteria under the terms of our performance share unit awards (in each case on a split-adjusted basis).

The following is a summary of the key terms and provisions of our equity securities. You should refer to the applicable provisions of our restated articles of incorporation, amended and restated bylaws and Nevada law for a complete statement of the terms and rights of our capital stock.

Common Stock

Each holder of common stock is entitled to one vote per share. Subject to the rights, if any, of the holders of any series of preferred stock pursuant to applicable law or the provision of the certificate of designation creating that series, all voting rights are vested in the holders of shares of common stock. Holders of shares of common stock have no right to cumulate votes in the election of directors, thus, the holders of a majority of the shares of common stock can elect all of the members of the board of directors standing for election. All outstanding shares of common stock are fully paid and non-assessable. Any additional common stock we offer and issue under this prospectus, and any related prospectus supplement, will also be fully paid and non-assessable.

Dividends may be paid to the holders of common stock when, as, and if declared by the board of directors out of funds legally available for their payment, subject to the rights of the holders of preferred stock, if any. In the event of our voluntary or involuntary liquidation, dissolution, or winding up, the holders of common stock will be entitled to share equally, in proportion to the number of shares of common stock held by them, in any of our assets available for distribution after the payment in full of all debts and distributions and after the holders of all series of outstanding preferred stock, if any, have received their liquidation preferences in full. Holders of common stock are not entitled to preemptive purchase rights in future offerings of our common stock. Although our restated articles of incorporation do not specifically deny preemptive rights, pursuant to Nevada law, our stockholders do not have preemptive rights with respect to shares that are registered under Section 12 of the Exchange Act and our common stock is so registered.

Anti-Takeover Provisions

Our restated articles of incorporation and amended and restated bylaws and Nevada law include certain provisions which may have the effect of delaying or deterring a change in control or in our management or encouraging persons considering unsolicited tender offers or other unilateral takeover proposals to negotiate with our board of directors rather than pursue non-negotiated takeover attempts. These provisions include authorized blank check preferred stock, restrictions on business combinations, and the availability of authorized but unissued common stock. In 2014, our stockholders approved amended and restated bylaws which provided for declassification our board of directors. The entirety of our board of directors will be declassified after the 2017 annual stockholders meeting. Additionally, we adopted a rights plan in 2015 to preserve our accumulated net operating losses, which, while not intended to be an anti-takeover measure, effectively deters purchases of our common stock in certain circumstances and could make us more difficult to acquire. See “—Rights Plan.”

Rights Plan

In 2015, we entered into a net operating loss carryforwards ("NOLs") rights plan (the "Rights Plan") with American Stock Transfer & Trust Company, LLC, as rights agent. In connection with adopting the Rights Plan, the board of directors declared a dividend of one preferred share purchase right ("Right") for each outstanding share of our common stock. In addition, one Right automatically attached to each share of common stock issued after the initial adoption of the Rights Plan.

The Rights Plan was adopted in an effort to prevent potential significant limitations under Section 382 of the Code on our ability to utilize our current NOLs to reduce our future tax liabilities. If we experience an "ownership change," as defined in Section 382 of the Code, our ability to fully utilize our NOLs on an annual basis will be substantially limited, and the timing of the usage of the NOLs could be substantially delayed, which could accordingly significantly impair the value of those benefits. The Rights Plan works by imposing a significant penalty upon any person or group that acquires 4.9% or more of our outstanding common stock without the approval of the board of directors (an "Acquiring Person"). The Rights Plan also gives discretion to the board of directors to determine that someone is an Acquiring Person even if they do not own 4.9% or more of our outstanding common stock but do own 4.9% or more in value of our outstanding stock, as determined pursuant to Section 382 of the Code and the regulations promulgated thereunder. Stockholders who currently own 4.9% or more of our common stock will not trigger the Rights unless they acquire additional shares, subject to certain exceptions set forth in the Rights Plan. In addition, the board of directors has established procedures to consider requests to exempt certain acquisitions of our securities from the Rights Plan if the board of directors determines that doing so would not limit or impair the availability of the NOLs or is otherwise in the best interests of the Company. While the Rights Plan is intended to preserve our NOLs, it effectively deters current and potential future purchases of our common stock above 4.9% of the total outstanding shares and could make it more difficult for a third party to acquire us.

Our board of directors intends to terminate the Rights Plan immediately prior to the completion of the Exchange Offer.

Combination with Interested Stockholders Statute

Sections 78.411 to 78.444 of the Nevada Revised Statutes (N.R.S.), which apply to any Nevada corporation subject to the reporting requirements of Section 12 of the Exchange Act, including us, prohibits an "interested stockholder" from entering into a "combination" with the corporation for two years, unless certain conditions are met. A "combination" includes:

- any merger of the corporation or any subsidiary of the corporation with an "interested stockholder," or any other entity, whether or not itself an "interested stockholder," which is, or after and as a result of the merger would be, an affiliate or associate of an "interested stockholder;"
- any sale, lease, exchange, mortgage, pledge, transfer, or other disposition in one transaction, or a series of transactions, to or with an "interested stockholder" or any affiliate or associate of an "interested stockholder," of assets of the corporation or any subsidiary:

  (i) having an aggregate market value equal to more than 5% of the aggregate market value of the corporation's assets, determined on a consolidated basis;

  (ii) having an aggregate market value equal to more than 5% of the aggregate market value of all outstanding voting shares of the corporation; or

  (iii) representing more than 10% of the earning power or net income, determined on a consolidated basis, of the corporation; or
- the issuance or transfer by the corporation or any subsidiary, of any shares of the corporation or any subsidiary to an "interested stockholder" or any affiliate or associate of an "interested stockholder,"

having an aggregate market value equal to 5% or more of the aggregate market value of all of the outstanding voting shares of the corporation, except under the exercise of warrants or rights to purchase shares offered, or a dividend or distribution paid or made, pro rata to all stockholders of the resident domestic corporation;

- the adoption of any plan, or proposal for the liquidation or dissolution of the corporation, under any agreement, arrangement or understanding, with the "interested stockholder," or any affiliate or associate of the "interested stockholder;"
- If any of the following actions occurs

  i) a reclassification of the corporation's securities, including, without limitation, any splitting of shares, share dividend, or other distribution of shares with respect to other shares, or any issuance of new shares in exchange for a proportionately greater number of old shares;

  ii) recapitalization of the corporation;

  iii) merger or consolidation of the corporation with any subsidiary;

  iv) or any other transaction, whether or not with or into or otherwise involving the interested stockholder,

  under any agreement, arrangement or understanding, whether or not in writing, with the interested stockholder or any affiliate or associate of the interested stockholder, which has the immediate and proximate effect of increasing the proportionate share of the outstanding shares of any class or series of voting shares or securities convertible into voting shares of the corporation or any subsidiary of the corporation which is beneficially owned by the interested stockholder or any affiliate or associate of the interested stockholder, except as a result of immaterial changes because of adjustments of fractional shares.
- any receipt by an "interested stockholder" or any affiliate or associate of an "interested stockholder," except proportionately as a stockholder of the corporation, of the benefit of any loan, advance, guarantee, pledge or other financial assistance or any tax credit or other tax advantage provided by or through the corporation.

An "interested stockholder" is a person who is:

- directly or indirectly, the beneficial owner of 10% or more of the voting power of the outstanding voting shares of the corporation; or
- an affiliate or associate of the corporation, which at any time within two years immediately before the date in question was the beneficial owner, directly or indirectly, of 10% or more of the voting power of the then outstanding shares of the corporation.

A corporation to which the Combinations with Interested Stockholders Statute applies may not engage in a "combination" within two years after the interested stockholder first became an interested stockholder, unless the combination meets all of the requirements of the corporation's articles of incorporation and (i) the combination or the transaction by which the person first became an interested stockholder is approved by the board of directors before the person first became an interested stockholder, or (ii)(a) the combination is approved by the board of directors and (b) at or after that time, the combination is approved at an annual or special meeting of the stockholders, and not by written consent, by the affirmative vote of the stockholders representing at least sixty percent (60%) of the outstanding voting power of the corporation not beneficially owned by the interested stockholder or the affiliates or associates of the interested stockholder. If this approval is not obtained, the combination may be consummated after the two year period expires if either (i)(a) the combination or transaction by which the person first became an interested stockholder is approved by the board of directors before such person first became an interested stockholder, (b) the combination is approved by a majority of the outstanding voting power of the corporation not beneficially owned by the interested stockholder or any affiliate or associate

of the interested stockholder, or (c) the combination otherwise meets the requirements of the Combination with Interested Stockholders statute. Alternatively, a combination with an interested stockholder engaged in more than 2 years after the date the person first became an interested stockholder may be permissible if the aggregate amount of cash and the market value of consideration other than cash to be received by holders of shares of common stock and holders of any other class or series of shares meets the minimum requirements set forth in the statue, and prior to the completion of the combination, except in limited circumstances, the interested stockholder has not become the beneficial owner of additional voting shares of the corporation.

Acquisition of Controlling Interest Statute

In addition, Nevada's "Acquisition of Controlling Interest Statute," prohibits an acquiror, under certain circumstances, from voting shares of a target corporation's stock after crossing certain threshold ownership percentages, unless the acquiror obtains the approval of the target corporation's stockholders. Sections 78.378 to 78.3793 of the N.R.S. only apply to Nevada corporations with at least 200 stockholders, including at least 100 record stockholders who are Nevada residents, that do business directly or indirectly in Nevada and whose articles of incorporation or bylaws in effect 10 days following the acquisition of a controlling interest by an acquiror do not prohibit its application.

We do not intend to "do business" in Nevada within the meaning of the Acquisition of Controlling Interest Statute. Therefore, we believe it is unlikely that this statute will apply to us. The statute specifies three thresholds:

- at least one-fifth but less than one-third;
- at least one-third but less than a majority; and
- a majority or more, of the outstanding voting power. Once an acquiror crosses one of these thresholds, shares which it acquired in the transaction taking it over the threshold (or within ninety days preceding the date thereof) become "control shares" which could be deprived of the right to vote until a majority of the disinterested stockholders restore that right.
- A special stockholders' meeting may be called at the request of the acquiror to consider the voting rights of the acquiror's shares. If the acquiror requests a special meeting and gives an undertaking to pay the expenses of said meeting, then the meeting must take place no earlier than 30 days (unless the acquiror requests that the meeting be held sooner) and no more than 50 days (unless the acquiror agrees to a later date) after the delivery by the acquiror to the corporation of an information statement which sets forth the range of voting power that the acquiror has acquired or proposes to acquire and certain other information concerning the acquiror and the proposed control share acquisition.

If no such request for a stockholders' meeting is made, consideration of the voting rights of the acquiror's shares must be taken at the next special or annual stockholders' meeting. If the stockholders fail to restore voting rights to the acquiror, or if the acquiror fails to timely deliver an information statement to the corporation, then the corporation may, if so provided in its articles of incorporation or bylaws, call certain of the acquiror's shares for redemption at the average price paid for the control shares by the acquiror.

Our restated articles of incorporation and amended and restated bylaws do not currently permit us to redeem an acquiror's shares under these circumstances. The Acquisition of Controlling Interest Statute also provides that in the event the stockholders restore full voting rights to a holder of control shares that owns a majority of the voting stock, then all other stockholders who do not vote in favor of restoring voting rights to the control shares may demand payment for the "fair value" of their shares as determined by a court in dissenters rights proceeding pursuant to Chapter 92A of the N.R.S..

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is American Stock Transfer & Trust Company.

Listing

Our common stock is listed on the NYSE under the symbol “CRK.” On March 24, 2016, we received a notification from the NYSE informing us that we were no longer in compliance with the NYSE’s continued listing standards for our common stock because the average closing price of our common stock and our average market capitalization have fallen below the NYSE’s requirements. The NYSE’s continued listing standards require that (i) the average closing price of a listed company’s common stock be at least $1.00 per share and (ii) a listed company’s equity market capitalization be at least $50 million, in each case over a consecutive 30 trading-day period. As of July 29, 2016, the average closing price of our common stock over the preceding 30 trading-day period was $0.84 (prior to the reverse stock split) per share and our average equity market capitalization over the same period was $52.5 million.

We have submitted a business plan to the NYSE demonstrating our intent to regain compliance with the NYSE’s continued listing standards, which plan was accepted by the NYSE. We may regain compliance with the NYSE’s stock price standard at any time during a six-month cure period commencing on receipt of the NYSE notification if our common stock has a closing stock price of at least $1.00 and an average closing stock price of at least $1.00 over the 30 trading-day period ending on the last trading day of that month or the last trading day of the cure period. We must regain compliance with respect to our market capitalization within eighteen months of receipt of the NYSE notification. Failure to regain compliance with the NYSE’s continued listing standards within the applicable time periods will result in the commencement of suspension and delisting procedures. To address the minimum closing price requirement, on July 20, 2016, we announced a one-for-five (1:5) reverse split of common stock that became effective on July 29, 2016.

DESCRIPTION OF WARRANTS

We will issue warrants in connection with the Exchange Offer to exchanging holders of the Old Senior Secured Notes pursuant to a warrant agreement with American Stock Transfer & Trust Company, LLC, as warrant agent. The following is a summary of the material terms of the warrant agreement and does not purport to be complete. We urge you to read the form of warrant agreement, which has been filed as an exhibit to the registration statement of which this prospectus forms a part, as the warrant agreement, and not this description, define your rights as a holder of the warrants.

Each warrant entitles the holder to purchase one share of our common stock at an exercise price of $0.01 per share, subject to adjustment as discussed below. In lieu of payment of the exercise price, a warrant holder will have the right (but not the obligation) to require us to convert the warrants, in whole or in part, into a number of shares of our common stock (net of the applicable exercise price). The warrants will be exercisable for a period of two years. If all of the Old Senior Secured Notes are validly tendered and accepted in the Exchange Offer, we will issue warrants to acquire in the aggregate approximately 1.93 million shares of our common stock.

The warrants are being registered with the SEC pursuant to the registration statement of which this prospectus forms a part and will be freely transferable when issued, subject to restrictions that may apply to our affiliates or that may otherwise apply pursuant to applicable securities laws.

The warrants permit a warrant holder to elect to exercise the warrant such that no payment of cash will be required in connection with such exercise (“Net Share Settlement”). If Net Share Settlement is elected, we shall deliver, without any cash payment therefor, a number of shares of common stock equal to the quotient determined by dividing (i) the Fair Value (as of the Exercise Date, each as defined in the warrant agreement) of the number of shares of common stock deliverable pursuant to Full Physical Settlement minus the Exercise Price that would be payable pursuant to Full Physical Settlement by (ii) the Fair Value determined pursuant to the above clause (i).

Upon the occurrence of certain events set forth in the warrant agreement, the number of shares of common stock issuable upon exercise of a warrant may be increased or reduced and the exercise price may be adjusted upward or downward. Subject to the exceptions specified in the warrant agreement, adjustments to the number of shares of common stock issuable upon exercise of a warrant and the exercise price of a warrant may be made if we:

- pay a stock dividend or make another distribution of shares of our common stock to holders of common stock;
- subdivide our outstanding shares of common stock into a greater number of shares of common stock (a share split);
- combine our outstanding shares of common stock into a smaller number of shares of common stock (a share combination); or
- issue, in a reclassification of our outstanding shares of common stock, other securities of our company.

In the case of any recapitalization, reorganization, consolidation, merger, sale of all or substantially all of our assets or other transaction which is effected at any time during the exercise period in such a way that the holders of our common stock are entitled to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for such common stock, each of the registered holders of warrants will be entitled to receive, upon exercise of such warrants and payment of the exercise price, the kind and amount of consideration receivable by the holders of our common stock. We are prohibited from entering into any such transaction unless, prior to the consummation thereof, the successor entity (if other than our company) assumes by written instrument the obligation to deliver to each holder of warrants such stock, securities or assets as such holder may be entitled to acquire.

Warrant holders generally will not have the rights or privileges of holders of common stock, including any voting rights, until they exercise or convert their warrants and receive shares of our common stock. After the issuance of shares of common stock upon exercise or conversion of the warrants, each holder will be entitled to one vote for each share held of record on all matters to be voted on by stockholders.

No fractional warrants will be issued as part of the Exchange Consideration. If any holder of Old Senior Secured Notes would be entitled to receive a fractional warrant upon the valid tender of such holder's Old Senior Secured Notes, we will round up to the nearest whole number of warrants to be issued to such holder.

In addition, no fractional shares of common stock will be issued upon exercise or conversion of the warrants. If, upon exercise or conversion of the warrants, a holder would be entitled to receive a fractional interest in a share, we will round up to the nearest whole number the number of shares of common stock to be issued to the warrant holder.

DESCRIPTION OF NEW SENIOR SECURED NOTES

Comstock will issue the new Senior Secured Toggle Notes due 2020 (the "*New Senior Secured Notes*") pursuant to an Indenture (the "*Senior Secured Notes Indenture*") by and among Comstock, as issuer, the Subsidiary Guarantors and American Stock Transfer & Trust Company, LLC, as trustee (the "*Senior Secured Notes Trustee*"). The terms of the New Senior Secured Notes include those stated in the Senior Secured Notes Indenture and those made part of the Senior Secured Notes Indenture by reference to the Trust Indenture Act of 1939 (the "*TIA*").

Unless the context requires otherwise, all references to "New Senior Secured Notes" herein shall include all Additional New Senior Secured Notes.

The following description is a summary of the material provisions of the Senior Secured Notes Indenture, the New Senior Secured Notes, the Collateral Agreements, the Pari Passu Intercreditor Agreement and the Junior Lien Intercreditor Agreement. It does not restate those agreements and instruments in their entirety. We urge you to read those agreements and instruments because they, and not this description, will define your rights as Holders of the New Senior Secured Notes. Anyone who receives this prospectus may obtain a copy of the Senior Secured Notes Indenture, the form of New Senior Secured Notes, the Pari Passu Intercreditor Agreement, the Junior Lien Intercreditor Agreement and the other Collateral Agreements as set forth below under "—Available Information."

Furthermore, Appendix 1: Comparison of Terms of the New Senior Secured Notes to Old Senior Secured Notes, contains a summary of "Certain Covenants," "Events of Default" and "Certain Definitions" of the New Senior Secured Notes as compared to a summary of "Certain Covenants," "Events of Default" and "Certain Definitions" of the Old Senior Secured Notes, showing provisions that will be deleted or changed or provisions that will be added. Such summary does not restate the terms of the New Senior Secured Notes or the Old Senior Secured Notes and we urge you to read the documents governing the New Senior Secured Notes and the Old Senior Secured Notes, including the Senior Secured Notes Indenture and the indenture governing the Old Senior Secured Notes, because they, and not that description, define your rights as a holder of New Senior Secured Notes or Old Senior Secured Notes.

You can find the definitions of certain terms used in this "Description of New Senior Secured Notes" under the subheading "—Certain Definitions." The registered Holder of a New Senior Secured Note will be treated as the owner of it for all purposes. Only registered Holders will have rights under the Senior Secured Notes Indenture. In this "Description of New Senior Secured Notes," the words "Comstock," "we," "the Company," "us," or "our" refer only to Comstock Resources, Inc. and not to any of its subsidiaries.

Brief Description of the New Senior Secured Notes

The New Senior Secured Notes

The New Senior Secured Notes will be:

- senior obligations of the Company;
- equal in right of payment to all existing and future senior Indebtedness of the Company, subject to the terms of the Pari Passu Intercreditor Agreement;
- secured, on an equal and ratable, first priority basis with the Revolving Credit Agreement Obligations (subject to payment priorities in favor of holders of Revolving Credit Agreement Obligations pursuant to the terms of the Pari Passu Intercreditor Agreement described herein and subject to Permitted Collateral Liens), by liens on the same collateral that secures such Revolving Credit Agreement Obligations (other than Excluded Collateral);

- senior in right of payment to all subordinated Indebtedness of the Company;
- effectively senior to all existing and future unsecured senior Indebtedness of the Company, including the Company's Old Unsecured Notes and Old Senior Secured Notes (which will become unsecured upon completion of the Exchange Offer and Consent Solicitation), to the extent of the value of the Collateral;
- effectively senior to all Junior Lien Obligations of the Company, including Indebtedness under the Company's New Convertible Notes, to the extent of the value of the Collateral;
- structurally subordinated to the Indebtedness and other liabilities of Subsidiaries of the Company that do not guarantee the New Senior Secured Notes; and
- unconditionally guaranteed by the Subsidiary Guarantors.

The Guarantees

Initially, the New Senior Secured Notes will be guaranteed by all of our current Subsidiaries. Each Subsidiary Guarantee will be:

- a senior obligation of the Subsidiary Guarantor;
- equal in right of payment to all existing and future senior Indebtedness of that Subsidiary Guarantor, subject to the terms of the Pari Passu Intercreditor Agreement;
- secured, on an equal and ratable, first priority basis with the Revolving Credit Agreement Obligations of that Subsidiary Guarantor (subject to payment priorities in favor of holders of Revolving Credit Agreement Obligations pursuant to the terms of the Pari Passu Intercreditor Agreement described herein and subject to Permitted Collateral Liens), by liens on the same collateral that secures such Revolving Credit Agreement Obligations (other than Excluded Collateral);
- senior in right of payment to all subordinated Indebtedness of that Subsidiary Guarantor;
- effectively senior to all existing and future unsecured senior Indebtedness of the Subsidiary Guarantors, including the Subsidiary Guarantor's guarantees of the Company's Old Unsecured Notes and Old Senior Secured Notes (which will become unsecured upon completion of the Exchange Offer and Consent Solicitation), to the extent of the value of the Collateral; and
- effectively senior to all future Junior Lien Obligations of that Subsidiary Guarantor, including Indebtedness under the Company's New Convertible Notes, to the extent of the value of the Collateral.

As of the date of the Senior Secured Notes Indenture, all of the Company's Subsidiaries will be "Restricted Subsidiaries." However, under the circumstances described below under the subheading "—Certain Covenants—Future Designation of Restricted and Unrestricted Subsidiaries," the Company will be permitted to designate certain of its Subsidiaries as "Unrestricted Subsidiaries." Unrestricted Subsidiaries will not be subject to many of the restrictive covenants in the Senior Secured Notes Indenture and will not guarantee the New Senior Secured Notes.

Principal, Maturity and Interest

The Company will issue up to $700,000,000 in aggregate principal amount of New Senior Secured Notes in this Exchange Offer and Consent Solicitation. The Company will issue the New Senior Secured Notes in denominations of $1.00. The New Senior Secured Notes will mature on March 15, 2020.

Interest on the New Senior Secured Notes (including interest on any Additional New Senior Secured Notes as described below) will accrue at the rate of 10.0% per annum, if the Company elects to pay interest in cash, or 12 ¼% per annum, if the Company elects to pay interest in kind as described more fully below; *provided* that not more than $91,875,000 of interest may be paid in kind on the New Senior Secured Notes. Interest shall be payable semi-annually in arrears on March 15 and September 15, commencing on March 15, 2017.

The Company will make each interest payment to the Holders of record on the immediately preceding March 1 and September 1. Interest will be payable, at the election of the Company (made by delivering a notice to the Senior Secured Notes Trustee at least 10 business days before the end of the interest period) (i) entirely in cash or (ii) by issuing additional securities ("*Additional New Senior Secured Notes*") with the same terms as the New Senior Secured Notes in a principal amount equal to all or any portion the applicable amount of interest for the interest period (rounded down to the nearest whole dollar); *provided* that notwithstanding anything to the contrary herein, interest paid in the manner described in clause (ii) above shall not exceed $91,875,000 in the aggregate, and once $91,875,000 of interest has been paid in kind, all interest on the New Senior Secured Notes (including, for the avoidance of doubt, the Additional New Senior Secured Notes) shall be paid entirely in cash. All Additional New Senior Secured Notes issued pursuant to an interest payment as described above will mature on March 15, 2020 and will be governed by, and subject to the terms, provisions and conditions of, the Senior Secured Notes Indenture. The Additional New Senior Secured Notes shall have the same rights and benefits as the New Senior Secured Notes issued on the Issue Date, and shall be treated together with the New Senior Secured Notes as a single class for all purposes under the Senior Secured Notes Indenture.

If interest is paid by issuing Additional New Senior Secured Notes, then not later than 10 business days prior to the relevant interest payment date, the Company shall deliver to the Senior Secured Notes Trustee and the paying agent (if other than the Senior Secured Notes Trustee), (i) with respect to New Senior Secured Notes represented by Certificated Notes, the required amount of Additional New Senior Secured Notes represented by Certificated Notes (rounded down to the nearest whole dollar) and a company order to authenticate and deliver such Additional New Senior Secured Notes or (ii) with respect to New Senior Secured Notes represented by one or more Global Notes, a company order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the depositary or otherwise, the required amount of Additional New Senior Secured Notes represented by Global Notes (rounded down to the nearest whole dollar) and a company order to authenticate and deliver such new Global Notes).

Notwithstanding anything to the contrary herein, the payment of accrued interest in connection with any redemption or purchase of the New Senior Secured Notes as provided below under the heading "—Redemption—Optional Redemption," "—Certain Covenants—Change of Control," and "—Certain Covenants—Limitation on Asset Sales" shall be made solely in cash.

If an interest payment date falls on a day that is not a business day, the interest payment to be made on such interest payment date will be made on the next succeeding business day with the same force and effect as if made on such interest payment date, and no additional interest will accrue as a result of such delayed payment.

Interest on the New Senior Secured Notes will accrue from the most recent interest date to which interest has been paid in cash or in kind or, if no interest has been paid in cash or in kind, from date of original issuance. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

Except for the issuance of up to $91,875,000 of Additional New Senior Secured Notes in connection with the payment of interest, the Senior Secured Notes Indenture will provide that the Company may not issue more than $700,000,000 aggregate principal amount of New Senior Secured Notes.

Methods of Receiving Payments on the New Senior Secured Notes

If a Holder of New Senior Secured Notes has given wire transfer instructions to the Company or the paying agent, the Company will pay all principal of, premium, if any, on, and interest on, that Holder's New Senior Secured Notes in accordance with those instructions. All other payments on the New Senior Secured Notes will be made at the office or agency of the paying agent and registrar within the City and State of New York unless the Company elects to make cash interest payments by check mailed to the Holders at their addresses set forth in the register of holders.

Paying Agent and Registrar for the New Senior Secured Notes

The Senior Secured Notes Trustee is acting as paying agent and registrar. The Company may change the paying agent or registrar without prior notice to the Holders of the New Senior Secured Notes, and the Company or any of its Subsidiaries may act as paying agent or registrar.

Transfer and Exchange

A Holder may transfer or exchange New Senior Secured Notes in accordance with the provisions of the Senior Secured Notes Indenture. The registrar and the Senior Secured Notes Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents in connection with a transfer of New Senior Secured Notes. Holders will be required to pay all taxes due on transfer. The Company will not be required to transfer or exchange any New Senior Secured Note selected for redemption. Also, the Company will not be required to transfer or exchange any New Senior Secured Note for a period of 15 days before a selection of New Senior Secured Notes to be redeemed or between a record date and the next succeeding interest payment date.

Subsidiary Guarantees of New Senior Secured Notes

Each Subsidiary Guarantor will unconditionally guarantee, jointly and severally, to each Holder and the Senior Secured Notes Trustee, the full and prompt performance of the Company's obligations under the Senior Secured Notes Indenture and the New Senior Secured Notes, including the payment of principal of, premium, if any, and interest on the New Senior Secured Notes pursuant to its Subsidiary Guarantee. The initial Subsidiary Guarantors are currently all of the Company's subsidiaries. In the future, certain other Restricted Subsidiaries of the Company may be required to become Subsidiary Guarantors as described under "—Certain Covenants—Future Subsidiary Guarantees."

The obligations of each Subsidiary Guarantor will be limited to the maximum amount as will result in the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under applicable law. Each Subsidiary Guarantor that makes a payment or distribution under a Subsidiary Guarantee shall be entitled to a contribution from each other Subsidiary Guarantor in a pro rata amount based on the Adjusted Net Assets of each Subsidiary Guarantor.

A Subsidiary Guarantor may not sell or otherwise dispose of, in one or more related transactions, all or substantially all of its properties or assets to, or consolidate with or merge with or into (whether or not such Subsidiary Guarantor is the surviving Person) another Person, other than with respect to a Subsidiary Guarantor, the Company or another Subsidiary Guarantor, unless:

(1) immediately after giving effect to such transaction or series of transactions, no Default or Event of Default exists;

(2) either:

(a)(x) such Subsidiary Guarantor is the surviving Person or (y) the Person acquiring the properties or assets in any such sale or other disposition or the Person formed by or surviving any such consolidation or merger is a Person organized and existing under the laws of the United States of America, any state thereof or the District of Columbia (such Subsidiary Guarantor or such Person, as the case may be, being herein called the "*Successor Guarantor*") and the Successor Guarantor (if other than such Subsidiary Guarantor) unconditionally assumes all the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee, the Senior Secured Notes Indenture and all other Senior Secured Note Documents pursuant to a supplemental indenture in form reasonably satisfactory to the Senior Secured Notes Trustee and such other agreements as are reasonably satisfactory to the Senior Secured Notes Trustee and the Collateral Agent; or

(b) with respect to a Subsidiary Guarantor, such transaction or series of transactions does not violate the covenants set forth under "—Certain Covenants—Limitation on Asset Sales;

(3) any Collateral owned by or transferred to the Successor Guarantor shall (a) continue to constitute Collateral under the Senior Secured Notes Indenture and the Collateral Agreements and (b) be subject to a Pari Passu Lien in favor of the Collateral Agent for the benefit of the holders of the Pari Passu Obligations;

(4) the Successor Guarantor shall take such action (or agree to take such action) as may be reasonably necessary to cause any property or assets that constitute Collateral owned by or transferred to the Successor Guarantor to be subject to the Pari Passu Liens in the manner and to the extent required under the Collateral Agreements and shall deliver an opinion of counsel as to the enforceability of any amendments, supplements or other instruments with respect to the Collateral Agreements to be executed, delivered, filed and recorded, as applicable, and such other matters as the Senior Secured Notes Trustee or Collateral Agent, as applicable, may reasonably request; and

(5) the Company delivers to the Senior Secured Notes Trustee an officers' certificate and opinion of counsel, each stating that such sale or other disposition or merger or consolidation and such supplemental indenture and each such amendment comply with this covenant.

The Senior Secured Notes Indenture will provide that the Subsidiary Guarantee of a Subsidiary Guarantor will be automatically and unconditionally released:

(1) in connection with any sale or other disposition of all or substantially all of the assets of such Subsidiary Guarantor (including by way of merger, consolidation or amalgamation) to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary, if the sale or other disposition is conducted in accordance with the covenants set forth in the immediately preceding paragraph and under "—Certain Covenants—Limitation on Asset Sales," as applicable;

(2) in connection with any sale or other disposition of Capital Stock of such Subsidiary Guarantor, following which such Subsidiary Guarantor is no longer a Restricted Subsidiary of the Company, if the sale or other disposition is conducted in accordance with the covenants set forth in the immediately preceding paragraph and under "—Certain Covenants—Limitation on Asset Sales," as applicable;

(3) upon legal defeasance, covenant defeasance or satisfaction and discharge of the Senior Secured Notes Indenture as provided below under "—Legal Defeasance or Covenant Defeasance of Senior Secured Notes Indenture" and "—Satisfaction and Discharge;" and

(4) unless an Event of Default has occurred and is continuing, upon the dissolution or liquidation of the Subsidiary Guarantor in compliance with the covenant described in the immediately preceding paragraph.

Security for the New Senior Secured Notes

The Senior Secured Note Obligations and the Revolving Credit Agreement Obligations will be secured by first-priority perfected Liens in the Collateral granted to the Collateral Agent for the benefit of the Holders of the New Senior Secured Notes and the holders of the Revolving Credit Agreement Obligations (subject to the payment priorities in favor of the holders of Revolving Credit Agreement Obligations pursuant to the terms of the Pari Passu Intercreditor Agreement and subject to Permitted Collateral Liens). Such Liens will also be senior in priority to the Junior Liens securing New Convertible Notes.

The Collateral will consist of the same assets that secure the Old Senior Secured Notes and will consist of at least 90% of the present value of the Collateral Grantors' Oil and Gas Properties that constitute Proved Reserves and Proved and Probable Drilling Locations and substantially all other assets of the Collateral Grantors. The Senior Secured Notes Indenture will provide for a 30-day period following the Issue Date for the Company to deliver the Mortgages establishing the first-priority perfected Liens on the Oil and Gas Properties and the Proved and Probable Drilling Locations owned by the Collateral Grantors on the Issue Date that are required to become Mortgaged Properties. Prior to the recording of the Mortgages, the New Senior Secured Notes and the Subsidiary Guarantees will not be secured by Liens on such Oil and Gas Properties and Proved and Probable Drilling Locations. See "Risk Factors—Risks Relating to the Exchange Offer and Holding the New Notes—Risks Related to Holding the New Notes—Security over certain collateral, including all mortgages on oil and gas properties, on which a lien in favor of the collateral agent is required, may not be perfected on the Closing Date." Except as otherwise provided in the Pari Passu Intercreditor Agreement, the Senior Secured Notes Indenture will provide that the Collateral shall include (x) prior to a default under the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the date of the Indenture) or, if no Revolving Credit Agreement is then in effect, a default under the Senior Secured Notes Indenture, at least 90% of the present value of the Collateral Grantors' Oil and Gas Properties that constitute Proved Reserves evaluated in the most recently completed Engineering Report delivered pursuant to the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the date of the Indenture) and (y) after the occurrence of a default under the Revolving Credit Agreement or, if no Revolving Credit Agreement is then in effect, a default under the Senior Secured Notes Indenture, at least 95% of the present value of the Collateral Grantors' Oil and Gas Properties and Proved and Probable Drilling Locations.

If no such Engineering Report is delivered pursuant to the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the date of the Senior Secured Notes Indenture), the Company shall deliver to the Collateral Agent semi-annually on or before April 1 and October 1 in each calendar year an officers' certificate certifying that as of the date of such certificate, (i) no Default has occurred and is continuing and (ii) the Mortgaged Properties include at least 90% of the present value of the Collateral Grantors' Oil and Gas Properties that constitute Proved Reserves and Proved and Probable Drilling Locations. In the event that the Mortgaged Properties do not meet such 90% requirement, then the Collateral Grantors will be required to grant to the Collateral Agent as security for the Pari Passu Obligations a first-priority Lien on additional Oil and Gas Properties and Proved and Probable Drilling Locations not already subject to a Lien such that after giving effect thereto, the Mortgaged Properties will represent at least 90% of the present value of the Collateral Grantors' Oil and Gas Properties that constitute Proved Reserves and Proved and Probable Drilling Locations. To the extent that any Oil and Gas Properties constituting Collateral are

disposed of after the date of any applicable Engineering Report or certificate delivered pursuant to this paragraph, any Proved Reserves attributable to such Oil and Gas Properties shall be deemed excluded from such Engineering Report or certificate for the purpose of determining whether such minimum Mortgage requirement is met after giving effect to such release.

No Collateral Grantor will be permitted to enter into any agreement that requires the proceeds received from any sale of Collateral to be applied to repay, redeem, defease or otherwise acquire or retire any Indebtedness of any Person, other than (i) the New Senior Secured Notes, (ii) the Revolving Credit Agreement Obligations or (iii) otherwise as may be permitted or required by the Senior Secured Notes Indenture, the Pari Passu Intercreditor Agreement and the other Collateral Agreements, including with respect to any Permitted Collateral Liens; *provided* that subject to the covenant "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock," any such agreement may be entered into to the extent that it permits such proceeds to be applied to all Pari Passu Obligations prior to or instead of such other Indebtedness.

The Pari Passu Intercreditor Agreement

On the Issue Date, the Senior Secured Notes Trustee will enter into the Pari Passu Intercreditor Agreement with respect to the Collateral.

Rights of the Controlling Party

Under the Pari Passu Intercreditor Agreement, the "Controlling Party" has the right to direct the Collateral Agent (i) with respect to exercise of rights and remedies and (ii) to take other actions with respect to the Collateral (and the Authorized Representatives of the Non-Controlling Secured Parties shall comply with the instructions delivered by the Controlling Party with respect to the Collateral in connection with such exercise of rights and remedies and other actions), and the Non-Controlling Secured Parties have no rights to take any action with respect to the Collateral under the Pari Passu Intercreditor Agreement (other than certain actions to preserve and protect their claims and interests or otherwise at the direction or with the consent of the Controlling Party).

Identity of the Controlling Party

The following rules apply for determining the identity of the Controlling Party:

(1) The Revolving Credit Agreement Agent is the initial Controlling Party and will remain the Controlling Party until the earlier of (a) the Discharge of Revolving Credit Agreement Obligations and (b) the Non-Controlling Parties Enforcement Date (such date, the "*Revolving Credit Control Termination Date*").

(2) If any Senior Secured Note Obligations are outstanding on the Revolving Credit Control Termination Date, then the Senior Secured Notes Trustee shall become the Controlling Party.

The "Non-Controlling Parties Enforcement Date" is the date that is 180 days after the occurrence of both (a) an event of default, as defined in the applicable governing instrument for the Series of Pari Passu Obligations for which the Alternate Controlling Party is the Authorized Representative, as applicable, and (b) the Collateral Agent's and each other Authorized Representative's receipt of written notice from the Alternate Controlling Party certifying that (i) such Authorized Representative is the Alternate Controlling Party and that an event of default, as defined in the applicable governing instruments for that Series of Pari Passu Obligations, has occurred and is continuing and (ii) the Pari Passu Obligations of that Series are currently due and payable in full (whether as a result of acceleration thereof or otherwise) in accordance with such applicable governing instruments for that Series of Pari Passu Obligations; *provided* that the Non-Controlling Parties Enforcement Date shall be stayed and shall not occur and shall be deemed not to have occurred with respect to any Collateral (1) at any time that (A) the then current Controlling Party has commenced (or caused the Collateral Agent to commence) and is diligently pursuing any enforcement action with respect to all or a material portion of such Collateral and (B) each other Authorized Representative has received written notice from the Controlling Party or the Collateral

Agent thereof or (2) at any time any Collateral Grantor that has granted a security interest in such Collateral is then a debtor under or with respect to (or otherwise subject to) any Insolvency or Liquidation Proceeding.

With respect to the applicable Controlling Party, at any time, (a) the Collateral Agent shall act or refrain from acting with respect to the Collateral only on the written instructions of the Controlling Party, (b) the Collateral Agent shall not follow any instructions with respect to such Collateral from any Authorized Representative or other representative of any Non-Controlling Secured Party or other Secured Party (other than the Controlling Party), and (c) no Authorized Representative of any Non-Controlling Secured Party or other Secured Party (other than the Controlling Party) will (and will be deemed to have waived any right to) instruct the Collateral Agent to commence any judicial or non-judicial foreclosure proceedings with respect to, seek to have a trustee, receiver, liquidator or similar official appointed for or over, attempt any action to take possession of, exercise any right, remedy or power with respect to, or otherwise take any action to enforce its interests in or realize upon, or take any other action available to it in respect of, the Collateral or otherwise; it being agreed that only the Collateral Agent, acting on the instructions of the applicable Authorized Representative and in accordance with the applicable Collateral Agreement, will be entitled to take any such actions or exercise any such remedies with respect to the Collateral (and each Non-Controlling Authorized Representative and Non- Controlling Secured Party shall be deemed to have waived any right, power, or remedy, whether under any agreement or any applicable law (including in equity) to the contrary); *provided* that without limiting the other provisions of the Pari Passu Intercreditor Agreement, to the extent that the Collateral Agent, in its sole and absolute discretion, determines that action by any other Agent (such as joining in the judicial foreclosure of any deed of trust or mortgage on the Collateral) is necessary or otherwise advisable in order to facilitate or accomplish the desired enforcement result undertaken by the Collateral Agent, upon written request of the Collateral Agent, the applicable Non-Controlling Authorized Representative shall advise such other Agent to take such action and otherwise reasonably cooperate with the Collateral Agent and, if for whatever reason such Non-Controlling Authorized Representative shall fail to so advise the other Agent or the other Agent fails to so act and otherwise reasonably cooperate with the Collateral Agent, the Collateral Agent shall be deemed to have been granted an irrevocable power of attorney by such other Agent empowering the Collateral Agent to take such actions on behalf of such other Agent; *provided*, *further*, that the proceeds of any such enforcement and other amount received in connection therewith shall be applied pursuant to the Pari Passu Intercreditor Agreement. Notwithstanding the foregoing, each Secured Party (i) shall be entitled to take certain actions to preserve and protect their claims and interests with respect to the Pari Passu Obligations, to create, prove, preserve and protect the validity, enforceability, perfection and priority of the Collateral and actions that unsecured creditors are entitled to take, and (ii) must take certain actions in order to preserve and protect their secured claims if the failure to take any such actions could result in a loss of all or any material part of such secured claims, in each case of clauses (i) and (ii), to the extent not prohibited by the Pari Passu Intercreditor Agreement.

No Contest, Protest or Objection

No Non-Controlling Secured Party (nor its Authorized Representative) will (and each shall be deemed to have waived any right to), or request or attempt to cause the Collateral Agent to, contest, protest or object to any foreclosure proceeding or action brought by the Collateral Agent, the Controlling Party or the Controlling Secured Parties or any other exercise by the Collateral Agent, the Controlling Party or the Controlling Secured Parties of any rights and remedies relating to the Collateral, or cause the Collateral Agent to do so on any ground, including, in the case of non-judicial foreclosure of any personal property collateral, that such foreclosure will not result in a commercially reasonable disposition of the Collateral; *provided* that nothing in the Pari Passu Intercreditor Agreement shall prevent any Non-Controlling Secured Party from making a cash bid or credit bid for any Collateral at any foreclosure sale (*provided* that any such credit bid may only be made if the Discharge of Revolving Credit Agreement Obligations has occurred or will occur concurrently as a result of a cash bid for such collateral in addition to such credit bid). The foregoing shall not be construed to limit the rights and priorities of any Pari Passu Secured Party, Agent or Authorized Representative with respect to any property not constituting Collateral. In addition, the Collateral Agent and each of the Pari Passu Secured Parties will agree that it will not (and waives any right to) challenge, question or contest or support any other Person in

challenging, questioning or contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the validity or enforceability of any Pari Passu Obligations or any Collateral Agreement or the perfection, priority, validity or enforceability of any Lien granted to the Collateral Agent or any other Pari Passu Secured Party under any Pari Passu Document constituting a Collateral Agreement, or the validity or enforceability of its priorities, rights or duties established by, or other provisions of, the Pari Passu Intercreditor Agreement; *provided* that nothing in the Pari Passu Intercreditor Agreement shall be construed to prevent or impair the rights of any of any Collateral Agent or any Authorized Representative to enforce the Pari Passu Intercreditor Agreement.

None of the Pari Passu Secured Parties shall be entitled to propose, sponsor, support, vote in favor of or agree to (i) any Non-Conforming Plan of Reorganization or (ii) any Plan of Reorganization, directly or indirectly, that is pursuant to Section 1129(b)(1) of the Bankruptcy Code that has not been approved by the Majority Lenders (as defined in the Revolving Credit Agreement).

Waterfall

If (a) the Collateral Agent, upon instruction from the Controlling Party, takes action to enforce rights in respect of any Collateral, or (b) any distribution is made with respect to any Collateral in any Insolvency or Liquidation Proceeding of any Collateral Grantor or (c) any Pari Passu Secured Party receives any payment with respect to any Collateral or the proceeds of any sale, collection or other liquidation of any such Collateral by the Collateral Agent, then the proceeds of any such distribution or payment (subject, in the case of any such distribution, to the paragraph immediately following) shall be applied pursuant to the Pari Passu Intercreditor Agreement in the following order of priority:

First, to the payment in full in cash of all unpaid fees, expenses, reimbursements and indemnification amounts incurred by the Collateral Agent and all fees owed to it in connection with such collection or sale or otherwise in connection with the Pari Passu Intercreditor Agreement or any other Pari Passu Document (regardless of whether allowed or allowable in any Insolvency or Liquidation Proceeding), pro rata in accordance with the relative amounts thereof on the date of any payment or distribution;

Second, (1) to the payment in full in cash of the Revolving Credit Agreement Obligations, including any interest, fees, costs, expenses, charges or other amounts, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding (regardless of whether allowed or allowable in any such Insolvency or Liquidation Proceeding), it being understood that obligations in respect of Lender Provided Hedging Agreements that have been terminated are outstanding and non-contingent for purposes of this paragraph and (2) the deposit of cash collateral under the sole dominion and control of the Revolving Credit Agreement Agent or its designee to collateralize then outstanding Letters of Credit (as defined in the Revolving Credit Agreement) pursuant to the Revolving Credit Agreement and the aggregate facing and similar fees which will accrue thereon through the stated maturity of such Letters of Credit (assuming no drawings thereon before stated maturity);

Third, after the Discharge of Revolving Credit Agreement Obligations has occurred, to the payment in full in cash of the Senior Secured Note Obligations, including any interest (including the Additional New Senior Secured Notes, if any), fees, costs, expenses, charges or other amounts, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding (regardless of whether allowed or allowable in any such Insolvency or Liquidation Proceeding), pro rata in accordance with the relative amounts thereof on the date of any payment or distribution; and

Fourth, any surplus proceeds then remaining after the repayment of the amounts described in the preceding clauses will be applied in accordance with the terms of the Junior Lien Intercreditor

Agreement and thereafter be returned to the Company or the applicable Collateral Grantor or to whomever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct;

provided that, in any event, if the Pari Passu Obligations include Swap Obligations, no such distributions or payments shall be allocated to any holder of such Swap Obligations (in its capacity as such) on account of such Swap Obligations to the extent a guaranty of such Swap Obligations is made by, or such Collateral is owned by, a Collateral Grantor that is not an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the guaranty of such Collateral Grantor or the grant of such security interest becomes effective with respect to such Swap Obligations.

Each Holder of a Senior Secured Note, by its acceptance thereof, will be deemed to have acknowledged that this payment waterfall and the corresponding provisions of the Pari Passu Intercreditor Agreement are deemed to constitute a "subordination agreement" enforceable under Section 510(a) of the Bankruptcy Code, that it will be effective before, during and after the commencement of an Insolvency or Liquidation Proceeding notwithstanding Section 1129(b)(1) of the Bankruptcy Code, and that it is intended to be and shall be interpreted to be enforceable against the parties thereto, including each Collateral Grantor, to the maximum extent permitted pursuant to applicable law.

Refrain by Secured Parties; Payment Over

Each Non-Controlling Secured Party acknowledges and agrees that the Collateral Agent shall be entitled, for the benefit of the Secured Parties, (a) to sell, transfer or otherwise dispose of or deal with any Collateral except as prohibited by the Pari Passu Intercreditor Agreement and (b) to act solely on the written instructions of the Controlling Party, in each case, without regard to any rights to which the Non-Controlling Secured Parties would otherwise be entitled as a result of the Pari Passu Obligations with respect to the applicable Series. Without limiting the foregoing, each Non-Controlling Secured Party agrees that none of the Collateral Agent, the Controlling Party or any other Pari Passu Secured Party shall have any duty or obligation first to marshal or realize upon any type of Collateral (or any other collateral securing any of the Pari Passu Obligations), or to sell, dispose of or otherwise liquidate all or any portion of such Collateral (or any other collateral securing any Pari Passu Obligations), in any manner that would maximize the return to the Non-Controlling Secured Parties, notwithstanding that the order and timing of any such realization, sale, disposition or liquidation may affect the amount of proceeds actually received by the Non-Controlling Secured Parties from such realization, sale, disposition or liquidation.

Separate Classes

Each party to the Pari Passu Intercreditor Agreement (including the Senior Secured Notes Trustee, on behalf of the Holders of the New Senior Secured Notes) acknowledges that the Revolving Credit Agreement Obligations, including in respect of the Collateral, constitute claims separate and apart (and of a different nature) from the New Senior Secured Notes and any other Pari Passu Obligations, including in respect of the Collateral; and because of, among other things, their differing payment terms, their differing covenant rights, and their differing rights in the Collateral (including vis-a-vis any Collateral Grantor and/or in directing the exercise of any rights in and remedies against the Collateral), the Revolving Credit Agreement Obligations are fundamentally different and distinct from (and substantially dissimilar, within the meaning of Section 1122 of the Bankruptcy Code, to) the New Senior Secured Notes and any and all other Pari Passu Obligations and must be separately classified in any Plan of Reorganization, proposed or confirmed in an Insolvency or Liquidation Proceeding and the Pari Passu Obligations of any Series must be separately classified in any such plan from the Pari Passu Obligations of any other Series.

DIP Financing

If any Collateral Grantor becomes subject to any bankruptcy case, the Pari Passu Intercreditor Agreement provides that (1) if any Collateral Grantor shall, as debtor(s)-in-possession, move for approval of financing

(which, for the avoidance of doubt, may include a roll up of the Revolving Credit Agreement Obligations) (the "*DIP Financing*") to be provided by one or more lenders (which, for the avoidance of doubt, may include the lenders under the Revolving Credit Agreement) (the "*DIP Lenders*") under Section 364 of the Bankruptcy Code or the use of cash collateral under Section 363 of the Bankruptcy Code, each Secured Party (other than any Controlling Secured Party or any Authorized Representative of any Controlling Secured Party) agrees that it will raise no objection to, nor support any Person objecting to, and shall be deemed to have consented to, any such financing or to the Liens on the Collateral securing the same (the "*DIP Financing Liens*") or to any use of cash collateral or sale that constitutes Collateral (including any bid or sale procedure in respect thereof), unless any Controlling Secured Party, or an Authorized Representative of any Controlling Secured Party, shall then oppose or object to such DIP Financing or such DIP Financing Liens or use of cash collateral or sale of Collateral (and (i) to the extent that such DIP Financing Liens are senior to the Liens on any such Collateral for the benefit of the Controlling Secured Parties, each Non-Controlling Secured Party subordinates its Liens with respect to such Collateral on the same terms as the Liens of the Controlling Secured Parties (other than any Liens of any Secured Parties constituting DIP Financing Liens) are subordinated thereto, and (ii) to the extent that such DIP Financing Liens rank pari passu with the Liens on any such Collateral granted to secure the Obligations of the Controlling Secured Parties, each Non-Controlling Secured Party will confirm the priorities with respect to such Collateral as set forth in the Pari Passu Intercreditor Agreement), in each case so long as:

(1) such DIP Financing documentation or cash collateral order does not require any Collateral Grantor to propose a specific Plan of Reorganization or to liquidate or sell substantially all of its assets prior to the occurrence of an event of default thereunder;

(2) the Pari Passu Secured Parties of each Series retain the benefit of their Liens on all such Collateral pledged to the DIP Lenders, including proceeds thereof arising after the commencement of such proceeding, with the same priority *vis-à-vis* all the other Pari Passu Secured Parties (other than any Liens of the Secured Parties constituting DIP Financing Liens) as existed prior to the commencement of the bankruptcy case;

(3) the Pari Passu Secured Parties of each Series are granted Liens on any additional Collateral pledged to any Secured Parties as adequate protection or otherwise in connection with such DIP Financing or use of cash Collateral, with the same priority *vis-à-vis* the Pari Passu Secured Parties as set forth in the Pari Passu Intercreditor Agreement;

(4) if any amount of such DIP Financing or cash collateral is applied to repay any of the Pari Passu Obligations, such amount is applied pursuant to the Pari Passu Intercreditor Agreement; and

(5) if any Pari Passu Secured Parties are granted adequate protection, including in the form of periodic payments, in connection with such DIP Financing or use of cash Collateral, the proceeds of such adequate protection is applied pursuant to the Pari Passu Intercreditor Agreement;

provided that the Pari Passu Secured Parties of each Series shall have a right to object to the grant of a Lien to secure the DIP Financing over any assets subject to Liens in favor of the Pari Passu Secured Parties of such Series that shall not constitute Collateral; *provided, further*, that all Pari Passu Secured Parties will have the right to seek and receive the adequate protection permitted by the Pari Passu Intercreditor Agreement; *provided, further*, that the Pari Passu Secured Parties receiving adequate protection shall not object to (or support any other party in objecting to) any other Pari Passu Secured Party receiving adequate protection comparable to any adequate protection of any kind or type (including Liens, claims or cash payments) granted to such Pari Passu Secured Parties in connection with a DIP Financing or use of cash collateral (it being understood that such adequate protection in the form of Liens will be of the same priority as set forth in the Pari Passu Intercreditor Agreement).

Nothing in the Pari Passu Intercreditor Agreement will limit the rights of any Non-Controlling Secured Parties to (i) file claims in any such Insolvency or Liquidation Proceeding, (ii) respond to or contest claims seeking the

disallowance of, the valuation of, or challenges to the perfection or the priority of, Pari Passu Obligations or a Lien securing such Pari Passu Obligations or otherwise make any agreements or file any motions or objections pertaining to the claims of the Holders or other Pari Passu Secured Parties, in each case not in violation of the terms of the Pari Passu Intercreditor Agreement; (iii) vote on a plan proposed in any bankruptcy case permitted under the Pari Passu Intercreditor Agreement; (iv) take action to create, perfect, preserve or protect their lien, so long as such actions are not adverse to the other liens securing Pari Passu Obligations or the rights of the Controlling Party or any Controlling Secured Parties to exercise remedies any other Pari Passu Document; and (v) make any election permitted under 11 USC § 1111(b), (vi) file any pleadings, objections or motions in any Insolvency or Liquidation Proceeding that assert rights or interests available to unsecured creditors of any Collateral Grantor arising under applicable law, but in each case subject to and in accordance with the terms of the Pari Passu Intercreditor Agreement (it being understood that, without limiting the generality of the foregoing, (A) no objection to any DIP Financing or use of cash collateral by any Non-Controlling Secured Parties shall be permissible other than in accordance with the Pari Passu Intercreditor Agreement, and (B) no objection by any Non-Controlling Secured Party to any sale or other disposition of any Collateral under Section 363 of the Bankruptcy Code in any Insolvency or Liquidation Proceeding supported (or not objected to) by the Controlling Party or by the Controlling Secured Parties shall be permissible other than on the ground, in accordance with clause (viii) of this paragraph, that the Non-Controlling Secured Parties are being denied the opportunity to make (and intend and have the financial wherewithal to make) a bid for the subject Collateral in excess of the proposed purchase price in the subject transaction, which bid will result in the Discharge of Revolving Credit Agreement Obligations in accordance with clause (viii) below), (vii) take any action to value the Collateral in any Insolvency or Liquidation Proceeding, and (viii) in the case of a sale or other disposition of any Collateral free and clear of its Liens or other claims under Section 363 of the Bankruptcy Code, make a cash bid or credit bid for such property (provided that any such credit bid may only be made if a Discharge of Revolving Credit Agreement Obligations has occurred or will occur concurrently as a result of a cash bid for such property in addition to such credit bid).

Change in Pari Passu Obligations

The Collateral Agent, on behalf of the Authorized Representative of each Series of Pari Passu Obligations, as applicable, will acknowledge that the Obligations of any Series may, subject to the limitations set forth in the other Pari Passu Documents, be amended, restated, supplemented, waived, replaced, restructured, repaid, refunded, refinanced or otherwise modified from time to time, in each case, without notice to, or the consent (except to the extent a consent is otherwise required to permit such transaction under any Pari Passu Document) of any other Secured Party, all without affecting the priorities set forth in the Pari Passu Intercreditor Agreement defining the relative rights of the Secured Parties of any Series; *provided* that the Authorized Representative for the holders of such Obligations (if not already a party to the Pari Passu Intercreditor Agreement) shall have executed a joinder to the Pari Passu Intercreditor Agreement on behalf of the holders of such Obligations.

Turnover Obligations

Until the Discharge of Pari Passu Obligations, any and all Collateral (or assets and property purported to be Collateral) or proceeds thereof received by any Pari Passu Secured Party (in the form of cash or otherwise) pursuant to any Collateral Agreement or by the exercise of any rights available to it under applicable law or in any Insolvency or Liquidation Proceeding or in connection with any disposition of, collection on, or in connection with any insurance policy claim or any condemnation award (or deed in lieu of condemnation) with respect to, such Collateral, is to be paid to the Collateral Agent, which shall distribute such proceeds among the Pari Passu Secured Parties in accordance with the terms of the Pari Passu Intercreditor Agreement.

Amendments

No provision of the Pari Passu Intercreditor Agreement can be terminated, waived, amended or modified (other than pursuant to any joinder agreement) without the consent of the Collateral Agent, each Authorized Representative

and, with respect to any amendment that increases the obligations or reduces the rights of any Collateral Grantor, such Collateral Grantor. Notwithstanding the foregoing, each Secured Party agrees that the Collateral Agent (at the written direction of the Controlling Party) may enter into any amendment, supplement, consent, waiver, modification or termination with respect to any Collateral Agreement (including to release Liens securing any Pari Passu Obligations), in each case, without notice to, or the consent of any Secured Party, as long as such amendment, supplement, consent, waiver, modification or termination would not have the effect of (i) except as permitted under the Pari Passu Intercreditor Agreement with respect to DIP Financings, subordinating the Liens of such Secured Party in the Collateral to any other Lien in the Collateral (other than Permitted Collateral Liens), (ii) effecting any changes in the application of proceeds of the Collateral that would adversely affect such Secured Party, (iii) making any change in provisions dealing with the required vote of holders of the Pari Passu Obligations of such Secured Party required to approve any amendment or waiver or (iv) releasing all or substantially all of the Collateral from Liens securing the Pari Passu Obligations. In determining whether an amendment, supplement, consent, waiver, modification or termination is permitted by the Pari Passu Intercreditor Agreement, the Collateral Agent may in good faith conclusively rely on a certificate of an officer of the Company stating that such amendment, supplement, consent, waiver, modification or termination is permitted. In addition, each Authorized Representative and the Collateral Agent (acting at the written direction of the Controlling Party) may amend or supplement the Pari Passu Intercreditor Agreement without the consent of any other Secured Party (i) to cure any ambiguity, defect or inconsistency, (ii) to make any change that would provide any additional rights or benefits to the Secured Parties, (iii) to make, complete or confirm any grant of Collateral permitted or required by the Pari Passu Intercreditor Agreement or any of the Collateral Agreements and (iv) to provide for additional obligations of the Company or any Collateral Grantor or Liens securing such obligations to the extent permitted by the terms of the Pari Passu Documents and not otherwise in contravention of the Pari Passu Intercreditor Agreement; *provided* that if any such amendment or supplement increases the obligations or reduces the rights of any Collateral Grantor under the Pari Passu Intercreditor Agreement, such Collateral Grantor shall also have consented to such amendment or supplement. In the event of any conflict between the terms of the Pari Passu Intercreditor Agreement, the Senior Secured Notes Indenture, the New Senior Secured Notes, any other Collateral Agreement or any other Pari Passu Document, the terms of the Pari Passu Intercreditor Agreement shall control.

Single Set of Security Documents

It is intended that none of the Pari Passu Secured Parties will cause or permit to exist any Liens (other than Permitted Collateral Liens or Junior Liens to the extent permitted to be incurred or to exist under the Pari Passu Documents) on Collateral other than Liens in favor of the Collateral Agent securing the Pari Passu Obligations (or any of them as required by applicable law).

The Junior Lien Intercreditor Agreement

On the Issue Date, the Collateral Agent will enter into the Junior Lien Intercreditor Agreement with the Junior Lien Collateral Agent, to provide for, among other things, the junior nature of the Junior Liens with respect to Pari Passu Liens. Although the Holders of the New Senior Secured Notes will not be parties to the Junior Lien Intercreditor Agreement, by their acceptance of the New Senior Secured Notes they will agree to be bound thereby. The Junior Lien Intercreditor Agreement will permit the Pari Passu Obligations and the Junior Lien Obligations subject thereto to be refunded, refinanced or replaced by certain permitted refinancing indebtedness without affecting the lien priorities set forth in the Junior Lien Intercreditor Agreement, in each case without the consent of any holder of Pari Passu Obligations or Junior Lien Obligations (including Holders of the New Senior Secured Notes).

Lien Priorities

The Junior Lien Intercreditor Agreement will provide that, notwithstanding:

(1) anything to the contrary contained in any of the Junior Lien Documents or any other agreement or instrument or by operation of law;

(2) how a Lien was acquired (whether by grant, possession, statute, operation of law, subrogation, or otherwise);

(3) the time, manner, order of the grant attachment or perfection of a Lien;

(4) any conflicting provision of the New York Uniform Commercial Code or other applicable law;

(5) any defect in, or non-perfection, setting aside, or avoidance of, a Lien or a Pari Passu Document or a Junior Lien Document;

(6) the modification of a Pari Passu Obligation or a Junior Lien Obligation; or

(7) the subordination of a Lien on Collateral securing a Pari Passu Obligation to a Lien securing another obligation of the Company or other Person that is permitted under the Pari Passu Documents as in effect on the Issue Date or securing a DIP Financing or the subordination of a Lien on Collateral securing a Junior Lien Obligation to a Lien securing another obligation of the Company or other Persons (other than a Pari Passu Obligation) that is permitted under the Junior Lien Documents as in effect on the Issue Date;

all Junior Liens at any time granted by any Collateral Grantor will be subject and subordinate to all Pari Passu Liens securing Pari Passu Obligations, subject to the Pari Passu Lien Cap.

The provisions described under "—Lien Priorities" are intended for the benefit of, and will be enforceable as a third party beneficiary by, each present and future holder of Pari Passu Obligations, and each present and future Collateral Agent as holder of Pari Passu Liens. No other Person will be entitled to rely on, have the benefit of or enforce those provisions.

In addition, the provisions under the caption "—Lien Priorities" are intended solely to set forth the relative ranking, as Liens, of the Liens securing Junior Lien Obligations as against the Pari Passu Liens, and the Liens securing Pari Passu Obligations as against the Junior Liens.

Limitation on Enforcement of Remedies

The Junior Lien Intercreditor Agreement will provide that, except as provided below, prior to the Discharge of Pari Passu Obligations, none of the Junior Lien Collateral Agent or any holder of Junior Lien Obligations may commence any judicial or nonjudicial foreclosure proceedings with respect to, seek to have a trustee, receiver, liquidator or similar official appointed for or over, attempt any action to take possession of, exercise any right, remedy or power with respect to, or otherwise take any action to enforce its interest in or realize upon, or take any other action available to it in respect of, the Collateral under any Junior Lien Document, applicable law or otherwise (including but not limited to right of set off). Only the Collateral Agent will be entitled to take any such actions or exercise any such remedies with respect to the Collateral prior to the Discharge of Pari Passu Obligations. The Junior Lien Intercreditor Agreement will provide that, notwithstanding the foregoing, the Junior Lien Collateral Agent may, but will have no obligation to, on behalf of the holders of Junior Lien Obligations, take all such actions (not adverse to the Pari Passu Liens or the rights of the Collateral Agent and holders of the Pari Passu Obligations) it deems necessary to perfect or continue the perfection of their Junior Liens in the Collateral or to create, preserve or protect (but not enforce) the Junior Liens in the Collateral. Nothing shall limit the right or ability of the Junior Lien Collateral Agent or the holders of Junior Lien Obligations to (i) purchase (by credit bid or otherwise) all or any portion of the Collateral in connection with any enforcement of remedies by the Collateral Agent so long as the Collateral Agent and the holders of the Pari Passu Obligations receive payment in full in cash of all Pari Passu Obligations (subject to the Pari Passu Lien Cap) after giving effect thereto or (ii) file a proof of claim with respect to the Junior Lien Obligations. Until the Discharge of Pari Passu Obligations, the Collateral Agent will have the exclusive right to deal with that portion of the Collateral consisting of deposit accounts and securities accounts, including exercising rights under control agreements with

respect to such accounts. In addition, whether before or after the Discharge of Pari Passu Obligations, the Junior Lien Collateral Agent and the holders of Junior Lien Obligations may take any actions and exercise any and all rights that would be available to a holder of unsecured claims; *provided*, that the Junior Lien Collateral Agent and such holders of Junior Lien Obligations may not take any of the actions described below under clauses (1) through (9) of the first paragraph under "—No Interference; Payment Over," as applicable, or prohibited by the provisions described in the first four paragraphs below under "—Agreements With Respect to Insolvency or Liquidation Proceedings," as applicable; *provided, further,* that in the event that the Junior Lien Collateral Agent or any holder of Junior Lien Obligations becomes a judgment lien creditor in respect of any Collateral as a result of its enforcement of its rights as an unsecured creditor with respect to the Junior Lien Obligations, such judgment lien shall be subject to the terms of the Junior Lien Intercreditor Agreement for all purposes (including in relation to the Pari Passu Obligations), as the other liens securing the Junior Lien Obligations, are subject to the Junior Lien Intercreditor Agreement.

Notwithstanding the foregoing, prior to the Discharge of Pari Passu Obligations, both before and during an Insolvency or Liquidation Proceeding, after a period of 180 days has elapsed (which period will be tolled during any period in which the Collateral Agent is not entitled, on behalf of holders of Pari Passu Obligations, to enforce or exercise any rights or remedies with respect to any Collateral as a result of (x) any injunction issued by a court of competent jurisdiction or (y) the automatic stay or any other stay or prohibition in any Insolvency or Liquidation Proceeding) since the date on which the Junior Lien Collateral Agent has delivered to the Collateral Agent written notice of the acceleration of a series of Junior Lien Obligations (the "*Accelerated Series of Junior Lien Debt*" and, such period, the "*Junior Lien Standstill Period*"), the Junior Lien Collateral Agent and the holders of Junior Lien Obligations in respect of the Accelerated Series of Junior Lien Debt may enforce or exercise any rights or remedies with respect to any Collateral; *provided*, that notwithstanding the expiration of the Junior Lien Standstill Period, in no event may the Junior Lien Collateral Agent or any other holder of Junior Lien Obligations enforce or exercise any rights or remedies with respect to any Collateral, or commence, join with any Person at any time in commencing, or petition for or vote in favor of any resolution for, any such action or proceeding, if the Collateral Agent on behalf of the holders of Pari Passu Obligations or any other holder of Pari Passu Obligations shall have commenced, and shall be diligently pursuing (or shall have sought or requested relief from, or modification of, the automatic stay or any other stay or prohibition in any Insolvency or Liquidation Proceeding to enable the commencement and pursuit thereof), the enforcement or exercise of any rights or remedies with respect to any material portion of the Collateral or any such action or proceeding (prompt written notice thereof to be given to the Junior Lien Collateral Agent by the Collateral Agent); *provided*, *further*, that at any time after the expiration of the Junior Lien Standstill Period, if neither the Collateral Agent nor any holder of Pari Passu Obligations shall have commenced and be diligently pursuing (or shall have sought or requested relief from, or modification of, the automatic stay or any other stay or other prohibition in any Insolvency or Liquidation Proceeding to enable the commencement and pursuit thereof) the enforcement or exercise of any rights or remedies with respect to any material portion of the Collateral or any such action or proceeding, and the Junior Lien Collateral Agent shall have commenced the enforcement or exercise of any rights or remedies with respect to any material portion of the Collateral or any such action or proceeding, then for so long as the Junior Lien Collateral Agent is diligently pursuing such rights or remedies, neither of any holder of Pari Passu Obligations nor the Collateral Agent shall take any action of a similar nature with respect to such Collateral, or commence, join with any Person at any time in commencing, or petition for or vote in favor of any resolution for, any such action or proceeding.

Collateral Agent

The Junior Lien Intercreditor Agreement will provide that neither the Collateral Agent nor any holder of any Pari Passu Obligations will have any duties or other obligations to any holder of Junior Lien Obligations with respect to the Collateral, other than to transfer to the Junior Lien Collateral Agent any remaining Collateral and the proceeds of the sale or other disposition of any Collateral remaining in its possession following the Discharge of Pari Passu Obligations, in each case, without representation or warranty on the part of the Collateral Agent or any holder of Pari Passu Obligations.

In addition, the Junior Lien Intercreditor Agreement will further provide that, until the Discharge of Pari Passu Obligations (but subject to the rights of the Junior Lien Collateral Agent and the holders of Junior Lien Obligations and the following expiration of any of the Junior Lien Standstill Period, as provided in the paragraph defining "Junior Lien Standstill Period"), the Collateral Agent will be entitled, for the benefit of the holders of the Pari Passu Obligations, to sell, transfer or otherwise dispose of or deal with the Collateral without regard to (i) any Junior Lien therein granted to the holders of Junior Lien Obligations or any rights to which the Junior Lien Collateral Agent or any holder of Junior Lien Obligations would otherwise be entitled as a result of such Junior. Without limiting the foregoing, the Junior Lien Intercreditor Agreement will provide that neither the Collateral Agent nor any holder of any Pari Passu Obligations will have any duty or obligation first to marshal or realize upon the Collateral, or to sell, dispose of or otherwise liquidate all or any portion of the Collateral, in any manner that would maximize the return to the holders of Junior Lien Obligations, notwithstanding that the order and timing of any such realization, sale, disposition or liquidation may affect the amount of proceeds actually received by the holders of Junior Lien Obligations, from such realization, sale, disposition or liquidation.

The Junior Lien Intercreditor Agreement will additionally provide that the Junior Lien Collateral Agent and each holder of Junior Lien Obligations will waive any claim that may be had against the Collateral Agent, any of its officers, directors, employees and agents, as the case may be, or any holder of any Pari Passu Obligations, or any of its officers, directors, employees and agents, as the case may be, arising out of any actions which the Collateral Agent or such holder of Pari Passu Obligations takes or omits to take (including actions with respect to the creation, perfection or continuation of Liens on any Collateral, actions with respect to the foreclosure upon, sale, release or depreciation of, or failure to realize upon, any Collateral, and actions with respect to the collection of any claim for all or any part of the Pari Passu Obligations from any account debtor, Collateral Grantor or any other party) in accordance with the Junior Lien Intercreditor Agreement and the Pari Passu Documents or the valuation, use, protection or release of any security for such Pari Passu Obligations.

The Junior Lien Intercreditor Agreement will additionally provide that, without limiting the generality of the foregoing, the Collateral Agent:

(i) shall not be subject to any fiduciary or other implied duties of any kind or nature to any Person, regardless of whether an event of default under any Secured Debt Document has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Security Documents; *provided*, that the Collateral Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose it to liability or that is contrary to any Pari Passu Document or applicable law;

(iii) shall not, except as expressly set forth in the Junior Lien Intercreditor Agreement and in the Pari Passu Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company or any of its Affiliates that is communicated to or obtained by the Person serving as the Collateral Agent or any of its Affiliates in any capacity;

(iv) shall not be liable for any action taken or not taken by it (A) with the consent or at the request of the Controlling Party (as defined in the Pari Passu Intercreditor Agreement) or (B) in the absence of its own gross negligence or willful misconduct, which may include reliance in good faith on a certificate of an authorized officer of the Company stating that such action is permitted by the terms of the Junior Lien Intercreditor Agreement; and shall be deemed not to have knowledge of any event of default under any series of Secured Debt unless and until written notice describing such event of default is given by the Company to the Collateral Agent by the Authorized Representative of such Secured Debt;

(v) shall not be responsible for or have any duty to ascertain or inquire into (A) any statement, warranty or representation made in or in connection with the Junior Lien Intercreditor Agreement, any Pari Passu Document or any Junior Lien Document, (B) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (C) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any event of default or other default, (D) the validity, enforceability, effectiveness or genuineness of the Junior Lien Intercreditor Agreement, any Pari Passu Document, any Junior Lien Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by any Pari Passu Document or Junior Lien Document, (E) the value or the sufficiency of the Collateral, (F) the satisfaction of any condition set forth in any Pari Passu Document or Junior Lien Document, (G) the state of title to any property purportedly owned by the Company or any other Person, or (H) the percentage or other measurement of the Company's or any other Person's property which is subject to any Lien or security interests, other than to confirm receipt of items expressly required to be delivered to Collateral Agent;

(vi) the Collateral Agent shall not have any fiduciary duties or contractual obligations of any kind or nature under any Pari Passu Document or Junior Lien Document (but shall be entitled to all protection provided to the Collateral Agent herein);

(vii) with respect to any Pari Passu Document or Junior Lien Document may conclusively assume that the Company and the other Collateral Grantors have complied with all of their obligations thereunder unless advised in writing by the Authorized Representative thereunder to the contrary specifically setting forth the alleged violation;

(viii) may conclusively rely on any certificate of an officer of the Company provided pursuant to the Junior Lien Intercreditor Agreement;

(ix) whenever reference is made in any Pari Passu Document or Junior Lien Document to any action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Collateral Agent or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Collateral Agent, it is understood that in all cases the Collateral Agent shall be acting, giving, withholding, suffering, omitting, making or otherwise undertaking and exercising the same (or shall not be undertaking and exercising the same) solely as directed in writing in accordance with the Pari Passu Intercreditor Agreement and/or the Junior Lien Intercreditor Agreement, as applicable; this provision is intended solely for the benefit of the Collateral Agent and its successors and permitted assigns and is not intended to and will not entitle the other parties hereto to any defense, claim or counterclaim under or in relation to any Pari Passu Document or Junior Lien Document, or confer any rights or benefits on any party;

(x) notwithstanding any other provision of the Junior Lien Intercreditor Agreement or any Pari Passu Document or any Junior Lien Document to the contrary, the Collateral Agent shall not be liable for any indirect, incidental, consequential, punitive or special losses or damages, regardless of the form of action and whether or not any such losses or damages were foreseeable or contemplated;

(xi) the Collateral Agent shall not be required to expand or risk any of its own funds or otherwise incur any financial or other liability in the performance of any of its duties under the Junior Lien Intercreditor Agreement, and shall not be obligated to take any legal or other action thereunder, which might in its judgment involve or cause it to incur any expense or liability, unless it shall have been furnished with acceptable indemnification; and

(xii) may (and any of its Affiliates may) accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any of the Company or any other Collateral Grantor or any Subsidiary or Affiliate thereof as if such Person were not the Collateral Agent and without any duty to any other holder of the Pari Passu Obligations or Junior Lien Obligations, including any duty to account therefor.

The Junior Lien Intercreditor Agreement will additionally provide that the Collateral Grantors agree that they shall defend and be jointly and severally liable to reimburse and indemnify the Collateral Agent for reasonable expenses actually incurred by the Collateral Agent in connection with the execution, delivery, administration and enforcement of the Junior Lien Intercreditor Agreement and from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, actual reasonable expenses or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against the Collateral Agent, in any way relating to or arising out of the Junior Lien Intercreditor Agreement or any other document delivered in connection therewith or the transactions contemplated thereby, or the enforcement of any of the terms thereof, in each case, except to the extent caused by its gross negligence or willful misconduct.

The Junior Lien Intercreditor Agreement will additionally provide that each holder of the Pari Passu Obligations and the Junior Lien Obligations (i) acknowledge that, in addition to acting as the initial Collateral Agent, and the initial Junior Lien Collateral Agent, Bank of Montreal also serves as the Revolving Credit Agreement Agent, and that Bank of Montreal or on or more of its Affiliates may have jointly arranged, syndicated, placed or otherwise participated in the facilities and indebtedness contemplated by the Revolving Credit Agreement and the Junior Lien Obligations, and (ii) waive any right to make any objection or claim against Bank of Montreal, and of its Affiliates or its counsel (or any successor Collateral Agent or Junior Lien Collateral Agent or its counsel) based on any alleged conflict of interest or breach of duties arising from the Collateral Agent or Junior Lien Collateral Agent, and the initial Bank of Montreal or its Affiliates also serving in such other capacities.

No Interference; Payment Over

The Junior Lien Intercreditor Agreement will provide that the Junior Lien Collateral Agent and each holder of Junior Lien Obligations:

(1) will not take or cause to be taken any action the purpose or effect of which is, or could be, to make any Lien that the Junior Lien Collateral Agent or the holders of Junior Lien Obligations have on the Collateral *pari passu* with, or to give the Junior Lien Collateral Agent or any holder of Junior Lien Obligations any preference or priority relative to, any Lien that the Collateral Agent holds on behalf of the holders of any Pari Passu Obligations secured by any Collateral or any part thereof;

(2) will not challenge or question in any proceeding the validity or enforceability of any Pari Passu Obligations or Pari Passu Documents or the validity, attachment, perfection or priority of any Lien held by the Collateral Agent on behalf of the holders of any Pari Passu Obligations, or the validity or enforceability of the priorities, rights or duties established by the provisions of the Junior Lien Intercreditor Agreement;

(3) will not take or cause to be taken any action the purpose or effect of which is, or could be, to interfere, hinder or delay, in any manner, whether by judicial proceedings or otherwise, any sale, transfer or other disposition of the Collateral by the Collateral Agent or the holders of any Pari Passu Obligations in an enforcement action;

(4) will have no right to (A) direct the Collateral Agent or any holder of any Pari Passu Obligations to exercise any right, remedy or power with respect to any Collateral or (B) consent to the exercise by the Collateral Agent or any holder of any Pari Passu Obligations of any right, remedy or power with respect to any Collateral;

(5) will not institute any suit or assert in any suit or in any Insolvency or Liquidation Proceeding, any claim against the Collateral Agent or any holder of any Pari Passu Obligations seeking damages from or other relief by way of specific performance, instructions or otherwise with respect to, and neither the Collateral Agent nor any holders of any Pari Passu Obligations will be liable for, any action taken or omitted to be taken by the Collateral Agent or such holders of Pari Passu Obligations with respect to any Collateral securing such Pari Passu Obligations;

(6) prior to the Discharge of Pari Passu Obligations, will not seek, and will waive any right, to have any Collateral or any part thereof marshaled upon any foreclosure or other disposition of such Collateral;

(7) prior to the Discharge of Pari Passu Obligations, will not attempt, directly or indirectly, whether by judicial proceedings or otherwise, to challenge the enforceability of any provision of the Junior Lien Intercreditor Agreement;

(8) will not object to forbearance by the Collateral Agent or any holder of Pari Passu Obligations; and

(9) prior to the Discharge of Pari Passu Obligations, will not assert, and thereby waive, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or claim the benefit of any marshalling, appraisal, valuation or other similar right that may be available under applicable law to a junior secured creditor with respect to the Collateral or any similar rights a junior secured creditor may have under applicable law.

The Junior Lien Intercreditor Agreement will provide that if the Junior Lien Collateral Agent and any holder of Junior Lien Obligations obtains possession of any Collateral or realizes any proceeds or payment in respect of any Collateral, pursuant to the exercise of any rights or remedies with respect to any of the Collateral under any Security Document, or by the exercise of any rights available to it under applicable law or in any Insolvency or Liquidation Proceeding at any time prior to the Discharge of Pari Passu Obligations, then it will hold such Collateral, proceeds or payment in trust for the Collateral Agent and the holders of Pari Passu Obligations and transfer such Collateral, proceeds or payment, as the case may be, to the Collateral Agent as promptly as practicable. Each of the Junior Lien Collateral Agent and the holders of Junior Lien Obligations will further agree that if, at any time, any of them obtains written notice that all or part of any payment with respect to any Pari Passu Obligations previously made shall be rescinded for any reason whatsoever, they will promptly pay over to the Collateral Agent any payment received by them and then in their possession or under their direct control in respect of any such Collateral subject to a Pari Passu Lien and shall promptly turn any such Collateral then held by them over to the Collateral Agent, and the provisions set forth in the Junior Lien Intercreditor Agreement will be reinstated as if such payment had not been made, until the Discharge of Pari Passu Obligations. All Junior Liens will remain attached to and enforceable against all proceeds so held or remitted, subject to the priorities set forth in the Junior Lien Intercreditor Agreement. The Junior Lien Intercreditor Agreement will provide that the provisions described in this paragraph will not apply to any proceeds of Collateral realized in a transaction not prohibited by the Pari Passu Documents and as to which the possession or receipt thereof by the Junior Lien Collateral Agent or any holder of Junior Lien Obligations is otherwise permitted by the Pari Passu Documents.

Automatic Release of Junior Liens

The Junior Lien Intercreditor Agreement will provide that, prior to the Discharge of Pari Passu Obligations, the Junior Lien Collateral Agent and each holder of Junior Lien Obligations will agree that, if the Collateral Agent or the holders of Pari Passu Obligations release their Lien on any Collateral, the Junior Lien on such Collateral will terminate and be released automatically and without further action if (i) such release is permitted under the Junior Lien Documents (it being agreed that the Collateral Agent may conclusively rely upon a written request of the Company stating that the release of such Lien is permitted under the Junior Lien Documents), (ii) such release is

effected in connection with the Collateral Agent's foreclosure upon, or other exercise of rights or remedies with respect to, such Collateral, or (iii) such release is effected in connection with a sale or other disposition of any Collateral (or any portion thereof) under Section 363 of the Bankruptcy Code or any other provision of the Bankruptcy Code if the Collateral Agent and the holders of Pari Passu Obligations shall have consented to such sale or disposition of such Collateral; *provided* in the case of each of clauses (i), (ii), and (iii), (A) the net proceeds of such Collateral are applied pursuant to the provisions described in "—Application of Proceeds" and (B) the Junior Liens on such Collateral securing the Junior Lien Obligations, shall remain in place (and shall remain subject and subordinate to all Pari Passu Liens securing Pari Passu Obligations subject to the Pari Passu Lien Cap) with respect to any proceeds of a sale, transfer or other disposition of Collateral not paid to the holders of Pari Passu Obligations or that remain after the Discharge of Pari Passu Obligations.

Agreements With Respect to Insolvency or Liquidation Proceedings

The Junior Lien Intercreditor Agreement is a "subordination agreement" under Section 510(a) of the Bankruptcy Code. If either the Company or any of its Subsidiaries becomes subject to any Insolvency or Liquidation Proceeding and, as debtor(s)-in-possession, or if any receiver or trustee for such Person or Persons, moves for DIP Financing to be provided by one or more DIP Lenders under Section 364 of the Bankruptcy Code or the use of cash collateral under Section 363 of the Bankruptcy Code, the Junior Lien Intercreditor Agreement will provide that none of the Junior Lien Collateral Agent and any holder of Junior Lien Obligations will raise any objection, contest or oppose (or join or support any third party in objecting, contesting or opposing), and each holder of Junior Lien Obligations will be deemed to have consented to, and will waive any claim such Person may now or hereafter have, to any such financing or to the DIP Financing Liens, or to any use, sale or lease of cash collateral that constitutes Collateral or to any grant of administrative expense priority under Section 364 of the Bankruptcy Code, unless (1) the Collateral Agent opposes or objects to such DIP Financing, such DIP Financing Liens or such use of cash collateral or (2) the terms of such DIP Financing provide for the sale of a substantial part of the Collateral (other than a sale or disposition pursuant to Section 363 of the Bankruptcy Code with respect to which the holders of the Junior Lien Obligations are deemed to have consented pursuant to the provisions described in "—Agreements With Respect to Insolvency or Liquidation Proceedings") or require the confirmation of a plan of reorganization containing specific terms or provisions (other than repayment in cash of such DIP Financing on the effective date thereof). To the extent such DIP Financing Liens are senior to, or rank Pari Passu with, the Pari Passu Liens on Collateral securing Pari Passu Obligations, the Junior Lien Collateral Agent will, for themselves and on behalf of holders of the Junior Lien Obligations, subordinate the Junior Liens on the Collateral that secure the Junior Lien Obligations to the Liens on the Collateral that secure Pari Passu Obligations and to such DIP Financing Liens, so long as the Junior Lien Collateral Agent, on behalf of holders of the Junior Lien Obligations, retains Junior Liens on all the Collateral, including proceeds thereof arising after the commencement of any Insolvency or Liquidation Proceeding, with the same priority relative to the Liens on the Collateral as existed prior to the commencement of the case under the Bankruptcy Code. Furthermore, the Junior Lien Intercreditor Agreement will provide that prior to the Discharge of Pari Passu Obligations, without the written consent of the Collateral Agent in its sole discretion, none of the Junior Lien Collateral Agent and any holder of Junior Lien Obligations will propose, support or enter into any DIP Financing.

The Junior Lien Intercreditor Agreement will provide that the Junior Lien Collateral Agent and each holder of Junior Lien Obligations will be deemed to have consented to and will not object to, oppose or contest (or join with or support any third party objecting to, opposing or contesting) a sale or other disposition, a motion to sell or dispose or the bidding procedure for such sale or disposition of any Collateral (or any portion thereof) under Section 363 of the Bankruptcy Code or any other provision of the Bankruptcy Code if (1) the Collateral Agent or the requisite holders of Pari Passu Obligations shall have consented to such sale or disposition of such Collateral, (2) all Pari Passu Liens on the Collateral securing the Pari Passu Obligations and Junior Liens on the Collateral securing the Junior Lien Obligations, shall attach to the proceeds of such sale in the same respective priorities as set forth in the Junior Lien Intercreditor Agreement with respect to the Collateral, (3) the waterfall described in "—Application of Proceeds" is complied with in connection with such credit bid and (4) each of the Junior Lien Collateral Agent and the holders of Junior Lien Obligations shall have the right to credit bid all or any portion of

the Collateral so long as the Collateral Agent and the holders of the Pari Passu Obligations receive payment in full in cash of all Pari Passu Obligations after giving effect thereto. The Junior Lien Intercreditor Agreement will further provide that the Junior Lien Collateral Agent and the holders of Junior Lien Obligations will waive any claim that may be had against the Collateral Agent or any holder of Pari Passu Obligations arising out of any DIP Financing Liens (granted in a manner that is consistent with the Junior Lien Intercreditor Agreement) or administrative expense priority under Section 364 of the Bankruptcy Code. The Junior Lien Intercreditor Agreement will further provide that the Junior Lien Collateral Agent and the holders of Junior Lien Obligations will not file or prosecute in any Insolvency or Liquidation Proceeding any motion for adequate protection (or any comparable request for relief) based upon their interest in the Collateral, and will not object to, oppose or contest (or join with or support any third party objecting to, opposing or contesting) (a) any request by the Collateral Agent or any holder of Pari Passu Obligations for adequate protection or (b) any objection by the Collateral Agent or any holder of Pari Passu Obligations to any motion, relief, action or proceeding based on the Collateral Agent or any holder of Pari Passu Obligations claiming a lack of adequate protection, except that the Junior Lien Collateral Agent and the holders of Junior Lien Obligations:

(1) may freely seek and obtain relief granting adequate protection only in the form of a replacement lien co-extensive in all respects with, but subordinated to, and with the same relative priority to the Pari Passu Liens as existed prior to the commencement of the Insolvency or Liquidation Proceeding, all Liens granted in the Insolvency or Liquidation Proceeding to, or for the benefit of, the holders of the Pari Passu Obligations; and

(2) may freely seek and obtain any relief upon a motion for adequate protection (or any comparable relief), without any condition or restriction whatsoever, at any time after the Discharge of Pari Passu Obligations.

In any Insolvency or Liquidation Proceeding, none of the Junior Lien Collateral Agent and any holder of Junior Lien Obligations shall support or vote for any plan of reorganization or disclosure statement of any Collateral Grantor unless such plan is accepted by the class of holders of the Pari Passu Obligations in accordance with Section 1126(c) of the Bankruptcy Code or otherwise provides for the payment in full in cash of all Pari Passu Obligations (including all post-petition interest approved by the bankruptcy court, fees and expenses and cash collateral of all letters of credit) on the effective date of such plan of reorganization or except as otherwise provided in the Junior Lien Intercreditor Agreement, the holders of the Junior Lien Obligations shall remain entitled to vote their claims in any such Insolvency or Liquidation Proceeding.

The Junior Lien Intercreditor Agreement will additionally provide that the Junior Lien Collateral Agent and each holder of Junior Lien Obligations will waive any claim that may be had against the Collateral Agent or any holder of any Pari Passu Obligations arising out of any election by the Collateral Agent or any holder of Pari Passu Obligations in any proceeding instituted under the Bankruptcy Code, of the application of Section 1111(b) of the Bankruptcy Code.

Until the Discharge of Pari Passu Obligations has occurred, none of the Junior Lien Collateral Agent or any holder of Junior Lien Obligations shall seek relief, pursuant to Section 362(d) of the Bankruptcy Code or otherwise, from the automatic stay of Section 362(a) of the Bankruptcy Code or from any other stay in any Insolvency or Liquidation Proceeding in respect of the Collateral if the Collateral Agent has not received relief from the automatic stay (or it has not been lifted for the Collateral Agent’s benefit), without the prior written consent of the Collateral Agent.

None of the Junior Lien Collateral Agent or any holder of Junior Lien Obligations shall oppose or seek to challenge (or join or support any third party in opposing or seeking to challenge) any claim by the Collateral Agent or any other holder of Pari Passu Obligations for allowance (but not payment until the Discharge of Pari Passu Obligations has occurred) in any Insolvency or Liquidation Proceeding of Pari Passu Obligations consisting of post-petition interest, fees or expenses or cash collateralization of all letters of credit to the extent of the value of the Pari Passu Liens (it being understood that such value will be determined without regard to the

existence of the Junior Liens), subject to the Pari Passu Lien Cap. Neither the Collateral Agent nor any holder of Pari Passu Obligations shall oppose or seek to challenge any claim by the Junior Lien Collateral Agent or any holder of Junior Lien Obligations for allowance (but not payment until the Discharge of Pari Passu Obligations has occurred) in any Insolvency or Liquidation Proceeding of Junior Lien Obligations consisting of post-petition interest, fees or expenses to the extent of the value of the Junior Liens, as applicable, on the Collateral; *provided* that if the Collateral Agent or any holder of Pari Passu Obligations shall have made any such claim, such claim (i) shall have been approved or (ii) will be approved contemporaneously with the approval of any such claim by the Junior Lien Collateral Agent or any holder of Junior Lien Obligations.

Without the express written consent of the Collateral Agent, none of the Junior Lien Collateral Agent or any holder of Junior Lien Obligations shall (or shall join with or support any third party in opposing, objecting to or contesting, as the case may be), in any Insolvency or Liquidation Proceeding involving any Collateral Grantor, (i) oppose, object to or contest the determination of the extent of any Liens held by any of holder of Pari Passu Obligations or the value of any claims of any such holder under Section 506(a) of the Bankruptcy Code or (ii) oppose, object to or contest the payment to the holder of Pari Passu Obligations of interest, fees or expenses, or to the cash collateralization of letters of credit, under Section 506(b) of the Bankruptcy Code, subject to the Pari Passu Lien Cap.

Notwithstanding anything to the contrary contained in the Junior Lien Intercreditor Agreement, if in any Insolvency or Liquidation Proceeding a determination is made that any Lien encumbering any Collateral is not enforceable for any reason, the Junior Lien Collateral Agent and the holders of Junior Lien Obligations agree that any distribution or recovery they may receive in respect of any Collateral shall be segregated and held in trust and forthwith paid over to the Collateral Agent for the benefit of the holders of Pari Passu Obligations in the same form as received without recourse, representation or warranty (other than a representation of the Junior Lien Collateral Agent that it has not otherwise sold, assigned, transferred or pledged any right, title or interest in and to such distribution or recovery) but with any necessary endorsements or as a court of competent jurisdiction may otherwise direct. The Junior Lien Collateral Agent appoints the Collateral Agent, and any officer or agent of the Collateral Agent, with full power of substitution, the attorney-in-fact of each the Junior Lien Collateral Agent and the holders of Junior Lien Obligations for the limited purpose of carrying out the provisions related to this paragraph and taking any action and executing any instrument that the Collateral Agent may deem necessary or advisable to accomplish the purposes of this paragraph, which appointment is irrevocable and coupled with an interest.

The Junior Lien Collateral Agent and the holders of Junior Lien Obligations will agree that the Collateral Agent shall have the exclusive right to credit bid the Pari Passu Obligations (subject to the Pari Passu Lien Cap) and further that none of the Junior Lien Collateral Agent or any holder of Junior Lien Obligations shall (or shall join with or support any third party in opposing, objecting to or contesting, as the case may be) oppose, object to or contest such credit bid by the Collateral Agent; *provided* that (A) the waterfall described in "—Application of Proceeds" is complied with in connection with such credit bid and (B) each of the Junior Lien Collateral Agent and the holders of Junior Lien Obligations shall have the right to credit bid all or any portion of the Collateral so long as the Collateral Agent and the holders of the Pari Passu Obligations receive payment in full in cash of all Pari Passu Obligations after giving effect thereto.

Until the expiry of the Junior Lien Standstill Period, in the case of the Junior Lien Collateral Agent and the holders of Junior Lien Obligations, without the prior written consent of the Collateral Agent in its sole discretion, the Junior Lien Collateral Agent agrees it will not file an involuntary bankruptcy claim or seek the appointment of an examiner or a trustee.

The Junior Lien Collateral Agent waives any right to assert or enforce any claim under Section 506(c) or 552 of the Bankruptcy Code as against the Collateral Agent, the holders of Pari Passu Obligations or any of the Collateral, except as expressly permitted by the Junior Lien Intercreditor Agreement.

Notice Requirements and Procedural Provisions

The Junior Lien Intercreditor Agreement will also provide for various advance notice requirements and other procedural provisions typical for agreements of this type, including procedural provisions to allow any successor Collateral Agent to become a party to the Junior Lien Intercreditor Agreement (without the consent of any holder of Pari Passu Obligations or Junior Lien Obligations) upon the refinancing or replacement of the Pari Passu Obligations or Junior Lien Obligations as permitted by the applicable Pari Passu Documents and the Junior Lien Documents.

No New Liens; Similar Documents

So long as the Discharge of Pari Passu Obligations has not occurred, neither the Company nor any of its Subsidiaries shall grant or permit any additional Liens, or take any action to perfect any additional Liens, on any property to secure:

(1) any Junior Lien Obligation unless it has also granted or substantially contemporaneously grants (or offers to grant) a Lien on such property to secure the Pari Passu Obligations and has taken all actions required to perfect such Liens; *provided* that the refusal or inability of the Collateral Agent to accept such Lien will not prevent the Junior Lien Collateral Agent from taking the Lien; or

(2) any Pari Passu Obligation unless it has also granted or substantially contemporaneously grants (or offers to grant) a Lien on such property to secure the Junior Lien Obligations and has taken all actions required to perfect such Liens; *provided* that the refusal, inability or delay of the Junior Lien Collateral Agent to accept such Lien will not prevent the Collateral Agent from taking the Lien,

with each such Lien to be subject to the provisions of the Junior Lien Intercreditor Agreement.

To the extent that the foregoing provisions are not complied with for any reason, without limiting any other rights and remedies available to the Collateral Agent and/or the other holders of Pari Passu Obligations, the Junior Lien Collateral Agent or the holders of Junior Lien Obligations, each of the Junior Lien Collateral Agent and the holders of the Junior Lien Obligations will agree that any amounts received by or distributed to any of them pursuant to or as a result of Liens granted in contravention of this paragraph shall be subject to the Junior Lien Intercreditor Agreement.

The Junior Lien Intercreditor Agreement will include an acknowledgement that it is the intention of the parties to the Junior Lien Intercreditor Agreement that the Collateral subject to a Pari Passu Lien and the Collateral subject to a Junior Lien be identical; *provided* in no event shall any Collateral include any Pari Passu Excluded Collateral. The parties to the Junior Lien Intercreditor Agreement will agree (a) to cooperate in good faith in order to determine the specific assets included in the Collateral, the steps taken to perfect the Liens securing the Pari Passu Obligations or the Junior Lien Obligations and the identity of the respective parties obligated under the Pari Passu Documents and the Junior Lien Documents in respect of the Pari Passu Obligations and the Junior Lien Obligations, respectively, (b) that all Security Documents providing for the Junior Liens shall be in all material respects the same forms of documents providing for the Pari Passu Liens other than as to the priority nature, other modifications that make the Security Documents with respect to the Junior Liens less restrictive than the corresponding documents with respect to the Pari Passu Liens, provisions in the Security Documents for the Junior Liens which relate solely to rights and duties of the Junior Lien Collateral Agent and the holders of the Junior Lien Obligations and such deletions or modifications of representations, warranties and covenants as are customary with respect to security documents establishing Liens securing publicly traded debt securities, and (c) that at no time shall there be any Collateral Grantor that is an obligor in respect of the Junior Lien Obligations that is not also an obligor in respect of the Pari Passu Obligations.

Insurance

Unless and until the Discharge of Pari Passu Obligations has occurred (but subject to the rights of the Junior Lien Collateral Agent and the holders of Junior Lien Obligations following expiration of any of the Junior Lien Standstill Period, as provided in the paragraph defining "Junior Lien Standstill Period"), the Collateral Agent shall have the sole and exclusive right, subject to the rights of the obligors under the Pari Passu Documents, to adjust and settle claims in respect of Collateral under any insurance policy in the event of any loss thereunder and to approve any award granted in any condemnation or similar proceeding (or any deed in lieu of condemnation) affecting the Collateral. Unless and until the Discharge of Pari Passu Obligations has occurred, and subject to the rights of the obligors under the Pari Passu Documents, all proceeds of any such policy and any such award (or any payments with respect to a deed in lieu of condemnation) in respect of the Collateral shall be paid to the Collateral Agent pursuant to the terms of the Pari Passu Documents (including for purposes of cash collateralization of letters of credit). If the Junior Lien Collateral Agent or any holder of Junior Lien Obligations shall, at any time, receive any proceeds of any such insurance policy or any such award or payment in contravention of the foregoing, it shall pay such proceeds over to the Collateral Agent in accordance with the Junior Lien Intercreditor Agreement. In addition, if by virtue of being named as an additional insured or loss payee of any insurance policy of any obligor covering any of the Collateral, the Junior Lien Collateral Agent or any holder of Junior Lien Obligations shall have the right to adjust or settle any claim under any such insurance policy, then unless and until the Discharge of Pari Passu Obligations has occurred, the Junior Lien Collateral Agent or any holder of Junior Lien Obligations shall follow the instructions of the Collateral Agent, or of the obligors under the Pari Passu Documents to the extent the Pari Passu Documents grant such obligors the right to adjust or settle such claims, with respect to such adjustment or settlement (subject to the rights of the holders of Junior Lien Obligations following expiration of the Junior Lien Standstill Period).

Amendment to Junior Lien Documents

Prior to the Discharge of Pari Passu Obligations, without the prior written consent of the Collateral Agent, no Junior Lien Document may be amended, supplemented, restated or otherwise modified and/or refinanced or entered into to the extent such amendment, supplement, restatement or modification and/or refinancing, or the terms of any new Junior Lien Document, would (i) adversely affect the lien priority rights of the Collateral Agent and the holders of Pari Passu Obligations or the rights of the Collateral Agent and the holders of Pari Passu Obligations to receive payments owing pursuant to the Pari Passu Documents, (ii) except as otherwise provided for in the Junior Lien Intercreditor Agreement, add any Liens securing the Collateral granted under the Junior Lien Documents, (iii) confer any additional rights on the Junior Lien Collateral Agent or any holder of Junior Lien Obligations in a manner adverse to the Collateral Agent or the holders of Pari Passu Obligations, (iv) contravene the provisions of the Junior Lien Intercreditor Agreement or the Pari Passu Documents or (v) modify any Junior Lien Document in any manner that would not have been permitted under the Pari Passu Documents to have been included in such Junior Lien Document if such Junior Lien Document, was entered into as of the date of such amendment, supplement, restatement or modification.

Application of Proceeds

Prior to the Discharge of Pari Passu Obligations, and regardless of whether an Insolvency or Liquidation Proceeding has been commenced, Collateral or proceeds received in connection with the enforcement or exercise of any rights or remedies with respect to any portion of the Collateral will be applied:

first, to the payment in full in cash of all Pari Passu Obligations that are not Excess Pari Passu Obligations in accordance with the Pari Passu Intercreditor Agreement,

second, to the payment in full in cash of all Junior Lien Obligations as follows:

(x) first, to the payment in full in cash of all unpaid fees, expenses, reimbursements and indemnification amounts incurred by the Junior Lien Collateral Agent and all fees owed to it in

connection with such collection or sale or otherwise in connection with the Junior Lien Intercreditor Agreement or the Junior Lien Document; and

(y) second, to the payment in full in cash of the Junior Lien Obligations, including any interest, fees, costs, expenses, charges or other amounts, pro rata in accordance with the relative amounts thereof on the date of any payment or distribution;

third, to the payment in full in cash of all Excess Pari Passu Obligations, and

fourth, to the Company or as otherwise required by applicable law.

Postponement of Subrogation

The Junior Lien Intercreditor Agreement will provide that no payment or distribution to any holder of Pari Passu Obligations pursuant to the provisions of the Junior Lien Intercreditor Agreement shall entitle the Junior Collateral Agent or any holder of Junior Lien Obligations to exercise any rights of subrogation in respect thereof until, in the case of the Junior Lien Collateral Agent or the holders of Junior Lien Obligations, the Discharge of Pari Passu Obligations. Following the Discharge of Pari Passu Obligations, each holder of Pari Passu Obligations will execute such documents, agreements, and instruments as any holder of Junior Lien Obligations may reasonably request to evidence the transfer by subrogation to any such Person of an interest in the Pari Passu Obligations resulting from payments or distributions to such holder by such Person, so long as all costs and expenses (including all reasonable legal fees and disbursements) incurred in connection therewith by such holder of Pari Passu Obligations are paid by such Person upon request for payment thereof.

Junior Lien Right to Purchase

Upon the occurrence and continuation of an event of default, as defined in and under the Senior Secured Notes Indenture (a "*Purchase Event*"), the holders of a majority of the principal amount of the Junior Lien Obligations (such holders, the "*Purchasing Holders*") may purchase all, but not less than all, of the Senior Secured Note Obligations. Such purchase will (a) include all principal of, and all accrued and unpaid interest, fees, and expenses in respect of, all Senior Secured Note Obligations outstanding at the time of purchase, (b) be made pursuant to a master assignment agreement, whereby the Purchasing Holders will assume all Senior Secured Note Obligations, and (c) otherwise be subject to the terms and conditions as set forth in the Junior Lien Intercreditor Agreement. Each Pari Passu Secured Party will retain all rights to indemnification provided in the relevant Pari Passu Documents for all claims and other amounts relating to periods prior to the purchase of the Senior Secured Note Obligations as provided in the Junior Lien Intercreditor Agreement.

Provisions of the Indenture Relating to Security

Release of Liens Securing New Senior Secured Notes

The Senior Secured Notes Indenture will provide that the Collateral Grantors will be entitled to releases of assets included in the Collateral from the Liens securing Senior Secured Note Obligations under any one or more of the following circumstances:

(1) upon the full and final payment in cash and performance of all Senior Secured Note Obligations of the Company and the Subsidiary Guarantors;

(2) with respect to any asset constituting Collateral, if such Collateral is sold or otherwise disposed of to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary in accordance with the terms of the covenant set forth under "—Certain Covenants—Limitation on Asset Sales" (other than the provisions thereof relating to the future use of proceeds of such sale or other disposition); *provided* that to the extent that any Collateral is sold

or otherwise disposed of in accordance with the terms of the covenant set forth under "—Certain Covenants—Limitation on Asset Sales", the non-cash consideration received is pledged as Collateral under the Collateral Agreements contemporaneously with such sale, in accordance with the requirements set forth in the Senior Secured Notes Indenture and the Collateral Agreements; *provided*, *further*, that the Liens securing the Senior Secured Note Obligations will not be released if the sale or disposition is subject to the covenant described below under the caption "—Merger, Consolidation and Sale of Assets";

(3) upon Legal Defeasance, Covenant Defeasance or satisfaction and discharge of the New Senior Secured Notes as provided below under "—Legal Defeasance or Covenant Defeasance of Senior Secured Notes Indenture" and "—Satisfaction and Discharge";

(4) if any Subsidiary Guarantor is released from its Subsidiary Guarantee in accordance with the terms of the Senior Secured Notes Indenture, that Subsidiary Guarantor's assets and property included in the Collateral will also be released from the Liens securing the Senior Secured Note Obligations;

(5) with the requisite consent of Holders of New Senior Secured Notes given in accordance with the Senior Secured Notes Indenture; or

(6) as provided in the Pari Passu Intercreditor Agreement or the Collateral Agreements.

No Impairment of the Security Interests

Under the Senior Secured Notes Indenture, no Collateral Grantor will be permitted to take any action, or knowingly omit to take any action, which action or omission would have the result of materially impairing the validity, perfection or priority of the security interests in the Collateral created by the Collateral Agreements (except as permitted in the Senior Secured Notes Indenture, the Pari Passu Intercreditor Agreement or the Collateral Agreements, including any action that would result in a Permitted Collateral Lien).

Further Assurances

The Company shall, and shall cause each other Collateral Grantor to, at the Company's sole cost and expense:

(1) at the request of the Collateral Agent, acting in accordance with the Pari Passu Intercreditor Agreement, execute and deliver all such agreements and instruments and take all further action as may be reasonably necessary or desirable (a) to describe more fully or accurately the property intended to be Collateral or the obligations intended to be secured by any Collateral Agreement and/or (b) to continue and maintain the Collateral Agent's first-priority perfected security interest in the Collateral (subject to the payment priority in favor of the holders of Revolving Credit Agreement Obligations set forth in the Pari Passu Intercreditor Agreement and subject to Permitted Collateral Liens); and

(2) at the request of the Collateral Agent, acting at the direction of the Controlling Party, file any such notice filings or other agreements or instruments as may be reasonably necessary or desirable under applicable law to perfect the Liens created by the Collateral Agreements.

In addition, from and after the date of the Senior Secured Notes Indenture, if the Company or any other Collateral Grantor acquires any property or asset that constitutes Collateral for the Pari Passu Obligations, if and to the extent that any Pari Passu Document requires any supplemental security document for such Collateral or other actions to achieve a first-priority perfected Lien on such Collateral, the Company shall, or shall cause any other applicable Collateral Grantor to, promptly (but not in any event no later than the date that is 10 Business Days after which such supplemental security documents are executed and delivered (or other action taken) under such Pari Passu Documents), to execute and deliver to the Collateral Agent appropriate security documents (or

amendments thereto) in such form as shall be necessary to grant the Collateral Agent a first-priority perfected Lien on such Collateral or take such other actions in favor of the Collateral Agent as shall be reasonably necessary to grant a perfected Lien on such collateral to the Collateral Agent, subject to the terms of the Senior Secured Notes Indenture, the Intercreditor Agreements and the other Senior Secured Note Documents.

Additionally, if (a) a Collateral Grantor acquires any asset or property of a type that is required to constitute Collateral pursuant to the terms of the Senior Secured Notes Indenture and such asset or property is not automatically subject to a first-priority perfected Lien in favor of the Collateral Agent, (b) a Subsidiary of the Company that is not already a Subsidiary Guarantor is required to become a Subsidiary Guarantor pursuant to the covenant described under "—Certain Covenants—Future Subsidiary Guarantees" or (c) any Collateral Grantor creates any additional Lien upon any Oil and Gas Properties, Proved and Probable Drilling Locations or any other assets or properties to secure any Pari Passu Obligations or Junior Lien Obligations (or takes additional actions to perfect any existing Lien on Collateral), then such Collateral Grantor or such other Subsidiary shall, as soon as practicable after the acquisition of the applicable asset or property, the occurrence of the event requiring such Subsidiary to become a Subsidiary Guarantor or the creation of any such additional Lien or taking of any such additional perfection action (and, in any event, within 10 Business Days after such acquisition, event or creation), (i) grant to the Collateral Agent a first-priority perfected Lien in all assets and property of such Collateral Grantor or such other Subsidiary that are required to, but do not already, constitute Collateral, (ii) deliver any certificates to the Collateral Agent in respect thereof and (iii) take all other appropriate actions as necessary to ensure the Collateral Agent has a first-priority perfected Lien therein. All references to a "first-priority perfected Lien" in this paragraph shall be understood to be subject to the Pari Passu Intercreditor Agreement and subject to Permitted Collateral Liens, if any.

Authorization of Actions to Be Taken

Each Holder of the New Senior Secured Notes, by its acceptance thereof, will be deemed to have consented and agreed to the terms of the Intercreditor Agreements and each other Collateral Agreement, as originally in effect and as amended, restated, replaced, supplemented or modified from time to time in accordance with its terms or the terms of the Senior Secured Notes Indenture or the Intercreditor Agreements, to have authorized and directed the Senior Secured Notes Trustee and the Collateral Agent to enter into the Intercreditor Agreements and the other Collateral Agreements to which it is a party, and to have authorized and empowered the Collateral Agent to bind the Holders of the New Senior Secured Notes as set forth in the Intercreditor Agreements and the other Collateral Agreements to which it is a party and to perform its obligations and exercise its rights and powers thereunder, including entering into amendments permitted by the terms of the Senior Secured Notes Indenture, the Intercreditor Agreements or the other Collateral Agreements.

Redemption

Optional Redemption

The Company may, at its option, redeem the New Senior Secured Notes, in whole or in part, at one time or from time to time, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest, if any, on the New Senior Secured Notes redeemed, to the applicable redemption date, subject to the rights of Holders of New Senior Secured Notes on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on March 15 of the years indicated below (or the Issue Date for New Senior Secured Notes redeemed prior to March 15, 2017):

Year	Redemption Price
2016	110.000%
2017	107.500%
2018	105.000%
2019 and thereafter	100.000%

For the avoidance of doubt, any redemption pursuant to the provisions under "—Optional Redemption" shall be paid in cash.

Selection and Notice

If less than all of the New Senior Secured Notes are to be redeemed at any time, the Senior Secured Notes Trustee will select New Senior Secured Notes for redemption on a pro rata basis (or, in the case of New Senior Secured Notes issued in global form, based on a method as The Depository Trust Company ("DTC") or its nominee or successor may require), unless otherwise required by law or applicable stock exchange or depositary requirements.

Notices of redemption will be mailed by first-class mail or otherwise given in accordance with DTC procedures at least 30 but not more than 60 days before the redemption date to each Holder of New Senior Secured Notes to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the New Senior Secured Notes or a satisfaction and discharge of the Senior Secured Notes Indenture. Notices of redemption may not be conditional.

If any New Senior Secured Note is to be redeemed in part only, the notice of redemption that relates to that New Senior Secured Note will state the portion of the principal amount of that New Senior Secured Note that is to be redeemed. A new note in principal amount equal to the unredeemed portion of the original note will be issued in the name of the Holder of New Senior Secured Notes upon cancellation of the original note. New Senior Secured Notes called for redemption become due on the date fixed for redemption, subject to the satisfaction of any conditions to the redemption specified in the notice of redemption. On and after any redemption date, interest ceases to accrue on New Senior Secured Notes or portions of New Senior Secured Notes called for redemption.

Offers to Purchase

As described below, (i) upon the occurrence of a Change of Control, we will be obligated to make an offer to purchase all of the New Senior Secured Notes at a purchase price equal to 101% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date of purchase and (ii) upon certain sales or other dispositions of assets, the Company may be obligated to make offers to purchase the New Senior Secured Notes with a portion of the Net Available Cash of such sales or other dispositions at a purchase price equal to 100% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date of purchase. See "—Certain Covenants—Change of Control" and "—Limitation on Asset Sales." For the avoidance of doubt, offers to purchase as set forth in clauses (i) and (ii) above shall only be made in cash.

Sinking Fund

There will be no sinking fund payments for the New Senior Secured Notes.

Covenant Suspension

During any period that the New Senior Secured Notes have a rating equal to or higher than BBB- (or the equivalent) by S&P and Baa3 (or the equivalent) by Moody's ("Investment Grade Ratings") and no Default or Event of Default has occurred and is continuing (such period, a "Covenant Suspension Period"), the Company and the Restricted Subsidiaries will not be subject to the following covenants (collectively, the "Suspended Covenants"):

- "—Limitation on Indebtedness and Disqualified Capital Stock;"
- "—Limitation on Restricted Payments;"
- "—Limitation on Transactions with Affiliates;"
- "—Limitation on Asset Sales;"

- "—Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries;" and
- clause (3) of "—Merger, Consolidation and Sale of Assets"

In the event that the Company and the Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the preceding paragraph and either S&P or Moody's subsequently withdraws its rating or downgrades its rating of the New Senior Secured Notes below the applicable Investment Grade Rating, or a Default or Event of Default occurs and is continuing, then the Company and its Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants, and compliance with the Suspended Covenants with respect to Restricted Payments made after the time of such withdrawal, downgrade, Default or Event of Default will be calculated in accordance with the covenant described under "Certain Covenants—Limitation on Restricted Payments" as though such covenant had been in effect during the entire period of time from the Issue Date.

During any Covenant Suspension Period, the Board of Directors of the Company may not designate any of the Company's Subsidiaries as Unrestricted Subsidiaries pursuant to the Senior Secured Notes Indenture. The Company shall give the Senior Secured Notes Trustee written notice of the commencement of any Covenant Suspension Period promptly, and in any event not later than five (5) Business Days, after the commencement thereof. In the absence of such notice, the Senior Secured Notes Trustee shall assume the Suspended Covenants apply and are in full force and effect. The Company shall give the Senior Secured Notes Trustee written notice of the termination of any Covenant Suspension Period not later than five (5) Business Days after the occurrence thereof. After any such notice of the termination of any Covenant Suspension Period, the Senior Secured Notes Trustee shall assume the Suspended Covenants apply and are in full force and effect.

Certain Covenants

Limitation on Indebtedness and Disqualified Capital Stock

The Company will not, and will not permit any of its Restricted Subsidiaries to, create, incur, issue, assume, guarantee or in any manner become directly or indirectly liable for the payment of (collectively, "incur") any Indebtedness (including any Acquired Indebtedness), and the Company will not issue any Disqualified Capital Stock and will not permit any of its Restricted Subsidiaries to issue any Disqualified Capital Stock or Preferred Stock; *provided* that the Company may incur Indebtedness (including Acquired Indebtedness) or issue Disqualified Capital Stock, and any Restricted Subsidiary that is a Subsidiary Guarantor may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Capital Stock or Preferred 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 2.25 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 or Preferred Stock is issued or would occur as a consequence of the incurrence of the additional Indebtedness or the issuance of the Disqualified Capital Stock or Preferred Stock.

The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "*Permitted Indebtedness*"):

(1) Indebtedness under the New Senior Secured Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation and up to $91,875,000 of Additional New Senior Secured Notes issued in connection with the payment of interest thereon;

(2) Indebtedness outstanding or in effect on the Issue Date (and not exchanged in connection with the Exchange Offer and Consent Solicitation);

(3) 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;

(4) the Subsidiary Guarantees of the New Senior Secured Notes (and any assumption of the obligations guaranteed thereby) issued in respect of the New Senior Secured Notes issued on the Issue Date and with respect to any Additional New Senior Secured Notes issued in connection with the payment of interest thereon;

(5) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; *provided* that:

(a) if the Company is the obligor on such Indebtedness and a Subsidiary Guarantor is not the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the New Senior Secured Notes, or if a Subsidiary Guarantor is the obligor on such Indebtedness and neither the Company nor another Subsidiary Guarantor is the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Subsidiary Guarantee of such Subsidiary Guarantor; and

(b) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (ii) any sale or other transfer of any such Indebtedness to a Person that is neither the Company nor a Restricted Subsidiary of the Company will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (5);

(6) Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge, in whole or in part, any Indebtedness (other than intercompany Indebtedness) that was permitted by the Senior Secured Notes Indenture to be incurred under the first paragraph of this covenant or clauses (1), (2) or (11) of this paragraph or this clause (6);

(7) Non-Recourse Indebtedness;

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

(9) 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);

(10) Indebtedness under the Revolving Credit Agreement in an aggregate principal amount not in excess of $50.0 million at any one time outstanding and any guarantee thereof by a Subsidiary Guarantor; and

(11) (a) Indebtedness under the New 2019 Convertible Notes issued on the Issue Date in an aggregate principal amount not to exceed $288,516,000 and any guarantee thereof by a Subsidiary Guarantor; (b) Indebtedness under any Additional New 2019 Convertible Notes and

any guarantee thereof by a Subsidiary Guarantor; (c) Indebtedness under the New 2020 Convertible Notes issued on the Issue Date in an aggregate principal amount not to exceed $174,607,000 and any guarantee thereof by a Subsidiary Guarantor, and (d) Indebtedness under any Additional New 2020 Convertible Notes and any guarantee thereof by a Subsidiary Guarantor.

For purposes of determining compliance with this covenant, in the event that an item of Indebtedness meets the criteria of one or more of the categories of Permitted Indebtedness described in clauses (1) through (11) described above or is entitled to be incurred pursuant to the first paragraph of this covenant, 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 to 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; *provided* that all Indebtedness outstanding on the Issue Date under the Revolving Credit Agreement shall be deemed incurred under clause (10) of the second paragraph of this covenant and not under the first paragraph or clause (2) of the second paragraph and may not be later reclassified; *provided*, *further*, that all Indebtedness under the New Convertible Notes and Additional New Convertible Notes shall be deemed incurred under clause (11) of the second paragraph of this covenant and not under the first paragraph or clause (2) of the second paragraph and may not be later reclassified.

The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount or liquidation preference thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced (plus all accrued interest on the Indebtedness being refinanced and the amount of all expenses and premiums incurred in connection therewith).

Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Company or any Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

Limitation on Restricted Payments

The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly:

(1) declare or pay any dividend on, or make any other 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 in options, warrants or other rights to purchase Qualified Capital Stock of the Company);

(2) 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);

(3) 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 (excluding any intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries), except in any case out of the net cash proceeds of Permitted Refinancing Indebtedness; or

(4) make any Restricted Investment;

(such payments or other actions described in clauses (1) through (4) above being collectively referred to as "Restricted Payments"), unless at the time of and after giving effect to the proposed Restricted Payment:

(1) no Default or Event of Default shall have occurred and be continuing;

(2) the Company could incur $1.00 of additional Indebtedness in accordance with the Fixed Charge Coverage Ratio test set forth in the first paragraph of the "Limitation on Indebtedness and Disqualified Capital Stock" covenant; and

(3) the aggregate amount of all Restricted Payments declared or made after January 1, 2015 shall not exceed the sum (without duplication) of the following (the "Restricted Payments Basket"):

(a) 50% of the Consolidated Net Income of the Company accrued on a cumulative basis during the period beginning on January 1, 2015 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 is a loss, minus 100% of such loss); plus

(b) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after January 1, 2015 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

(c) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after January 1, 2015 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

(d) the aggregate Net Cash Proceeds received after January 1, 2015 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

(e) 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 January 1, 2015 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 January 1, 2015.

Notwithstanding the preceding provisions, the Company and its Restricted Subsidiaries may take the following actions so long as (in the case of clauses (3), (4), (5) and (8) below) no Default or Event of Default shall have occurred and be continuing:

(1) 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 the preceding paragraph (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 the preceding paragraph);

(2) the payment of any dividend payable from a Restricted Subsidiary to the Company or any other Restricted Subsidiary of the Company;

(3) 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 from, a substantially concurrent issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of the Company;

(4) the purchase, 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 issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of the Company;

(5) 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 New Senior Secured Notes 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 New Senior Secured Notes 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 New Senior Secured Notes;

(6) loans made to officers, directors or employees of the Company or any Restricted Subsidiary approved by the Board of Directors in an aggregate amount not to exceed $1.0 million 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 (6);

(7) the repurchase of Equity Interests deemed to occur upon the exercise of stock or other equity options to the extent such Equity Interests represent a portion of the exercise price of those stock or other equity options and any repurchase or other acquisition of Equity Interests is made in lieu of or to satisfy withholding taxes in connection with any exercise or exchange of stock options, warrants, incentives or other rights to acquire Equity Interests; and

(8) other Restricted Payments in an aggregate amount not to exceed $35.0 million.

The actions described in clauses (1), (3), (4) and (6) above shall be Restricted Payments that shall be permitted to be made in accordance with the preceding paragraph but shall reduce the amount that would otherwise be available for Restricted Payments under clause (3) of the second preceding paragraph (provided that any dividend paid pursuant to clause (1) above shall reduce the amount that would otherwise be available under clause (3) of the second preceding paragraph when declared, but not also when subsequently paid pursuant to such clause (1)), and the actions described in clauses (2), (5), (7) and (8) above 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 the second preceding paragraph.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

Limitation on Transactions with Affiliates

The Company will not, and will not permit any Restricted Subsidiary 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 assets or 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) (each, an "*Affiliate Transaction*"), unless

(1) 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 those that would be available in a comparable arm's length transaction with unrelated third parties; and

(2) the Company delivers to the Senior Secured Notes Trustee:

(a) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $10.0 million but no greater than $25.0 million, an officers' certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this covenant; and

(b) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $25.0 million, an officers' certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this covenant and that such Affiliate Transaction or series of Affiliate Transactions has been approved by a majority of the Disinterested Directors of the Company.

The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph:

(1) 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 $1.0 million outstanding at any one time;

(2) 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;

(3) 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;

(4) the Company's employee compensation and other benefit arrangements;

(5) 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 the Senior Secured Notes Indenture; and

(6) any Restricted Payment permitted to be paid pursuant to the terms of the Senior Secured Notes Indenture described under "— Limitation on Restricted Payments."

Limitation on Liens

The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness on any of its property or assets, except for Permitted Liens.

Limitation on Asset Sales

The Company will not, and will not permit any Restricted Subsidiary 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 assets and 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 New Senior Secured Notes) or liabilities of any Subsidiary Guarantor that made such Asset Sale (other than liabilities of a Subsidiary Guarantor that are by their terms subordinated to such Subsidiary Guarantor's Subsidiary 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* that the Company and its Restricted Subsidiaries shall be permitted to receive assets and property other than Permitted Consideration, so long as the aggregate Fair Market Value of all such assets and property other than Permitted Consideration received from Asset Sales since the Issue Date 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

- purchase, repay or prepay Pari Passu Obligations or other Indebtedness of the Company or any Subsidiary Guarantor secured by Permitted Collateral Liens (and, to the extent required pursuant to the terms of the Revolving Credit Agreement (as in effect on the Issue Date) in the case of revolving obligations, to correspondingly reduce commitments with respect thereto); or

- 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); *provided* that if such Asset Sale includes Oil and Gas Properties or Proved and Probable Drilling Locations, after giving effect to such Asset Sale the Company is in compliance with the Collateral requirements of the Senior Secured Notes Indenture.

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 $10.0 million, the Company will be required to make an offer (the "*Asset Sale Offer*") to all Holders of New Senior Secured Notes and all Holders of other Indebtedness that is *pari passu* with the New Senior Secured Notes containing provisions similar to those set forth in the Senior Secured Notes Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of New Senior Secured Notes and such other *pari passu* Indebtedness that may be purchased out of the Excess Proceeds; *provided* to the extent such Excess Proceeds were received in respect of the sale or transfer of assets that constituted Collateral, an Asset Sale Offer will be made solely to the holders of Pari Passu Obligations. The offer price in any Asset Sale Offer will be equal to 100% of principal amount plus accrued and unpaid interest, if any, to the Purchase Date (subject to the right of Holders of record on the relevant record date to receive interest due on an interest payment date that is on or prior to the Purchase Date), and will be payable in cash. If the aggregate principal amount of New Senior Secured Notes tendered by Holders thereof exceeds the amount of available Excess Proceeds allocated for repurchases of New Senior Secured Notes pursuant to the Asset Sale Offer for New Senior Secured Notes, then such Excess Proceeds will be allocated pro rata according to the principal amount of the New Senior Secured Notes tendered and the Senior Secured Notes Trustee will select the New Senior Secured Notes to be purchased in accordance with the Senior Secured Notes Indenture. 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 New Senior Secured Notes have been given the opportunity to tender their New Senior Secured Notes for purchase as described in the following paragraph in accordance with the Senior Secured Notes Indenture, the Company and its Restricted Subsidiaries may use such remaining amount for purposes permitted by the Senior Secured Notes Indenture and the amount of Excess Proceeds will be reset to zero.

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 New Senior Secured Notes pursuant to the preceding paragraph, deliver a written Asset Sale Offer notice, by first-class mail, to the Holders of the New Senior Secured Notes, with a copy to the Senior Secured Notes Trustee (the "*Asset Sale Offer Notice*"), accompanied by such information regarding the Company and its Subsidiaries as the Company believes will enable such Holders of the New Senior Secured Notes to make an informed decision with respect to the Asset Sale Offer. The Asset Sale Offer Notice will state, among other things:

- that the Company is offering to purchase New Senior Secured Notes pursuant to the provisions of the Senior Secured Notes Indenture;
- that any New Senior Secured Note (or any portion thereof) accepted for payment (and duly paid on the Purchase Date) pursuant to the Asset Sale Offer shall cease to accrue interest on the Purchase Date;
- that any New Senior Secured Note (or portions thereof) not properly tendered will continue to accrue interest;
- 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 Asset Sale Offer Notice is mailed (the "Purchase Date");
- the aggregate principal amount of New Senior Secured Notes to be purchased;

- a description of the procedure which Holders of New Senior Secured Notes must follow in order to tender their New Senior Secured Notes and the procedures that Holders of New Senior Secured Notes must follow in order to withdraw an election to tender their New Senior Secured Notes for payment; and

- all other instructions and materials necessary to enable Holders to tender New Senior Secured Notes pursuant to the Asset Sale Offer.

The Company will 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 New Senior Secured Notes as described above. To the extent that the provisions of any securities laws or regulations conflict with the provisions relating to the Asset Sale Offer, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations described above by virtue thereof.

Future Subsidiary Guarantees

If the Company or any of its Restricted Subsidiaries acquires or creates another Wholly Owned Restricted Subsidiary on or after the Issue Date, or any Subsidiary of the Company that is not already a Subsidiary Guarantor has outstanding or guarantees any Indebtedness under the Revolving Credit Agreement, then the Company will (1) (x) cause such Subsidiary to execute and deliver to the Senior Secured Notes Trustee a supplemental indenture pursuant to which such Subsidiary will become a Subsidiary Guarantor and (y) execute amendments to the Collateral Agreements pursuant to which it will grant a Pari Passu Lien on any Collateral held by it in favor of the Collateral Agent, for the benefit of the Pari Passu Secured Parties, and become a Collateral Grantor thereunder, and cause such Liens to be perfected as required thereby and (2) deliver to the Senior Secured Notes Trustee or the Collateral Agent, the Registrar, the Paying Agent or any other agents under the Senior Secured Note Documents one or more opinions of counsel in connection with the foregoing as specified in the Senior Secured Notes Indenture.

Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries

The Company will not, and will 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 pay dividends, in cash or otherwise, or make any other distributions on its Capital Stock, or make payments on any Indebtedness owed, to the Company or any other Restricted Subsidiary; *provided* that the priority that any series of preferred stock of a Restricted Subsidiary has in receiving dividends or liquidating distributions before dividends or liquidating distributions are paid in respect of common stock of such Restricted Subsidiary shall not constitute a restriction on the ability to make dividends or distributions on Capital Stock for purposes of this covenant;

- to make loans or advances to the Company or any other Restricted Subsidiary; or

- to transfer any of its property or assets to the Company or any other Restricted Subsidiary

(any such restrictions being collectively referred to herein as a "*Payment Restriction*"). However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(1) 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;

(2) 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 or assets of the Person, so acquired, provided that such Indebtedness was not incurred in anticipation of such acquisition;

(3) any instrument governing Indebtedness or Disqualified Capital Stock of a Restricted Subsidiary that is not a Subsidiary Guarantor; *provided* that (a) such Indebtedness or Disqualified Capital Stock is permitted under the covenant described in "—Limitation on Indebtedness and Disqualified Capital Stock" and (b) the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement and the Senior Secured Notes Indenture as in effect on the Issue Date;

(4) the Revolving Credit Agreement as in effect on the Issue Date or any agreement that amends, modifies, supplements, restates, extends, renews, refinances or replaces the Revolving Credit Agreement; *provided* that the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement as in effect on the Issue Date;

(5) the Senior Secured Notes Indenture, the New Senior Secured Notes and the Subsidiary Guarantees; or

(6) the Convertible Notes Indentures, the New Convertible Notes and any subsidiary guarantees thereof, in each case as in effect on the Issue Date.

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 (1) 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 (2) the Company or such Restricted Subsidiary receives proceeds from such Sale/ Leaseback Transaction at least equal to the Fair Market Value thereof 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.

Change of Control

If a Change of Control occurs, each Holder of New Senior Secured Notes will have the right to require the Company to repurchase all or any part (in integral multiples of $1.00) of that Holder's New Senior Secured Notes pursuant to a change of control offer (a "*Change of Control Offer*") on the terms set forth in the Senior Secured Notes Indenture. In the Change of Control Offer, the Company will offer a payment in cash (the "*Change of Control Payment*") equal to 101% (or, at the Company's election, a higher percentage) of the aggregate principal amount of New Senior Secured Notes repurchased, plus accrued and unpaid interest, if any, on the New Senior Secured Notes repurchased to the date of purchase (the "*Change of Control Payment Date*"), subject to the rights of Holders of New Senior Secured Notes on the relevant record date to receive interest due on the relevant interest payment date. No later than 30 days following any Change of Control, the Company will deliver a notice to the Senior Secured Notes Trustee and paying agent and each Holder of the New Senior Secured Notes describing the transaction or transactions that constitute the Change of Control and offering to repurchase New Senior Secured Notes on the Change of Control Payment Date specified in the notice, which date will be no earlier than 30 days and no later than 60 days from the date such notice is mailed, pursuant to the procedures required by the Senior Secured Notes Indenture and described in such notice. The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations to the extent those requirements, laws and regulations are applicable in connection with the repurchase of the New Senior Secured Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or

regulations conflict with the Change of Control provisions of the Senior Secured Notes Indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of the Senior Secured Notes Indenture by virtue of such compliance.

On or before the Change of Control Payment Date, the Company will, to the extent lawful:

(1) accept for payment all New Senior Secured Notes or portions of New Senior Secured Notes properly tendered and not withdrawn pursuant to the Change of Control Offer;

(2) deposit with the paying agent an amount equal to the Change of Control Payment in respect of all New Senior Secured Notes or portions of New Senior Secured Notes properly tendered and not withdrawn; and

(3) deliver or cause to be delivered to the Senior Secured Notes Trustee and paying agent the New Senior Secured Notes properly accepted together with an officers' certificate stating the aggregate principal amount of New Senior Secured Notes or portions of New Senior Secured Notes being purchased by the Company.

The paying agent will promptly deliver to each Holder of New Senior Secured Notes properly tendered and not withdrawn the Change of Control Payment for such New Senior Secured Notes (or if all New Senior Secured Notes are then in global form, make such payment through the facilities of DTC), and the Senior Secured Notes Trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a New Senior Secured Note equal in principal amount to any unpurchased portion of the New Senior Secured Notes surrendered, if any; *provided* that each such New Senior Secured Note will be in a principal amount that is in integral multiples of $1.00. The Company will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

The provisions described above that require the Company to make a Change of Control Offer following a Change of Control will be applicable whether or not any other provisions of the Senior Secured Notes Indenture are applicable. Except as described above with respect to a Change of Control, the Senior Secured Notes Indenture does not contain provisions that permit the Holders of the New Senior Secured Notes to require that the Company repurchase or redeem the New Senior Secured Notes in the event of a takeover, recapitalization or similar transaction.

The Company will not be required to make a Change of Control Offer upon a Change of Control if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in the Senior Secured Notes Indenture applicable to a Change of Control Offer made by the Company and purchases all New Senior Secured Notes properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of redemption has been given pursuant to the Senior Secured Notes Indenture as described above under "—Redemption—Optional Redemption," unless and until there is a default in payment of the applicable redemption price.

Notwithstanding anything to the contrary contained herein, a Change of Control Offer may be made in advance of a Change of Control, conditioned upon the consummation of such Change of Control, if a definitive agreement is in place for the Change of Control at the time the Change of Control Offer is made.

If Holders of not less than 90% in aggregate principal amount of the outstanding New Senior Secured Notes validly tender and do not withdraw such New Senior Secured Notes in a Change of Control Offer and the Company, or any third party making a Change of Control Offer in lieu of the Company as described above, purchases all of the New Senior Secured Notes validly tendered and not withdrawn by such Holders, the Company will have the right, upon not less than 30 nor more than 60 days' prior notice, given not more than 30 days following such purchase pursuant to the Change of Control Offer described above, to redeem all New

Senior Secured Notes that remain outstanding following such purchase at a redemption price in cash equal to the applicable Change of Control Purchase Price plus, to the extent not included in the Change of Control Purchase Price, accrued and unpaid interest, if any, to the date of redemption.

The definition of Change of Control includes a phrase relating to the direct or indirect sale, lease, transfer, conveyance or other disposition of "all or substantially all" of the properties or assets of the Company and the Restricted Subsidiaries, taken as a whole. Although there is a limited body of case law interpreting the phrase "substantially all," there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a Holder of New Senior Secured Notes to require the Company to repurchase its New Senior Secured Notes as a result of a sale, lease, transfer, conveyance or other disposition of less than all of the assets of the Company and the Restricted Subsidiaries, taken as a whole, to another Person or group may be uncertain.

The Change of Control provisions of the New Senior Secured Notes may, in certain circumstances, make more difficult or discourage a sale or takeover of the Company and, thus, the removal of incumbent management. Subject to the limitations discussed below, the Company could, in the future, enter into certain transactions, including acquisitions, refinancings or other recapitalizations, that would not constitute a Change of Control under the Senior Secured Notes Indenture, but that could increase the amount of Indebtedness outstanding at such time or otherwise affect the Company's capital structure or credit ratings. Restrictions on the Company's ability to Incur additional Indebtedness are contained in the covenants described under "—Certain Covenants— Limitation on Indebtedness and Disqualified Capital Stock" and "—Certain Covenants—Limitation on Restricted Payments." Such restrictions in the Senior Secured Notes Indenture can be waived only with the consent of Holders of a majority in principal amount of the New Senior Secured Notes then outstanding. Except for the limitations contained in such covenants, however, the Senior Secured Notes Indenture will not contain any covenants or provisions that may afford Holders of the New Senior Secured Notes protection in the event of a highly leveraged transaction.

The Company's ability to repurchase the New Senior Secured Notes pursuant to the Change of Control Offer may be limited by a number of factors. The ability of the Company to pay cash to the Holders of the New Senior Secured Notes following the occurrence of a Change of Control may be limited by the Company's and the Restricted Subsidiaries' then existing financial resources, and sufficient funds may not be available when necessary to make any required repurchases. See "Risk Factors—Risks Related to the Exchange Offer and Holding the New Notes—Risks Related to Holding the New Notes—We may not have the ability to purchase the new notes upon a change of control or upon certain sales or other dispositions of assets, or to make the cash payment due upon conversion or at maturity."

Future agreements governing Indebtedness of the Company or its Subsidiaries may contain prohibitions of certain events, including events that would constitute a Change of Control and including repurchases or other prepayments in respect of the New Senior Secured Notes. The exercise by the Holders of New Senior Secured Notes of their right to require the Company to repurchase the New Senior Secured Notes upon a Change of Control could cause a default under these other agreements, even if the Change of Control itself does not, due to the financial effect of such repurchases on the Company or its Subsidiaries. In the event a Change of Control occurs at a time when the Company is prohibited from purchasing or redeeming New Senior Secured Notes, the Company could seek the consent of its other applicable debt holders or lenders to purchase the New Senior Secured Notes or could attempt to refinance the borrowings that contain such prohibition. If the Company does not obtain a consent or repay those borrowings, the Company will remain prohibited from purchasing New Senior Secured Notes. In that case, the Company's failure to purchase tendered New Senior Secured Notes would constitute an Event of Default under the Senior Secured Notes Indenture, which could, in turn, constitute a default under other Indebtedness of the Company.

Reports

The Senior Secured Notes Indenture provides that, whether or not the Company is subject to the reporting requirements of Section 13 or Section 15(d) of the Exchange Act, to the extent not prohibited by the Exchange

Act, the Company will file with the Commission, and make available to the Senior Secured Notes Trustee and the Holders of the New Senior Secured Notes without cost to any Holder, the annual reports and the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) that are specified in Sections 13 and 15(d) of the Exchange Act and applicable to a U.S. corporation within the time periods specified therein with respect to an accelerated filer. In the event that the Company is not permitted to file such reports, documents and information with the Commission pursuant to the Exchange Act, the Company will nevertheless make available such Exchange Act information to the Senior Secured Notes Trustee and the Holders of the New Senior Secured Notes without cost to any Holder as if the Company were subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act within the time periods specified therein with respect to a non-accelerated filer.

If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then, to the extent material, the quarterly and annual financial information required by the preceding paragraph will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

The availability of the foregoing materials on the Commission's website or on the Company's website shall be deemed to satisfy the foregoing delivery obligations.

The Senior Secured Notes Indenture also provides that the Company will deliver all reports and other information required to be delivered under the TIA within the time periods set forth in the TIA.

Future Designation of Restricted and Unrestricted Subsidiaries

The Board of Directors of the Company may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if:

(1) the Company would be permitted to make (i) a Permitted Investment or (ii) an Investment pursuant to the covenant described under "—Limitation on Restricted Payments" above, in either case, in an amount equal to the Fair Market Value of all outstanding Investments owned by the Company and the Restricted Subsidiaries in such Subsidiary at the time of such designation;

(2) such Restricted Subsidiary meets the definition of an "Unrestricted Subsidiary";

(3) the designation would not constitute or cause (with or without the passage of time) a Default or Event of Default and no Default or Event of Default would be in existence following such designation; and

(4) the Company delivers to the Senior Secured Notes Trustee a certified copy of a resolution of the Board of Directors of Company giving effect to such designation and an officers' certificate certifying that such designation complied with the preceding conditions and was permitted by the covenant described under "—Limitation on Restricted Payments".

If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Company and the Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under the covenant set forth under "—Limitation on Restricted Payments" or under one or more clauses of the definition of Permitted Investments, as determined by the Company.

If, at any time, any Unrestricted Subsidiary designated as such would fail to meet the preceding requirements as an Unrestricted Subsidiary, then such Subsidiary will thereafter cease to be an Unrestricted Subsidiary for purposes of the Senior Secured Notes Indenture and any Indebtedness of such Subsidiary will be deemed to be Incurred by a Restricted Subsidiary as of such date and, if such Indebtedness is not permitted to be Incurred as of such date under the covenant set forth under "—Limitation on Indebtedness and Disqualified Capital Stock," the Company or the applicable Restricted Subsidiary will be in default of such covenant.

The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary if:

(a) the Company and the Restricted Subsidiaries could Incur the Indebtedness which is deemed to be Incurred upon such designation under the "—Limitation on Indebtedness and Disqualified Capital Stock" covenant, equal to the total Indebtedness of such Subsidiary calculated on a pro forma basis as if such designation had occurred on the first day of the four-quarter reference period;

(b) the designation would not constitute or cause a Default or Event of Default; and

(c) the Company delivers to the Senior Secured Notes Trustee a certified copy of a resolution of the Board of Directors of the Company giving effect to such designation and an officers' certificate certifying that such designation complied with the preceding conditions, including the Incurrence of Indebtedness under the covenant described under "—Limitation on Indebtedness and Disqualified Capital Stock".

Merger, Consolidation and Sale of Assets

The Company will not, in any single transaction or 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 of the properties and assets of the Company and its Restricted Subsidiaries on a consolidated basis to any Person or group of Affiliated Persons, and the Company will 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 the sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the properties and assets 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 effect thereto:

(1) either (a) if the transaction is a merger or consolidation, the Company shall be the surviving Person of such merger or consolidation, or (b) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or to which the properties and assets 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 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 a supplemental indenture to the Senior Secured Notes Indenture executed and delivered to the Senior Secured Notes Trustee, in form satisfactory to the Senior Secured Notes Trustee, and pursuant to agreements reasonably satisfactory to the Senior Secured Notes Trustee and the Collateral Agent, as applicable, all the obligations of the Company under the New Senior Secured Notes, the Senior Secured Notes Indenture and the other Senior Secured Note Documents to which the Company is a party, and, in each case, such Senior Secured Note Documents shall remain in full force and effect;

(2) 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 an obligation of the Company or any of its

Restricted Subsidiaries in connection with or as a result of such transaction as having been incurred at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(3) except in the case of the consolidation or merger of any Restricted Subsidiary with or into the Company or another Restricted Subsidiary, either:

(a) 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 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 the Senior Secured Notes Indenture) could incur $1.00 of additional Indebtedness in accordance with the Fixed Charge Coverage Ratio test set forth in the first paragraph of the "Limitation on Indebtedness and Disqualified Capital Stock" covenant; or

(b) 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 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 Fixed Charge Coverage Ratio of the Company (or the Surviving Entity if the Company is not the continuing obligor under the Senior Secured Notes Indenture) will be equal to or greater than the Fixed Charge Coverage Ratio of the Company immediately before such transaction or transactions;

(4) if the Company is not the continuing obligor under the Senior Secured Notes Indenture, then each Subsidiary Guarantor, unless it is the Surviving Entity, shall have by supplemental indenture to the Senior Secured Notes Indenture confirmed that its Subsidiary Guarantee of the New Senior Secured Notes shall apply to the Surviving Entity's obligations under the Senior Secured Notes Indenture and the New Senior Secured Notes;

(5) any Collateral owned by or transferred to the Surviving Entity shall (a) continue to constitute Collateral under the Senior Secured Notes Indenture and the Collateral Agreements and (b) be subject to a Pari Passu Lien in favor of the Collateral Agent for the benefit of the Pari Passu Secured Parties;

(6) the Surviving Entity shall take such action (or agree to take such action) as may be reasonably necessary to cause any property or assets that constitute Collateral owned by or transferred to the Surviving Entity to be subject to the Pari Passu Liens in the manner and to the extent required under the Collateral Agreements and shall deliver an opinion of counsel as to the enforceability of any amendments, supplements or other instruments with respect to the Collateral Agreements to be executed, delivered, filed and recorded, as applicable, and such other matters as the Senior Secured Notes Trustee or Collateral Agent, as applicable, may reasonably request; and

(7) the Company (or the Surviving Entity if the Company is not the continuing obligor under the Senior Secured Notes Indenture) shall have delivered to the Senior Secured Notes Trustee, in form and substance reasonably satisfactory to the Senior Secured Notes Trustee, an officers' certificate and an opinion of counsel each stating that such consolidation, merger, transfer,

lease or other disposition and any supplemental indenture in respect thereto comply with the requirements under the Senior Secured Notes Indenture and that the requirements of this paragraph have been complied with.

Upon any consolidation or merger or any sale, assignment, lease, conveyance, transfer or other disposition of all or substantially all of the properties and assets of the Company and its Restricted Subsidiaries on a consolidated basis in accordance with the foregoing, in which the Company is not the continuing corporation, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of, the Company under the Senior Secured Notes Indenture and the other Senior Secured Note Documents with the same effect as if the Surviving Entity had been named as the Company therein, and thereafter the Company, except in the case of a lease, will be discharged from all obligations and covenants under the New Senior Secured Notes, the Senior Secured Notes Indenture and the other Senior Secured Note Documents and may be liquidated and dissolved.

Events of Default

The following are "Events of Default" under the Senior Secured Notes Indenture:

(1) default in any payment of interest with respect to the New Senior Secured Notes when due, which default continues for 30 days;

(2) default in the payment when due (at maturity, upon optional redemption, upon declaration of acceleration or otherwise) of the principal of, or premium, if any, on, the New Senior Secured Notes;

(3) failure by the Company to comply with the provisions described under the captions "—Certain Covenants—Limitation on Asset Sales," "—Certain Covenants—Change of Control," or "—Merger, Consolidation and Sale of Assets";

(4) (a) except with respect to the covenant described under "—Certain Covenants—Reports," failure by the Company or any of the Restricted Subsidiaries for 60 days after notice to the Company by the Senior Secured Notes Trustee or the Holders of at least 25% in aggregate principal amount of the New Senior Secured Notes then outstanding voting as a single class to comply with any covenant or agreement (other than a default referred to in clauses (1), (2) and (3) above) contained in the Senior Secured Notes Indenture, the Collateral Agreements or the New Senior Secured Notes, or (b) failure by the Company for 120 days after notice to the Company by the Senior Secured Notes Trustee or the Holders of at least 25% in aggregate principal amount of the New Senior Secured Notes then outstanding voting as a single class to comply with the covenant described under "—Certain Covenants—Reports;"

(5) default under the Revolving Credit Agreement, if that default:

(a) is caused by a failure to pay principal of, or interest or premium, if any, on, any Revolving Credit Agreement Obligation prior to the expiration of the grace period, if any, provided in the Revolving Credit Agreement on the date of such default; or

(b) permits the Revolving Credit Agreement Agent or any Revolving Credit Agreement Secured Parties to accelerate all or any part of the Revolving Credit Agreement Obligations prior to their Stated Maturity,

provided that if any such default is cured or waived, or the Discharge of Revolving Credit Agreement Obligations occurs, within a period of 30 days from the occurrence of such default, such Event of Default and any consequential acceleration of the New Senior Secured Notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;

(6) default (other than a default referred to in clause (5) above) under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Company or any of the Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of the Restricted Subsidiaries), whether such Indebtedness or guarantee now exists or is created after the Issue Date, if that default:

(a) is caused by a failure to pay principal of, or interest or premium, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "*Payment Default*"); or

(b) results in the acceleration of such Indebtedness prior to its Stated Maturity,

and, in either case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates $25.0 million or more; *provided* that if any such default is cured or waived or any such acceleration rescinded, or such Indebtedness is repaid, within a period of 60 days from the continuation of such default beyond the applicable grace period or the occurrence of such acceleration, as the case may be, such Event of Default and any consequential acceleration of the New Senior Secured Notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;

(7) failure by the Company or any of the Restricted Subsidiaries to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of $25.0 million, which judgments are not paid, discharged or stayed for a period of 60 days;

(8) the occurrence of the following:

(a) except as permitted by the Senior Secured Note Documents, any Collateral Agreement establishing the Pari Passu Liens ceases for any reason to be enforceable; *provided* that it will not be an Event of Default under this clause (8)(a) if the sole result of the failure of one or more Collateral Agreements to be fully enforceable is that any Pari Passu Lien purported to be granted under such Collateral Agreements on Collateral, individually or in the aggregate, having a fair market value of not more than $10.0 million, ceases to be an enforceable and perfected first-priority Lien, subject only to the payment priorities in favor of the holders of Revolving Credit Agreement Obligations pursuant to the terms of the Pari Passu Intercreditor Agreement and subject to Permitted Collateral Liens; *provided*, *further*, that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period;

(b) except as permitted by the Senior Secured Note Documents, any Pari Passu Lien purported to be granted under any Collateral Agreement on Collateral, individually or in the aggregate, having a fair market value in excess of $10.0 million, ceases to be an enforceable and perfected first-priority Lien, subject only to the payment priorities in favor of the holders of Revolving Credit Agreement Obligations pursuant to the terms of the Pari Passu Intercreditor Agreement and subject to Permitted Collateral Liens; *provided* that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period; and

(c) the Company or any other Collateral Grantor, or any Person acting on behalf of any of them, denies or disaffirms, in writing, any obligation of the Company or any other Collateral Grantor set forth in or arising under any Collateral Agreement establishing Pari Passu Liens.

(9) except as permitted by the Senior Secured Notes Indenture, any Subsidiary Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Subsidiary Guarantor, or any Person duly acting on behalf of any such Subsidiary Guarantor, denies or disaffirms its obligations under its Subsidiary Guarantee;

(10) certain events of bankruptcy or insolvency described in the Senior Secured Notes Indenture with respect to the Company or any Restricted Subsidiary that is a Significant Subsidiary, or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary; and

(11) the Required Stockholder Approval is not obtained and the Charter Amendment has not become effective, in each case by December 31, 2016, and such failure shall continue for a period of 90 days.

The Senior Secured Notes Trustee shall not be charged with knowledge of any Default or Event of Default with respect to the New Senior Secured Notes unless a written notice of such Default or Event of Default shall have been given to an officer of the Senior Secured Notes Trustee with direct responsibility for the administration of the Senior Secured Notes Indenture and the New Senior Secured Notes, by the Company or any Holder of New Senior Secured Notes.

In the case of an Event of Default described in clause (10) above with respect to the Company or a Subsidiary Guarantor, all outstanding New Senior Secured Notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Senior Secured Notes Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding New Senior Secured Notes may declare all the New Senior Secured Notes to be due and payable immediately.

If the New Senior Secured Notes are accelerated or otherwise become due prior to their maturity date, the amount of principal of, accrued and unpaid interest and premium on the New Senior Secured Notes that becomes due and payable shall equal the redemption price applicable with respect to an optional redemption of the New Senior Secured Notes, in effect on the date of such acceleration as if such acceleration were an optional redemption of the New Senior Secured Notes accelerated.

Without limiting the generality of the foregoing, it is understood and agreed that if the New Senior Secured Notes are accelerated or otherwise become due prior to their maturity date, in each case, in respect of any Event of Default (including, but not limited to, upon the occurrence of a bankruptcy or insolvency event (including the acceleration of claims by operation of law)), the premium applicable with respect to an optional redemption of the New Senior Secured Notes will also be due and payable, in cash, as though the New Senior Secured Notes were optionally redeemed and shall constitute part of the Senior Secured Note Obligations, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Holder's lost profits as a result thereof. Any premium payable above shall be presumed to be the liquidated damages sustained by each Holder as the result of the early redemption and the Company agrees that it is reasonable under the circumstances currently existing. The premium shall also be payable in the event the New Senior Secured Notes (and/or the Senior Secured Notes Indenture) are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other means. THE COMPANY EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Company expressly agrees (to the fullest extent it may lawfully do so) that: (A) the premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (B) the premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) there has been a course of conduct between Holders and the Company giving specific consideration in this transaction for such agreement to pay the premium; and (D) the Company shall be

estopped hereafter from claiming differently than as agreed to in this paragraph. The Company expressly acknowledges that its agreement to pay the premium to Holders as herein described is a material inducement to Holders to purchase the New Senior Secured Notes.

Subject to certain limitations, Holders of a majority in aggregate principal amount of the then outstanding New Senior Secured Notes may direct the Senior Secured Notes Trustee in its exercise of any trust or power. The Senior Secured Notes Trustee may withhold from Holders of the New Senior Secured Notes notice of any continuing Default or Event of Default if it determines that withholding notice is in their interest, except a Default or Event of Default relating to the payment of principal of, or premium, if any, or interest on the New Senior Secured Notes.

Subject to the provisions of the Senior Secured Notes Indenture relating to the duties of the Senior Secured Notes Trustee, in case an Event of Default occurs and is continuing, the Senior Secured Notes Trustee will be under no obligation to exercise any of the rights or powers under the Senior Secured Notes Indenture at the request or direction of any Holders of New Senior Secured Notes unless such Holders have offered to the Senior Secured Notes Trustee, and the Senior Secured Notes Trustee has received, indemnity or security (or both) satisfactory to it against any loss, liability or expense. Except to enforce the right to receive payment of principal, premium, if any, or interest, if any, when due, no Holder of a note may pursue any remedy with respect to the Senior Secured Notes Indenture or the New Senior Secured Notes unless:

(1) such Holder has previously given the Senior Secured Notes Trustee written notice that an Event of Default is continuing;

(2) Holders of at least 25% in aggregate principal amount of the then outstanding New Senior Secured Notes have made a written request to the Senior Secured Notes Trustee to pursue the remedy;

(3) such Holders have offered the Senior Secured Notes Trustee, and the Senior Secured Notes Trustee has received (if requested), security or indemnity (or both) satisfactory to it against any loss, liability or expense;

(4) the Senior Secured Notes Trustee has not complied with such request within 60 days after its receipt of the request and the offer of security or indemnity (or both) satisfactory to it; and

(5) Holders of a majority in aggregate principal amount of the then outstanding New Senior Secured Notes have not given the Senior Secured Notes Trustee a direction inconsistent with such request within such 60-day period.

The Holders of a majority in aggregate principal amount of the then outstanding New Senior Secured Notes by notice to the Senior Secured Notes Trustee may, on behalf of the Holders of all of the New Senior Secured Notes, rescind an acceleration or waive any existing Default or Event of Default and its consequences under the Senior Secured Notes Indenture except a continuing Default or Event of Default in the payment of principal of, or premium, if any, interest, if any, on, the New Senior Secured Notes (other than a payment Default or Event of Default that resulted from an acceleration that has been rescinded).

The Company is required to deliver to the Senior Secured Notes Trustee annually a statement in writing regarding compliance with the Senior Secured Notes Indenture. Within 10 days of becoming aware of any Default or Event of Default, the Company is required to deliver to the Senior Secured Notes Trustee a statement in writing specifying such Default or Event of Default.

Legal Defeasance or Covenant Defeasance of Senior Secured Notes Indenture

The Company may at any time elect to have all of its obligations discharged with respect to the outstanding New Senior Secured Notes and all obligations of the Subsidiary Guarantors discharged with respect to their Subsidiary Guarantees ("Legal Defeasance") except for:

(1) the rights of Holders of outstanding New Senior Secured Notes to receive payments in respect of, the principal of, and premium or interest, if any, on, such New Senior Secured Notes when such payments are due from the trust referred to below;

(2) the Company's obligations with respect to the New Senior Secured Notes concerning issuing temporary New Senior Secured Notes, registration of New Senior Secured Notes, mutilated, destroyed, lost or stolen New Senior Secured Notes and the maintenance of an office or agency for payment and money for security payments held in trust;

(3) the rights, powers, trusts, duties, indemnities and immunities of the Agents, and the Company's and the Subsidiary Guarantors' obligations in connection therewith; and

(4) the Legal Defeasance and Covenant Defeasance provisions of the Senior Secured Notes Indenture.

If the Company exercises either its Legal Defeasance or Covenant Defeasance option, each Subsidiary Guarantor will be released and relieved of any obligation under its Subsidiary Guarantee.

In addition, the Company may elect to have the obligations of the Company and the Subsidiary Guarantors released with respect to certain covenants (including its obligation to make Change of Control Offers and Asset Sale Offers) that are described in the Senior Secured Notes Indenture ("*Covenant Defeasance*") and thereafter any omission to comply with those covenants will not constitute a Default or Event of Default with respect to the New Senior Secured Notes. In the event Covenant Defeasance occurs, all Events of Default described under "—Events of Default" (except those relating to payments on the New Senior Secured Notes, the enforceability of the Subsidiary Guarantees, bankruptcy, receivership, rehabilitation or insolvency events, and the Required Stockholder Approval) will no longer constitute an Event of Default with respect to the New Senior Secured Notes.

In order to exercise either Legal Defeasance or Covenant Defeasance:

(1) the Company must irrevocably deposit with the paying agent, in trust, for the benefit of the Holders of the New Senior Secured Notes, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient without consideration of any reinvestment of interest, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay the principal of, and premium, if any, and interest, if any, on, the outstanding New Senior Secured Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the New Senior Secured Notes are being defeased to such stated date for payment or to a particular redemption date;

(2) in the case of Legal Defeasance, the Company must deliver to the Senior Secured Notes Trustee, registrar and paying agent an opinion of U.S. counsel who is acceptable to the Senior Secured Notes Trustee confirming that (a) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the Issue Date, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion of counsel will confirm that, the Holders of the outstanding New Senior

Secured Notes 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;

(3) in the case of Covenant Defeasance, the Company must deliver to the Senior Secured Notes Trustee, registrar and paying agent an opinion of counsel reasonably acceptable to the Senior Secured Notes Trustee confirming that the Holders of the outstanding New Senior Secured Notes 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;

(4) no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from, or otherwise in connection with, the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Indebtedness) and the grant of any Lien securing such borrowing);

(5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than the Senior Secured Notes Indenture) to which the Company or any of its Restricted Subsidiaries is a party or by which the Company or any of its Restricted Subsidiaries is bound;

(6) the Company must deliver to the Senior Secured Notes Trustee, registrar and paying agent an officers' certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of New Senior Secured Notes over the other creditors of the Company or any Subsidiary Guarantor with the intent of defeating, hindering, delaying or defrauding any creditors of the Company, any Subsidiary Guarantor or others; and

(7) the Company must deliver to the Senior Secured Notes Trustee, registrar and paying agent an officers' certificate and an opinion of counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Satisfaction and Discharge

The Senior Secured Notes Indenture and the other Senior Secured Note Documents will be discharged and will cease to be of further effect as to all New Senior Secured Notes issued thereunder (except as to rights of registration of transfer or exchange of the New Senior Secured Notes and as otherwise specified in the Senior Secured Notes Indenture) when:

(1) either:

(a) all New Senior Secured Notes that have been authenticated, except lost, stolen or destroyed New Senior Secured Notes that have been replaced or paid and New Senior Secured Notes for whose payment money has been deposited in trust and thereafter repaid to the Company, have been delivered to the registrar for cancellation; or

(b) all New Senior Secured Notes that have not been delivered to the registrar for cancellation have become due and payable or will become due and payable within one year by reason of the mailing of a notice of redemption or otherwise and the Company or any Subsidiary Guarantor has irrevocably deposited or caused to be deposited with the paying agent as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and

non-callable Government Securities, in amounts as will be sufficient, without consideration of any reinvestment of interest, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants expressed in a written certification thereof delivered to the Trustee to pay and discharge the entire Indebtedness on the New Senior Secured Notes not delivered to the registrar for cancellation of principal, premium, if any, and accrued interest, if any, on, the New Senior Secured Notes to the date of maturity or redemption;

(2) in respect of clause (1)(b), the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Subsidiary Guarantor is a party or by which the Company or any Subsidiary Guarantor is bound (other than with respect to the borrowing of funds to be applied concurrently to make the deposit required to effect such satisfaction and discharge and any similar concurrent deposit relating to other Indebtedness, and in each case the granting of Liens to secure such borrowings);

(3) the Company or any Subsidiary Guarantor has paid or caused to be paid all sums payable by it under the Senior Secured Notes Indenture; and

(4) the Company has delivered irrevocable instructions to the Senior Secured Notes Trustee, registrar and paying agent under the Senior Secured Notes Indenture to apply the deposited money toward the payment of the New Senior Secured Notes at maturity or on the redemption date, as the case may be.

In addition, the Company must deliver an officers' certificate and an opinion of counsel to the Senior Secured Notes Trustee, registrar and paying agent stating that all conditions precedent to satisfaction and discharge have been satisfied.

Amendments and Waivers

Except as provided in the succeeding paragraphs, the Senior Secured Note Documents may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the New Senior Secured Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, New Senior Secured Notes), and any existing Default or Event of Default or compliance with any provision of Senior Secured Note Documents may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding New Senior Secured Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, New Senior Secured Notes), in each case in addition to any required consent of holders of other Pari Passu Obligations that may be required with respect to an amendment of or waiver under a Collateral Agreement or any Intercreditor Agreement.

Without the consent of each Holder of New Senior Secured Notes affected, an amendment, supplement or waiver may not:

(1) reduce the percentage of principal amount of New Senior Secured Notes whose Holders must consent to an amendment, supplement or waiver;

(2) reduce the principal of, or change the fixed maturity of, any note or alter the provisions with respect to the redemption of the New Senior Secured Notes (other than with respect to minimum notice required for redemption or provisions relating to the covenants described above under "—Certain Covenants—Change of Control" and "—Certain Covenants—Limitation on Asset Sales"), including any provision relating to the premium payable upon any such purchase or redemption;

(3) reduce the rate of or change the time for payment of interest, including default interest, on any note;

(4) impair the right of any Holder of New Senior Secured Notes to institute suit for the enforcement of any payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the redemption date);

(5) waive a Default or Event of Default in the payment of principal of, or interest, or premium, if any, on, the New Senior Secured Notes (except a rescission of acceleration of the New Senior Secured Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding New Senior Secured Notes and a waiver of the payment default that resulted from such acceleration);

(6) make any note payable in money other than that stated in the New Senior Secured Notes;

(7) make any change in the provisions of the Senior Secured Notes Indenture relating to waivers of past Defaults or the rights of Holders of New Senior Secured Notes to receive payments of principal of, or interest, or premium, if any, on, the New Senior Secured Notes;

(8) waive a redemption payment with respect to any note (other than a payment required by the covenants described above under the captions "—Certain Covenants—Limitation on Asset Sales" and "—Certain Covenants—Change of Control");

(9) release any Subsidiary Guarantor from any of its obligations under its Subsidiary Guarantee or the Senior Secured Notes Indenture, except in accordance with the terms of the Senior Secured Notes Indenture; or

(10) make any change in the preceding amendment, supplement and waiver provisions.

The consent of Holders representing at least two-thirds of outstanding New Senior Secured Notes will be required to release the Liens for the benefit of the Holders of the New Senior Secured Notes on all or substantially all of the Collateral, other than in accordance with the Senior Secured Note Documents.

Notwithstanding the foregoing, without the consent of any Holder of New Senior Secured Notes, the Company, the Guarantors, the Senior Secured Notes Trustee and the Collateral Agent, may amend or supplement any of the Senior Secured Note Documents:

(1) to cure any ambiguity, defect or inconsistency;

(2) to provide for uncertificated New Senior Secured Notes in addition to or in place of certificated New Senior Secured Notes;

(3) to provide for the assumption of the Company's or a Subsidiary Guarantor's obligations to Holders of New Senior Secured Notes and Subsidiary Guarantees in the case of a merger or consolidation or sale of all or substantially all of the Company's or such Subsidiaries Guarantor's assets, as applicable;

(4) to make any change that would provide any additional rights or benefits to the Holders of New Senior Secured Notes or that does not adversely affect the legal rights under the Senior Secured Notes Indenture of any such Holder in any material respect;

(5) to conform the text of any Senior Secured Note Document to any provision of this "Description of New Senior Secured Notes" to the extent that such provision in this "Description of New Senior Secured Notes" was intended to set forth, verbatim or in substance, a provision of such Senior Secured Note Document, which intent may be evidenced by an officers' certificate to that effect;

(6) to evidence and provide for the acceptance of the appointment under the Senior Secured Note Documents of a successor Senior Secured Notes Trustee or Collateral Agent;

(7) to make, complete or confirm any grant of Collateral permitted or required by the Senior Secured Notes Indenture or any of the Pari Passu Documents;

(9) to add any additional Guarantor or Collateral or to evidence the release of any Guarantor from its Subsidiary Guarantee or the release of any Liens, in each case as provided in the Senior Secured Notes Indenture or the other Senior Secured Note Documents, as applicable;

(10) with respect to the Collateral Agreements, as provided in the Pari Passu Intercreditor Agreement; and

(11) to comply with any requirement in order to effect or maintain the qualification of the of the Senior Secured Notes Indenture under the TIA.

In addition to the foregoing, the Intercreditor Agreements may be amended in accordance with its terms and without the consent of any Holder, the Senior Secured Notes Trustee, the Collateral Agent or the Junior Lien Collateral Agent to add other parties (or any authorized agent thereof or trustee therefor) holding Indebtedness subject thereto and to establish that the Liens on any Collateral securing such Indebtedness shall rank equally with the Liens on such Collateral securing the Pari Passu Obligations then outstanding.

The consent of the Holders of the New Senior Secured Notes is not necessary under the Senior Secured Notes Indenture to approve the particular form of any proposed amendment, supplement or waiver. It is sufficient if such consent approves the substance of the proposed amendment, supplement or waiver.

The Senior Secured Notes Trustee and Collateral Agent will be entitled to rely on officers' certificates and opinions of counsel that any such amendment, supplement or waiver is in compliance with the terms of the Senior Secured Notes Indenture.

No Personal Liability of Directors, Officers, Employees and Stockholders

No director, officer, employee, incorporator, stockholder, member, partner or trustee of the Company or any Subsidiary Guarantor, as such, shall have any liability for any obligations of the Company or any Subsidiary Guarantor under the Senior Secured Note Documents or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the New Senior Secured Notes.

The Senior Secured Notes Trustee

American Stock Transfer & Trust Company, LLC will serve as trustee under the Senior Secured Notes Indenture. The Senior Secured Notes Indenture (including provisions of the TIA incorporated by reference therein) contains limitations on the rights of the Senior Secured Notes Trustee thereunder, should it become a creditor of the Company, to obtain payment of claims in certain cases or to realize on certain property received by it in respect of any such claims, as security or otherwise. The Senior Secured Notes Indenture permits the Senior Secured Notes Trustee to engage in other transactions; *provided* that if it acquires any conflicting interest (as defined in

the TIA), it must eliminate such conflict or resign. The Senior Secured Notes Trustee also serves as the trustee under the Old Indentures and the Convertible Notes Indentures.

Notwithstanding anything to the contrary contained herein, the Senior Secured Notes Trustee shall have no responsibility for (i) preparing, recording, filing, re-recording, or re-filing any financing statement, perfection statement, continuation statement or other instrument in any public office or for otherwise ensuring the perfection or maintenance of any security interest granted pursuant to, or contemplated by, any document; (ii) taking any necessary steps to preserve rights against any parties with respect to the Collateral; or (iii) taking any action to protect against any diminution in value of the Collateral.

Governing Law

The Senior Secured Notes Indenture, the New Senior Secured Notes, the Subsidiary Guarantees and the Intercreditor Agreements are governed by, and construed and enforced in accordance with, the laws of the State of New York.

Available Information

Anyone who receives this prospectus may obtain a copy of the Senior Secured Notes Indenture, the form of New Senior Secured Notes, the Intercreditor Agreements and the Collateral Agreements without charge by writing to Comstock Resources, Inc., 5300 Town and Country Blvd., Suite 500, Frisco, Texas 75034, Attention: Roland O. Burns.

Book Entry, Delivery and Form

The New Senior Secured Notes will be issued in registered, global form in denominations of integral multiples of $1.00 (the "*Global Notes*"). Notes will be issued at the closing of this offering only against payment in immediately available funds. The Global Notes will be deposited upon issuance with the trustee as custodian for DTC, and registered in the name of DTC or its nominee, for credit to an account of a direct or indirect participant in DTC as described below.

Except as set forth below, the Global Notes may be transferred, in whole and not in part, only to another nominee of DTC, by a nominee of DTC to another nominee of DTC, or to a successor of DTC or its nominee. Beneficial interests in the Global Notes may not be exchanged for definitive New Senior Secured Notes in registered certificated form, or Certificated Notes, except in the limited circumstances described below. See "—Exchange of Global Notes for Certificated Notes." Except in the limited circumstances described below, owners of beneficial interests in the Global Notes will not be entitled to receive physical delivery of New Senior Secured Notes in certificated form. In addition, transfers of beneficial interests in the Global Notes will be subject to the applicable rules and procedures of DTC and its direct or indirect participants (including, if applicable, those of Euroclear and Clearstream), which may change from time to time.

Depository Procedures

The following description of the operations and procedures of DTC, Euroclear and Clearstream are provided solely as a matter of convenience. These operations and procedures are solely within the control of the respective settlement systems and are subject to changes by them. The Company takes no responsibility for these operations and procedures and urges investors to contact the system or their participants directly to discuss these matters.

DTC has advised the Company that DTC is a limited-purpose trust company created to hold securities for its participating organizations, or collectively, the "*Participants*", and to facilitate the clearance and settlement of transactions in those securities between the Participants through electronic book-entry changes in accounts of its Participants. The Participants include securities brokers and dealers (including the initial purchasers), banks, trust companies, clearing corporations and certain other organizations. Access to DTC's system is also available to

other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Participant, either directly or indirectly, or collectively, the "*Indirect Participants.*" Persons who are not Participants may beneficially own securities held by or on behalf of DTC only through the Participants or the Indirect Participants. The ownership interests in, and transfers of ownership interests in, each security held by or on behalf of DTC are recorded on the records of the Participants and Indirect Participants.

DTC has also advised the Company that, pursuant to procedures established by it:

(1) upon deposit of the Global Notes, DTC will credit the accounts of the Participants designated by the initial purchasers with portions of the principal amount of the Global Notes; and

(2) ownership of these interests in the Global Notes will be shown on, and the transfer of ownership of these interests will be effected only through, records maintained by DTC (with respect to the Participants) or by the Participants and the Indirect Participants (with respect to other owners of beneficial interest in the Global Notes).

Investors in the Global Notes who are Participants may hold their interests therein directly through DTC. Investors in the Global Notes who are not Participants may hold their interests therein indirectly through organizations (including Euroclear and Clearstream) which are Participants.

All interests in a Global Note, including those held through Euroclear or Clearstream, may be subject to the procedures and requirements of DTC. Those interests held through Euroclear or Clearstream may also be subject to the procedures and requirements of such systems. The laws of some jurisdictions require that certain Persons take physical delivery in definitive form of securities that they own. Consequently, the ability to transfer beneficial interests in a Global Note to such Persons will be limited to that extent. Because DTC can act only on behalf of the Participants, which in turn act on behalf of the Indirect Participants, the ability of a Person having beneficial interests in a Global Note to pledge such interests to Persons that do not participate in the DTC system, or otherwise take actions in respect of such interests, may be affected by the lack of a physical certificate evidencing such interests.

Except as described below, owners of interests in the Global Notes will not have New Senior Secured Notes registered in their names, will not receive physical delivery of New Senior Secured Notes in certificated form and will not be considered the registered owners or "holders" thereof under the Senior Secured Notes Indenture for any purpose.

Payments in respect of the principal of, and interest and premium, if any, on a Global Note registered in the name of DTC or its nominee will be payable to DTC in its capacity as the registered holder under the Senior Secured Notes Indenture. Under the terms of the Senior Secured Notes Indenture, the Company and the Senior Secured Notes Trustee, registrar and paying agent will treat the Persons in whose names the New Senior Secured Notes, including the Global Notes, are registered as the owners of the New Senior Secured Notes for the purpose of receiving payments and for all other purposes. Consequently, neither the Company, the Senior Secured Notes Trustee nor any Agent of the Company or the Senior Secured Notes Trustee has or will have any responsibility or liability for:

(1) any aspect of DTC's records or any Participant's or Indirect Participant's records relating to, or payments made on account of, beneficial ownership interest in the Global Notes or for maintaining, supervising or reviewing any of DTC's records or any Participant's or Indirect Participant's records relating to the beneficial ownership interests in the Global Notes; or

(2) any other matter relating to the actions and practices of DTC or any of its Participants, or Indirect Participants.

DTC has advised the Company that its current practice, at the due date of any payment in respect of securities such as the New Senior Secured Notes, is to credit the accounts of the relevant Participants with the payment on the payment date unless DTC has reason to believe that it will not receive payment on such payment date. Each relevant Participant is credited with an amount proportionate to its beneficial ownership of an interest in the principal amount of the New Senior Secured Notes as shown on the records of DTC. Payments by the Participants and the Indirect Participants to the beneficial owners of New Senior Secured Notes will be governed by standing instructions and customary practices and will be the responsibility of the Participants or the Indirect Participants and will not be the responsibility of DTC, the Senior Secured Notes Trustee, any Agent or the Company. Neither the Company nor the Senior Secured Notes Trustee or any other Agent will be liable for any delay by DTC or any of the Participants or the Indirect Participants in identifying the beneficial owners of the New Senior Secured Notes, and the Company and the Senior Secured Notes Trustee and any other Agent may conclusively rely on and will be protected in relying on instructions from DTC or its nominee for all purposes.

Transfers between the Participants will be effected in accordance with DTC's procedures, and will be settled in same-day funds, and transfers between participants in Euroclear and Clearstream will be effected in accordance with their respective rules and operating procedures.

Subject to compliance with the transfer restrictions applicable to the New Senior Secured Notes described herein, cross-market transfers between the Participants, on the one hand, and Euroclear or Clearstream participants, on the other hand, will be effected through DTC in accordance with DTC's rules on behalf of Euroclear or Clearstream, as the case may be, by their respective depositaries; however, such cross-market transactions will require delivery of instructions to Euroclear or Clearstream, as the case may be, by the counterparty in such system in accordance with the rules and procedures and within the established deadlines (Brussels time) of such system. Euroclear or Clearstream, as the case may be, will, if the transaction meets its settlement requirements, deliver instructions to its respective depositary to take action to effect final settlement on its behalf by delivering or receiving interests in the relevant Global Note in DTC, and making or receiving payment in accordance with normal procedures for same-day funds settlement applicable to DTC. Euroclear participants and Clearstream participants may not deliver instructions directly to the depositories for Euroclear or Clearstream.

DTC has advised the Company that it will take any action permitted to be taken by a Holder of New Senior Secured Notes only at the direction of one or more Participants to whose account DTC has credited the interests in the Global Notes and only in respect of such portion of the aggregate principal amount of the New Senior Secured Notes as to which such Participant or Participants has or have given such direction. However, if there is an Event of Default under the New Senior Secured Notes, DTC reserves the right to exchange the Global Notes for Certificated Notes, and to distribute such New Senior Secured Notes to its Participants.

Exchange of Global Notes for Certificated Notes

A Global Note is exchangeable for Certificated Notes in denominations of integral multiples of $1.00 if:

(1) DTC notifies the Company that it is unwilling or unable to continue to act as depositary for the Global Notes or DTC is no longer a clearing agency registered under the Exchange Act and, in either case, the Company fails to appoint a successor depositary within 90 days of such notice;

(2) the Company, at its option, but subject to DTC's requirements, notifies the Senior Secured Notes Trustee in writing that it elects to cause the issuance of the Certificated Notes; or

(3) there has occurred and is continuing a Default or Event of Default with respect to the New Senior Secured Notes and DTC notifies the Senior Secured Notes Trustee of its decision to exchange such Global Notes for Certificated Notes.

In all cases, Certificated Notes delivered in exchange for any Global Note or beneficial interests in Global Notes will be registered in the names, and issued in any approved denominations, requested by or on behalf of the

depositary (in accordance with its customary procedures) and will bear the applicable restrictive legend referred to in "Notice to Investors," unless that legend is not required by applicable law.

Exchange of Certificated Notes for Global Notes

Certificated Notes may not be exchanged for beneficial interests in any Global Note, except in the limited circumstances provided in the Senior Secured Notes Indenture.

Same Day Settlement and Payment

The Company will make payments in respect of the New Senior Secured Notes represented by the Global Notes (including principal, premium, if any, and cash interest) by wire transfer of immediately available funds to the accounts specified by DTC or its nominee. The Company will make all payments of principal, cash interest and premium, if any, with respect to Certificated Notes by wire transfer of immediately available funds to the accounts specified by the Holders of the Certificated Notes or, if no such account is specified, by mailing a check to each such Holder's registered address. The New Senior Secured Notes represented by the Global Notes are expected to be eligible to trade in DTC's Same-Day Funds Settlement System, and any permitted secondary market trading activity in such New Senior Secured Notes will, therefore, be required by DTC to be settled in immediately available funds. The Company expects that secondary trading in any Certificated Notes will also be settled in immediately available funds.

Because of time zone differences, the securities account of a Euroclear or Clearstream participant purchasing an interest in a Global Note from a Participant will be credited, and any such crediting will be reported to the relevant Euroclear or Clearstream participant, during the securities settlement processing day (which must be a business day for Euroclear and Clearstream) immediately following the settlement date of DTC. DTC has advised the Company that cash received in Euroclear or Clearstream as a result of sales of interests in a Global Note by or through a Euroclear or Clearstream participant to a Participant will be received with value on the settlement date of DTC but will be available in the relevant Euroclear or Clearstream cash account only as of the business day for Euroclear or Clearstream following DTC's settlement date.

Certain Definitions

"*2019 Convertible Notes Indenture*" means the Indenture, dated as of , 2016, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as trustee, relating to the New 2019 Convertible Notes.

"*2020 Convertible Notes Indenture*" means the Indenture, dated as of , 2016, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as trustee, relating to the New 2020 Convertible Notes.

"*Acquired Indebtedness*" means Indebtedness of a Person (1) existing at the time such Person becomes a Restricted Subsidiary or (2) assumed in connection with acquisitions of properties or assets 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 or assets from such Person.

"*Additional Assets*" means:

(1) any assets or property (other than cash, Cash Equivalents or securities) used in the Oil and Gas Business or any business ancillary thereto;

(2) 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;

(3) the acquisition from third parties of Capital Stock of a Restricted Subsidiary; or

(4) capital expenditures by the Company or a Restricted Subsidiary in the Oil and Gas Business.

"Additional New 2019 Convertible Notes" means the additional securities issued under the 2019 Convertible Notes Indenture solely in connection with the payment of interest in kind on the New 2019 Convertible Notes.

"*Additional New 2020 Convertible Notes*" means the additional securities issued under the 2020 Convertible Notes Indenture solely in connection with the payment of interest in kind on the New 2020 Convertible Notes.

"*Additional New Convertible Notes*" means, collectively, the Additional New 2019 Convertible Notes and the Additional New 2020 Convertible Notes.

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

(1) 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:

(i) estimated proved oil and gas reserves acquired since such year-end, which reserves were not reflected in such year-end reserve report, and

(ii) 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:

(iii) estimated proved oil and gas reserves produced or disposed of since such year-end, and

(iv) 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 (i) through (iv), 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 (1)(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 (i) the net book value on a date no earlier than the date of the Company's latest annual or quarterly financial statements and (ii) 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

(2) 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 (1)(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 (1)(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 Subsidiary Guarantor at any date shall mean the amount by which the fair value of the properties and assets of such Subsidiary 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 Subsidiary Guarantee, of such Subsidiary 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; and the term "Affiliated" shall have a meaning correlative to the foregoing. 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.

"*Agents*" means, collectively, the Collateral Agent, the Revolving Credit Agreement Agent and the Senior Secured Notes Trustee, and "Agent" means any one of them.

"*Alternate Controlling Party*" means the Senior Secured Notes Trustee.

"*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 Production Payment, net profits interest, overriding royalty interest, sale and leaseback transaction, 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, (ii) all or substantially all of the properties and assets of any division or line of business of the Company or any of its Restricted Subsidiaries or (iii) any other properties or assets 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 properties 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 or assets (including Capital Stock) that is governed by, and made in accordance with, the provisions described under "—Merger, Consolidation and Sale of Assets;" (B) any transfer of properties or assets to an Unrestricted Subsidiary, if permitted under the "Limitation on Restricted Payments" covenant; or (C) any transfer (in a single transaction or a series of related transactions) of properties or assets (including Capital Stock) having a Fair Market Value of less than $25.0 million.

"*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.

"*Authorized Representative*" means (a) in the case of the Revolving Credit Agreement Obligations or the Revolving Credit Agreement Secured Parties, the Revolving Credit Agreement Agent, (b) in the case of the Senior Secured Note Obligations or the Senior Secured Notes Trustee and the Holders of the New Senior Secured Notes, the Senior Secured Notes Trustee and (c) as used in the context of the Junior Lien Intercreditor Agreement under "—Junior Lien Intercreditor Agreement," in the case of the Junior Lien Obligations, the authorized representative named for the applicable series of New Convertible Notes in the applicable Convertible Notes Indenture.

"*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.

"*Bankruptcy Code*" means Title 11 of the United States Code, as amended.

"*Board of Directors*" means:

(1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board;

(2) with respect to a partnership, the board of directors of the general partner of the partnership;

(3) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and

(4) with respect to any other Person, the board or committee of such Person serving a similar function.

"*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 (whether real, personal or mixed) that is required to be classified and accounted for as a capital lease obligation under GAAP, and, for the purpose of the Senior Secured Notes Indenture, the amount of such obligation at any date shall be the capitalized amount thereof at such date, determined in accordance with GAAP. Notwithstanding the foregoing, any lease (whether entered into before or after date of the Senior Secured Notes Indenture) that would have been classified as an operating lease pursuant to GAAP as in effect on the date of the Senior Secured Notes Indenture will be deemed not to represent a Capitalized Lease Obligation.

"*Cash Equivalents*" means:

(1) 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);

(2) 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 million;

(3) 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-1 by S&P or at least P-1 by Moody's;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (1) above entered into with any commercial bank meeting the specifications of clause (2) above;

(5) overnight bank deposits and bankers acceptances at any commercial bank meeting the qualifications specified in clause (2) above;

(6) deposits available for withdrawal on demand with any commercial bank not meeting the qualifications specified in clause (2) above but which is a lending bank under the Revolving Credit Agreement, provided all such deposits do not exceed $5.0 million in the aggregate at any one time;

(7) demand and time deposits and certificates of deposit with any commercial bank organized in the United States not meeting the qualifications specified in clause (2) 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

(8) investments in money market or other mutual funds substantially all of whose assets comprise securities of the types described in clauses (1) through (5) above.

"*Change of Control*" means the occurrence of any event or series of events by which:

(1) 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;

(2) 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;

(3) 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 and assets 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);

(4) the Company is liquidated or dissolved; or

(5) the occurrence of any other event that constitutes a "Change of Control" under any of the Convertible Note Indentures or the Old Indentures.

"*Charter Amendment*" means the amendment of the Company's restated articles of incorporation to increase the number of shares of the Company's common stock authorized for issuance in an amount to provide a sufficient number of authorized shares of the Company's common stock for the issuance of shares upon conversion of all of the outstanding New Convertible Notes and exercise, to the extent necessary, of all of the New Warrants.

"*Collateral*" means all property wherever located and whether now owned or at any time acquired after the date of the Senior Secured Notes Indenture by any Collateral Grantor as to which a Lien is granted under the Collateral Agreements to secure the New Senior Secured Notes or any Subsidiary Guarantee.

"*Collateral Agent*" means the collateral agent for all holders of Pari Passu Obligations. Bank of Montreal will initially serve as the Collateral Agent.

"*Collateral Agreements*" means, collectively, each Mortgage, the Pledge Agreement, the Security Agreement, the Intercreditor Agreements and each other instrument, including any assignment, security agreement, mortgage, deed of trust, pledge agreement or other security instrument, creating Liens in favor of the Collateral Agent as required by the Pari Passu Documents, including the Intercreditor Agreements, in each case, as the same may be in effect from time to time.

"*Collateral Grantors*" means the Company and each Subsidiary Guarantor that is party to a Collateral Agreement.

"*Commodity Exchange Act*" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"*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 (1) 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, to (2) Consolidated Interest Expense for such period; *provided* that (i) the Consolidated Fixed Charge Coverage Ratio shall be calculated on a pro forma basis assuming 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 the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" 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 or assets 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, (ii) 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 the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" 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, (iii) 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 the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" 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, (iv) notwithstanding clauses (ii) and (iii) 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, (v) in making such calculation, Consolidated Interest Expense shall exclude interest attributable to Dollar-Denominated Production Payments, and (vi) if after the first day of the period referred to in clause (1) 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 (1) 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, (2) 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, (3) 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 (4) 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 (1) through (4), 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:

(1) net after-tax extraordinary gains or losses (less all fees and expenses relating thereto);

(2) net after-tax gains or losses (less all fees and expenses relating thereto) attributable to Asset Sales;

(3) 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 are attributable to net income (or net loss) of such Person during such period or during any prior period);

(4) 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;

(5) dividends paid in Qualified Capital Stock;

(6) income resulting from transfers of assets received by the Company or any Restricted Subsidiary from an Unrestricted Subsidiary;

(7) Consolidated Exploration Expenses and any write-downs or impairments of non-current assets; and

(8) the cumulative effect of a change in accounting principles.

"*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).

"*Controlling Secured Parties*" means, at any time, the Series of Pari Passu Secured Parties whose Authorized Representative is the Controlling Party for the Collateral at such time.

"*Convertible Notes Indentures*" means, collectively, the 2019 Convertible Notes Indenture and the 2020 Convertible Notes Indenture.

"*Default*" means any event, act or condition that is, or after notice or passage of time or both would become, an Event of Default.

"*Discharge of Pari Passu Obligations*" means the occurrence of all of the following:

(1) termination or expiration of all commitments to extend credit that would constitute Pari Passu Obligations;

(2) payment in full in cash of the principal of and interest, premium (if any) and fees on all Pari Passu Obligations (other than any undrawn letters of credit);

(3) discharge or cash collateralization (at 105% of the aggregate undrawn amount) of all outstanding letters of credit constituting Pari Passu Obligations;

(4) payment in full in cash of obligations in respect of Secured Swap Obligations that are secured by Pari Passu Liens (and, with respect to any particular Secured Swap Obligation, termination of such agreement and payment in full in cash of all obligations thereunder or such other arrangements as have been made by the counterparty thereto (and communicated to the Collateral Agent)); and

(5) payment in full in cash of all other Pari Passu Obligations that are outstanding and unpaid at the time the Pari Passu Obligations are paid in full in cash (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at or prior to such time);

provided that, if, at any time after the Discharge of Pari Passu Obligations has occurred, any Collateral Grantor enters into any Pari Passu Document evidencing a Pari Passu Obligation which incurrence is not prohibited by the applicable Secured Debt Documents, then such Discharge of Pari Passu Obligations shall automatically be deemed not to have occurred for all purposes of the Junior Lien Intercreditor Agreement with respect to such new Pari Passu Obligation (other than with respect to any actions taken as a result of the occurrence of such first Discharge of Pari Passu Obligations), and, from and after the date on which the Company designates such Indebtedness as a Pari Passu Obligation in accordance with the Junior Lien Intercreditor Agreement, the obligations under such Pari Passu Document shall automatically and without any further action be treated as Pari Passu Obligations for all purposes of the Junior Lien Intercreditor Agreement, including for purposes of the lien priorities and rights in respect of Collateral set forth in the Junior Lien Intercreditor Agreement, and any Junior Lien Obligations shall be deemed to have been at all times Junior Lien Obligations and at no time Pari Passu Obligations.

"*Discharge of Revolving Credit Agreement Obligations*" means, except to the extent otherwise provided in the Pari Passu Intercreditor Agreement, payment in full, in cash (except for contingent indemnities and cost and

reimbursement obligations to the extent no claim has been made) of all Revolving Credit Agreement Obligations and, with respect to letters of credit outstanding under the Revolving Credit Agreement Obligations, delivery of cash collateral or backstop letters of credit in respect thereof in a manner consistent with the Revolving Credit Agreement and otherwise reasonably satisfactory to the Revolving Credit Agreement Agent, and termination of and payment in full in cash of, all Secured Swap Obligations, in each case after or concurrently with the termination of all commitments to extend credit thereunder and the termination of all commitments of the Revolving Credit Agreement Secured Parties under the Revolving Credit Agreement Documents; *provided* that the Discharge of Revolving Credit Agreement Obligations shall not be deemed to have occurred if such payments are made with the proceeds of other Revolving Credit Agreement Obligations that constitute an exchange or replacement for or a refinancing of such Revolving Credit Agreement Obligations.

"*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 resolution of the Board of Directors under the Senior Secured Notes Indenture, 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 date that is 91 days after the final Stated Maturity of the New Senior Secured Notes or is redeemable at the option of the Holder thereof at any time prior to the date that is 91 days after the final Stated Maturity of the New Senior Secured Notes, or is convertible into or exchangeable for debt securities at any time prior to the date that is 91 days after the final Stated Maturity of the New Senior Secured Notes. For purposes of the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock," 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* 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 a Restricted Subsidiary recorded as liabilities in accordance with GAAP, together with all undertakings and obligations in connection therewith.

"*Engineering Report*" means a reserve report as of each December 31 and June 30, as applicable, with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Company and the Subsidiary Guarantors prepared by an independent engineering firm of recognized standing in accordance with accepted industry practice and all updates thereto.

"*Equity Interests*" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"*Event of Default*" has the meaning set forth above under the caption "Events of Default."

"*Excess Pari Passu Obligations*" means Obligations constituting Pari Passu Obligations for the principal amount of loans, letters of credit, reimbursement Obligations under the Pari Passu Documents to the extent that such Obligations are in excess of the Pari Passu Lien Cap.

"*Exchange Offer and Consent Solicitation*" means a series of transactions in which the Company will (i) exchange the New Senior Secured Notes and the New Warrants for the Old Senior Secured Notes, (ii) exchange the New 2019 Convertible Notes for the Company's 7 ¾% Senior Notes due 2019, (iii) exchange the New 2020 Convertible Notes for the Company's 9 ½% Senior Notes due 2020 and (iv) solicit the consent of the holders of the Old Senior Secured Notes and Old Unsecured Notes for certain amendments to the Old Indentures, including amendments to eliminate or amend certain of the restrictive covenants contained in the Old Indentures and release the collateral securing the Old Senior Secured Notes.

"*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.

"*Excluded Collateral*" means any cash, certificate of deposit, deposit account, money market account or other such liquid assets to the extent that such cash, certificate of deposit, deposit account, money market account or other such liquid assets are on deposit or maintained with the Revolving Credit Agreement Agent or any other Revolving Credit Agreement Secured Party (other than the Collateral Agent, in its capacity as such) to cash collateralize letters of credit constituting Revolving Credit Agreement Obligations or Secured Swap Obligations constituting Revolving Credit Agreement Obligations.

"*Fair Market Value*" means with respect to any asset or property, the sale value that would be obtained in an arm's-length free market transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy. Fair Market Value of an asset or property equal to or in excess of $10.0 million shall be determined by the Board of Directors of the Company acting in good faith, whose determination shall be conclusive and evidenced by a resolution of such Board of Directors delivered to the Senior Secured Notes Trustee, and any lesser Fair Market Value may be determined by an officer of the Company acting in good faith.

"*GAAP*" means generally accepted accounting principles in the United States of America as in effect from time to time. All ratios and computations based on GAAP contained in the Senior Secured Notes Indenture will be computed in conformity with GAAP.

The term "guarantee" means, as applied to any obligation, (i) a guarantee (other than by endorsement of negotiable instruments 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.

"*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 similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing and any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act), 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.

"*Holder*" means a Person in whose name a New Senior Secured Note (including an Additional New Senior Secured Note) is registered in the Note Register.

"*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.

"*Indebtedness*" means, with respect to any Person, without duplication:

(1) 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 Issue Date 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;

(2) 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;

(3) all obligations of such Person with respect to letters of credit;

(4) 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;

(5) all Capitalized Lease Obligations of such Person;

(6) the Attributable Indebtedness (in excess of any related Capitalized Lease Obligations) related to any Sale/Leaseback Transaction of such Person;

(7) 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);

(8) 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

(9) 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.

The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Capital Stock or Preferred Stock in the form of additional shares of the same class of Disqualified Capital Stock or Preferred Stock shall be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Capital Stock or Preferred Stock for purposes of this definition. In addition, Disqualified Capital Stock shall be deemed to be Indebtedness.

Subject to clause (8) of the first sentence of this definition, neither Dollar-Denominated Production Payments nor Volumetric Production Payments shall be deemed to be Indebtedness.

"*Insolvency or Liquidation Proceeding*" means (a) any voluntary or involuntary case or proceeding under any bankruptcy law with respect to any Collateral Grantor, (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Collateral Grantor or with respect to any of its assets, (c) any liquidation, dissolution, reorganization or winding up of any Collateral Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy (other than any liquidation, dissolution, reorganization or winding up of any Subsidiary of the Company permitted by the Pari Passu Documents), (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Collateral Grantor or (e) any other proceeding of any type or nature in which substantially all claims of creditors of any Collateral Grantor are determined and any payment or distribution is or may be made on account of such claims.

"*Intercreditor Agreements*" means, individually or collectively, as the context may require, the Pari Passu Intercreditor Agreement and the Junior Lien Intercreditor Agreement.

"*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 by such Person to (by means of any transfer of cash or other property or assets to others or any payment for property, assets 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 (1) 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, (2) 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 the "Limitation on Indebtedness and Disqualified Capital Stock" covenant, 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 (3) endorsements of negotiable instruments and documents in the ordinary course of business. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of the

Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Restricted Subsidiary that were not sold or disposed of.

"*Issue Date*" means the date of original issuance of the New Senior Secured Notes.

"*Junior Lien*" means any Lien which is subordinate to the Liens securing the Pari Passu Obligations pursuant to the Junior Lien Intercreditor Agreement.

"*Junior Lien Collateral Agent*" means, individually or collectively, as the context may require, any collateral agent for holders of New Convertible Notes. Bank of Montreal will initially serve as the Junior Lien Collateral Agent.

"*Junior Lien Collateral Agreements*" means, collectively, each mortgage, pledge agreement, security agreement, the Junior Lien Intercreditor Agreement and each other instrument, including any assignment, security agreement, mortgage, deed of trust, pledge agreement or other security instrument, creating Junior Liens in favor of the Junior Lien Collateral Agent as required by the documents governing the Junior Lien Obligations.

"*Junior Lien Documents*" means, collectively, any indenture, credit agreement or other agreement or instrument pursuant to which Junior Lien Obligations are incurred (including the New Convertible Notes and the Convertible Notes Indentures) and the Junior Lien Collateral Agreements, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time.

"*Junior Lien Intercreditor Agreement*" means (i) the Intercreditor Agreement among the Collateral Agent, the Junior Lien Collateral Agent, the Company, each other Collateral Grantor and the other parties from time to time party thereto, to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Senior Secured Notes Indenture and (ii) any replacement thereof that contains terms not materially less favorable to the Holders of the New Senior Secured Notes than the Junior Intercreditor Agreement referred to in clause (i).

"*Junior Lien Obligations*" means (i) the New 2019 Convertible Notes, (ii) the New 2020 Convertible Notes and (iii) Indebtedness of the Company or any Subsidiary Guarantor that is secured on a junior basis with the Pari Passu Obligations by a Junior Lien that was permitted to be incurred and so secured under each applicable Pari Passu Document; *provided* that, in the case of any Indebtedness referred to in this definition:

(1) on or before the date on which such Indebtedness is incurred by the Company or any Subsidiary Guarantor, such Indebtedness is designated by the Company (which such designation shall be made in an officers' certificate delivered to the Collateral Agent in respect of Indebtedness referred to in clause (iii) above) as "Junior Lien Obligations" for the purposes of the Senior Secured Notes Indenture and any other applicable Pari Passu Document; provided that if such Indebtedness is designated as "Junior Lien Obligations," it cannot also be designated as Pari Passu Obligations; and

(2) the collateral agent or other representative with respect to such Indebtedness, the Collateral Agent, the Senior Secured Notes Trustee, the Company and each Subsidiary Guarantor have duly executed and delivered a joinder to the Junior Lien Intercreditor Agreement and all requirements set forth in the Junior Lien Intercreditor Agreement as to the confirmation, grant or perfection of the Liens of the holders of Junior Lien Obligations to secure such Indebtedness in respect thereof are satisfied.

"*Lender Provided Hedging Agreement*" means any Hedging Agreement between the Company or any Subsidiary Guarantor and a Secured Swap Counterparty.

"*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 (1) of an issuer that is not an Affiliate of the Company, (2) that are publicly traded on the New York Stock Exchange, the American Stock Exchange or the Nasdaq Stock Market and (3) 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 (1), (2) and (3) 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 the provisions of the Senior Secured Notes Indenture described under "—Certain Covenants—Limitation on Asset Sales," 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 (1)(a) of the definition of Adjusted Consolidated Net Tangible Assets; *provided* 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 and assets during such quarter that were disposed of in compliance with the provisions of the Senior Secured Notes Indenture described under "—Certain Covenants—Limitation on Asset Sales."

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

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

"*Mortgage*" means all mortgages, deeds of trust and similar documents, instruments and agreements (and all amendments, modifications and supplements thereof) creating, evidencing, perfecting or otherwise establishing the Liens on Oil and Gas Properties and other related assets to secure payment of the New Senior Secured Notes and the Subsidiary Guarantees or any part thereof.

"*Mortgaged Properties*" means any property owned by a Collateral Grantor that is subject to the Liens existing and to exist under the terms of the Mortgages.

"*Net Available Cash*" from an Asset Sale or Sale/Leaseback Transaction means cash proceeds received therefrom (including (1) 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 (2) 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 assets or 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 (1) and (2)), in each case net of (i) 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, (ii) 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, (iii) 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 (iv) 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* 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 (1) all current assets of the Company and its Restricted Subsidiaries, less (2) 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.

"*New 2019 Convertible Notes*" means the Company's 7 ¾% Convertible Secured PIK Notes due 2019. Unless the context otherwise requires, all references to the New 2019 Convertible Notes shall include the Additional New 2019 Convertible Notes.

"*New 2020 Convertible Notes*" means the Company's 9 ½% Convertible Secured PIK Notes due 2020. Unless the context otherwise requires, all references to the New 2020 Convertible Notes shall include the Additional New 2020 Convertible Notes.

"*New Convertible Notes*" means, collectively, the New 2019 Convertible Notes and the New 2020 Convertible Notes.

"*New Warrants*" means the warrants issued to the holders of the Old Senior Secured Notes in the Exchange Offer and Consent Solicitation that are exercisable for shares of the Company's common stock.

"*Non-Conforming Plan of Reorganization*" means any Plan of Reorganization that does not provide for payments in respect of the Revolving Credit Agreement Obligations to be made with the priority specified in the Pari Passu Intercreditor Agreement and that has not been approved by the Majority Lenders (as defined in the Revolving Credit Agreement).

"*Non-Controlling Authorized Representative*" means, at any time, with respect to any Collateral, an Authorized Representative that is not the Controlling Party with respect to such Collateral at such time.

"*Non-Controlling Secured Parties*" means, at any time, with respect to any Collateral, the Pari Passu Secured Parties that are not Controlling Secured Parties with respect to such Collateral at such time.

"*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 or assets and as to which (i) the holders of such Indebtedness agree that they will look solely to the property or assets 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.

"*Note Register*" means the register maintained by or for the Company in which the Company shall provide for the registration of the New Senior Secured Notes and the transfer of the New Senior Secured Notes.

"*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.

"*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.

"*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, rightsofway, easements and servitudes together with all additions, substitutions, replacements, accessions and attachments to any and all of the foregoing.

"*Old Indentures*" means (i) the Indenture, dated as of October 9, 2009 (the "*Base Indenture*"), among the Company, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, as amended and supplemented by the Third Supplemental Indenture, dated as of March 14, 2011, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's 7 ¾% Senior Notes due 2019, (ii) the Base Indenture, as amended and supplemented by the Fourth Supplemental Indenture, dated as of June 5, 2012, among

the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee relating to the Company's 9 ½% Senior Notes due 2020 and (iii) the Indenture, dated as of March 13, 2015, among the Company, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee relating to the Company's Old Senior Secured Notes.

"*Old Senior Secured Notes*" means the Company's 10% Senior Secured Notes due 2020.

"*Old Unsecured Notes*" means the Company's 7 ¾% Senior Notes due 2019 and 9 ½% Senior Notes due 2020.

"*Pari Passu Documents*" means, collectively, the Revolving Credit Agreement Documents and the Senior Secured Note Documents.

"*Pari Passu Excluded Collateral*" has the meaning set forth in the Pari Passu Intercreditor Agreement.

"*Pari Passu Intercreditor Agreement*" means (i) the Amended and Restated Priority Lien Intercreditor Agreement among the Collateral Agent, the Senior Secured Notes Trustee, the Revolving Credit Agreement Agent, the Company, each other Collateral Grantor, the other parties from time to time party thereto, and American Stock Transfer & Trust Company, LLC in its capacity as the successor trustee under the Old Senior Secured Notes to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Senior Secured Notes Indenture and (ii) any replacement thereof that contains terms not materially less favorable to the Holders of the New Senior Secured Notes than the Pari Passu Intercreditor Agreement referred to in clause (i).

"*Pari Passu Lien*" means a Lien granted (or purported to be granted) by the Company or any Subsidiary Guarantor in favor of the Collateral Agent, at any time, upon any assets or property of the Company or any Subsidiary Guarantor to secure any Pari Passu Obligations.

"*Pari Passu Lien Cap*" means, as of any date, (a) the principal amount of Pari Passu Obligations (including any interest paid-in-kind) that may be incurred as "Permitted Indebtedness" as of such date, plus (b) the amount of all Secured Swap Obligations, to the extent such Secured Swap Obligations are secured by the Pari Passu Liens, plus (c) the amount of accrued and unpaid interest (excluding any interest paid-in-kind) and outstanding fees, to the extent such Obligations are secured by the Pari Passu Liens. For purposes of this definition, all letters of credit will be valued at the face amount thereof, whether or not drawn.

"*Pari Passu Obligations*" means, collectively, (a) the Revolving Credit Agreement Obligations and (b) the Senior Secured Note Obligations, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding.

"*Pari Passu Secured Parties*" means (a) the Collateral Agent, (b) the Senior Secured Notes Trustee, (c) the Holders of the New Senior Secured Notes and (d) the Revolving Credit Agreement Secured Parties.

"*Permitted Collateral Liens*" means Liens described in clauses (1), (4), (5), (6), (7), (8), (9), (10), (12), (17), (18), (19), (20), (21), (22) and (23) of the definition of "Permitted Liens" that, by operation of law, have priority over the Liens securing the New Senior Secured Notes and the Subsidiary Guarantees.

"*Permitted Investments*" means any of the following:

(1) Investments in Cash Equivalents;

(2) Investments in property, plant and equipment used in the ordinary course of business;

(3) Investments in the Company or any of its Restricted Subsidiaries;

(4) Investments by the Company or any of its Restricted Subsidiaries in another Person, if (a) as a result of such Investment (i) such other Person becomes a Restricted Subsidiary or (ii) such other Person is merged or consolidated with or into, or transfers or conveys all or substantially all of its properties and assets to, the Company or a Restricted Subsidiary and (b) such other Person is primarily engaged in the Oil and Gas Business;

(5) 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;

(6) 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;

(7) entry into any currency exchange contract in the ordinary course of business;

(8) 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;

(9) guarantees of Indebtedness permitted under the "Limitation on Indebtedness and Disqualified Capital Stock" covenant;

(10) investments in Unrestricted Subsidiaries or joint ventures in an aggregate amount not to exceed at any one time outstanding $15.0 million; and

(11) other Investments, in an aggregate amount not to exceed at any one time outstanding the greater of (a) $25.0 million and (b) 5% of Adjusted Consolidated Net Tangible Assets.

"*Permitted Liens*" means the following types of Liens:

(1) Liens existing as of the Issue Date (excluding Liens securing Indebtedness of the Company and any Subsidiary Guarantor under the Revolving Credit Agreement);

(2) Liens on any property or assets of the Company and any Subsidiary Guarantor securing the New Senior Secured Notes issued on the Issue Date and up to $91,875,000 of Additional New Senior Secured Notes and the Subsidiary Guarantees in respect thereof;

(3) Liens in favor of the Company or any Restricted Subsidiary;

(4) 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;

(5) 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;

(6) 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);

(7) 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;

(8) 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;

(9) any interest or title of a lessor under any capitalized lease or operating lease;

(10) purchase money Liens; *provided* that (a) the related purchase money Indebtedness shall not be secured by any property or assets of the Company or any Restricted Subsidiary other than the property or assets so acquired (including, without limitation, those acquired indirectly through the acquisition of stock or other ownership interests) and any proceeds therefrom, (b) the aggregate principal amount of Indebtedness secured by such Liens it otherwise permitted to be incurred under the Senior Secured Notes Indenture and does not exceed the cost of the property or assets so acquired and (c) the Liens securing such Indebtedness shall be created within 90 days of such acquisition;

(11) 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;

(12) 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;

(13) Liens securing reimbursement obligations with respect to commercial letters of credit which encumber documents and other property or assets relating to such letters of credit and products and proceeds thereof;

(14) Liens encumbering property or assets under construction arising from progress or partial payments by a customer of the Company or its Restricted Subsidiaries relating to such property or assets;

(15) 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;

(16) Liens securing Interest Rate Protection Obligations which Interest Rate Protection Obligations relate to Indebtedness that is secured by Liens otherwise permitted under the Senior Secured Notes Indenture;

(17) Liens (other than Liens securing Indebtedness) on, or related to, properties or assets to secure all or part of the costs incurred in the ordinary course of business for the exploration, drilling, development or operation thereof;

(18) Liens on pipeline or pipeline facilities which arise by operation of law;

(19) 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;

(20) Liens reserved in oil and gas mineral leases for bonus or rental payments or for compliance with the terms of such leases;

(21) 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, assets or services, and in the aggregate do not materially adversely affect the value of properties and assets of the Company and the Restricted Subsidiaries, taken as a whole, or materially impair the use of such properties and assets for the purposes for which such properties and assets are held by the Company or any Restricted Subsidiaries;

(22) Liens securing Non-Recourse Indebtedness; *provided* that the related Non-Recourse Indebtedness shall not be secured by any property or assets of the Company or any Restricted Subsidiary other than the property and assets 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;

(23) Liens on property existing at the time of acquisition thereof by the Company or any Subsidiary of the Company and Liens on property or assets 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;

(24) 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 so long as such deposit and such defeasance are permitted under the covenant described under "—Certain Covenants—Limitation on Restricted Payments;"

(25) Junior Liens to secure the New Convertible Notes issued on the Issue Date and the Additional New Convertible Notes, in each case incurred under clause (11) of the definition of "Permitted Indebtedness"; *provided* that such Junior Liens are subject to the Junior Lien Intercreditor Agreement;

(26) Liens to secure any Permitted Refinancing Indebtedness incurred to renew, refinance, refund, replace, amend, defease or discharge, as a whole or in part, Indebtedness that was previously so secured; *provided* that (a) the new Liens shall be limited to all or part of the same property and assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced and (b) the new Liens have no greater priority relative to the New Senior Secured Notes and the Subsidiary Guarantees, and the holders of the Indebtedness secured by such Liens have no greater intercreditor rights relative to the New Senior Secured Notes and the Subsidiary Guarantees and the Holders thereof than the original Liens and the related Indebtedness and the holders thereof and such new Liens are subject to the Intercreditor Agreements, as applicable; and

(27) Liens securing Indebtedness of the Company and any Subsidiary Guarantor under the Revolving Credit Agreement in an aggregate principal amount not to exceed $50.0 million at any time outstanding; *provided* that such Liens are subject to the Pari Passu Intercreditor Agreement.

Notwithstanding anything in clauses (1) through (27) of this definition, the term "Permitted Liens" does 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 or assets 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 Asset Sale Offer) outstanding Indebtedness of the Company or any Restricted Subsidiary; *provided* that (1) if the Indebtedness (including the New Senior Secured Notes) being renewed, extended, refinanced, refunded or repurchased is *pari passu* with or subordinated in right of payment to either the New Senior Secured Notes or the Subsidiary Guarantees, then such Indebtedness is *pari passu* with or subordinated in right of payment to the New Senior Secured Notes or the Subsidiary Guarantees, as the case may be, at least to the same extent as the Indebtedness being renewed, extended, refinanced, refunded or repurchased, (2) 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, (3) if the Company or a Subsidiary Guarantor is the issuer of, or otherwise an obligor in respect of the Indebtedness being renewed, refinanced, refunded or repurchased, such Permitted Refinancing Indebtedness is not Incurred by any Restricted Subsidiary that is not the Company or a Subsidiary Guarantor, (4) 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 and (5) if the Indebtedness being renewed, extended, refinanced, refunded or repurchased by its terms provides that interest is payable only in kind, then such Indebtedness may not permit the payment of scheduled interest in cash; *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 or 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.

"*Plan of Reorganization*" means any plan of reorganization, plan of liquidation, agreement for composition, or other type of plan or arrangement proposed in or in connection with any Insolvency or Liquidation Proceeding.

"*Pledge Agreement*" means each Pledge Agreement and Irrevocable Proxy to be entered into on the Issue Date in favor of the Collateral Agent for the benefit of the Holders of the New Senior Secured Notes, the Revolving Credit Agreement Secured Parties, the Senior Secured Notes Trustee and the Collateral Agent and each other pledge agreement in substantially the same form in favor of the Collateral Agent for the benefit of the holders of the New Senior Secured Notes, the Revolving Credit Agreement Secured Parties, the Senior Secured Notes Trustee and the Collateral Agent delivered in accordance with the Senior Secured Notes Indenture and the Collateral Agreements.

"*Preferred Stock*," as applied to the Capital Stock of any Person, means Capital Stock of such Person of any class or classes (however designated) that ranks 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.

"*Production Payments*" means, collectively, Dollar-Denominated Production Payments and Volumetric Production Payments.

"*Proved and Probable Drilling Locations*" means all drilling locations of the Collateral Grantors located in the Haynesville and Bossier shale acreage in the States of Louisiana and Texas that are Proved Reserves or classified, in accordance with the Petroleum Industry Standards, as "Probable Reserves."

"*Proved Reserves*" means those Hydrocarbons that have been estimated with reasonable certainty, as demonstrated by geological and engineering data, to be economically recoverable from the Oil and Gas Properties by existing producing methods under existing economic conditions.

"*Qualified Capital Stock*" of any Person means any and all Capital Stock of such Person other than Disqualified Capital Stock.

"*Required Stockholder Approval*" means the approval by (1) a majority of the issued and outstanding shares of common stock of the amendment to the Company's restated articles of incorporation to increase the number of shares of the Company's common stock authorized for issuance in an amount to provide a sufficient number of authorized shares of Comstock's common stock for the issuance of shares upon conversion of the New Convertible Notes and, to the extent necessary, exercise of the New Warrants and (2) a majority of the shares of common stock represented at the special meeting and entitled to vote on the issuance of the maximum number of shares of common stock that would be issued upon conversion of all of the outstanding New Convertible Notes and, to the extent necessary, exercise of all of the New Warrants.

"*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 Issue Date, unless such Subsidiary of the Company is an Unrestricted Subsidiary or is designated as an Unrestricted Subsidiary pursuant to the terms of the Senior Secured Notes Indenture.

"*Revolving Credit Agreement*" means that certain Credit Agreement, dated as of March 4, 2015, among the Company, the lenders from time to time party thereto and the Revolving Credit Agreement Agent, as amended, restated, modified, renewed, refunded, replaced or refinanced, from time to time.

"*Revolving Credit Agreement Agent*" means Bank of Montreal (or other agent designated in the Revolving Credit Agreement), together with its successors and permitted assigns in such capacity.

"*Revolving Credit Agreement Documents*" means the Revolving Credit Agreement, the Collateral Agreements and any other Loan Documents (as defined in the Revolving Credit Agreement).

"*Revolving Credit Agreement Obligations*" means, collectively, (a) the Obligations (as defined in the Revolving Credit Agreement) of the Company and the Subsidiary Guarantors under the Revolving Credit Agreement Documents, in an aggregate principal amount for all such Obligations not to exceed $50,000,000, plus interest and all fees, costs, charges, penalties and expenses, including legal fees and expenses to the extent authorized under the Revolving Credit Agreement Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding, and (b) the Secured Swap Obligations.

"*Revolving Credit Agreement Secured Parties*" means, collectively, the Lenders (as defined in the Revolving Credit Agreement), the Secured Swap Counterparties and the Revolving Credit Agreement Agent.

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

"*Sale/Leaseback Transaction*" means, 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, whereby such property has been or is to be sold or transferred by the Company or any of its Restricted Subsidiaries to such Person.

"*Secured Debt*" means, collectively, Pari Passu Obligations and Junior Lien Obligations.

"*Secured Debt Documents*" means the Pari Passu Documents and the Junior Lien Documents.

"*Secured Swap Counterparty*" means, with respect to a Lender Provided Hedging Agreement, a counterparty that at the time such Hedging Agreement is entered into is a Lender (as defined in the Revolving Credit Agreement) or an Affiliate of a Lender (including a Hedging Agreement in existence prior to the date hereof or prior to such Person or its Affiliate becoming a Lender); *provided* that, for the avoidance of doubt, the term "Lender Provided Hedging Agreement" shall not include any Hedging Agreement or transactions under any Hedging Agreement entered into after the time that such counterparty ceases to be a Lender or an Affiliate of a Lender.

"*Secured Swap Obligations*" means all obligations of the Company or any Subsidiary Guarantor under any Lender Provided Hedging Agreement.

"*Security Agreement*" means each Pledge Agreement and Irrevocable Proxy dated as of the Issue Date in favor of the Collateral Agent for the benefit of the holders of the New Senior Secured Notes and the Revolving Credit Agreement Secured Parties and each other security agreement in substantially the same form in favor of the Collateral Agent for the benefit of the holders of the New Senior Secured Notes and the Revolving Credit Agreement Secured Parties delivered in accordance with the Senior Secured Notes Indenture and the Collateral Agreements.

"*Security Documents*" means the Collateral Agreements and the Junior Lien Collateral Agreements.

"*Senior Indebtedness*" means any Indebtedness of the Company or a Restricted Subsidiary (whether outstanding on the date hereof or hereinafter incurred), unless such Indebtedness is Subordinated Indebtedness.

"*Senior Secured Note Documents*" means the Senior Secured Notes Indenture, the Collateral Agreements and any agreement instrument or other document evidencing or governing any Senor Secured Note Obligations.

"*Senior Secured Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Company or any Subsidiary Guarantor arising under the Senior Secured Notes Indenture, the New Senior Secured Notes, the Additional New Senior Secured Notes, the Subsidiary Guarantees and the Collateral Agreements (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), 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 and fees that accrue after the commencement by or against the Company or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"*Series*" means (a) with respect to the Pari Passu Secured Parties, each of (i) the Revolving Credit Agreement Secured Parties (in their capacities as such) and (ii) the Holders of the New Senior Secured Notes and the Senior Secured Notes Trustee and (b) with respect to Pari Passu Obligations, each of (i) the Revolving Credit Agreement Obligations, and (ii) the Senior Secured Note Obligations.

"*Significant Subsidiary*" means any Restricted Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date.

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

"*Subordinated Indebtedness*" means Indebtedness of the Company or a Subsidiary Guarantor which is expressly subordinated in right of payment to the New Senior Secured Notes or the Subsidiary Guarantees, as the case may be.

"*Subsidiary*" means, with respect to any Person:

(1) any corporation, limited liability company, association or other business entity (other than a partnership) of which more than 50% of the total voting power of its Voting Stock is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership of which (a) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof), whether in the form of general, special or limited partnership interests or otherwise, or (b) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

"*Subsidiary Guarantee*" means any guarantee of the New Senior Secured Notes by any Subsidiary Guarantor in accordance with the provisions described under "—Subsidiary Guarantees of New Senior Secured Notes" and "—Certain Covenants—Future Subsidiary Guarantees."

"*Subsidiary Guarantor*" means (1) Comstock Oil & Gas, LP, (2) Comstock Oil & Gas—Louisiana, LLC, (3) Comstock Oil & Gas GP, LLC, (4) Comstock Oil & Gas Investments, LLC, (5) Comstock Oil & Gas Holdings, Inc., (6) each of Comstock's other Restricted Subsidiaries, if any, executing a supplemental indenture in which such Subsidiary agrees to be bound by the terms of the Senior Secured Notes Indenture and (7) any Person that becomes a successor guarantor of the New Senior Secured Notes in compliance with the provisions described under "—Subsidiary Guarantees of New Senior Secured Notes" and "Certain Covenants—Future Subsidiary Guarantees."

"*Swap Obligation*" means, with respect to any Subsidiary Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1(a)(47) of the Commodity Exchange Act.

"*Unrestricted Subsidiary*" means:

(1) 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

(2) any Subsidiary of an Unrestricted Subsidiary.

The Company may designate any Subsidiary of the Company (other than a Collateral Grantor) as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of, the Company or any Restricted Subsidiary (other than solely any Subsidiary of the Subsidiary to be so designated); *provided* that the Subsidiary to be so designated and each Subsidiary of such Subsidiary:

(1) has no Indebtedness other than Non-Recourse Indebtedness;

(2) is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;

(3) is a Person with respect to which neither the Company nor any of the Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; and

(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of the Restricted Subsidiaries.

"*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*" of any specified Person as of any date means the Capital Stock of such Person entitling the holders thereof (whether at all times or only so long as no senior class of Capital Stock has voting power by reason of any contingency) to vote in the election of members of the Board of Directors of such Person; *provided* that with respect to a limited partnership or other entity which does not have a Board of Directors, Voting Stock means the managing membership interest or the Capital Stock of the general partner of such limited partnership or other business entity with the ultimate authority to manage the business and operations of such Person, as applicable.

"*Wholly Owned Restricted Subsidiary*" means any Restricted Subsidiary of the Company to the extent (1) all of the Capital Stock or other ownership interests in such Restricted Subsidiary, other than directors' qualifying shares mandated by applicable law, is owned directly or indirectly by the Company or (2) 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.

DESCRIPTION OF NEW CONVERTIBLE NOTES

Comstock will issue (i) the new 7 ¾% Convertible Secured PIK Notes due 2019 (the "*New 2019 Convertible Notes*") pursuant to an Indenture (the "*2019 Convertible Notes Indenture*") by and among Comstock, as issuer, the Subsidiary Guarantors and American Stock Transfer & Trust Company, LLC, as trustee (the "*2019 Convertible Notes Trustee*") and (ii) the new 9 ½% Convertible Secured PIK Notes due 2020 (the "*New 2020 Convertible Notes*") pursuant to an Indenture (the "*2020 Convertible Notes Indenture*") by and among Comstock, as issuer, the Subsidiary Guarantors and American Stock Transfer & Trust Company, LLC, as trustee (the "*2020 Convertible Notes Trustee*"). The terms of the Convertible Notes Indentures include those stated in the Convertible Notes Indentures and those made part of the Convertible Notes Indentures by reference to the Trust Indenture Act of 1939 (the "*TIA*").

Unless the context requires otherwise, (i) all references to "New 2019 Convertible Notes" herein shall include all Additional New 2019 Convertible Notes (as defined below) and (ii) all references to "New 2020 Convertible Notes" herein shall include all Additional New 2020 Convertible Notes (as defined below).

The following description is a summary of the material provisions of the Convertible Notes Indentures, the New Convertible Notes, the Junior Lien Collateral Agreements, the Junior Lien Intercreditor Agreement and the Collateral Trust Agreement. It does not restate those agreements and instruments in their entirety. We urge you to read those agreements and instruments because they, and not this description, will define your rights as Holders of the New Convertible Notes. Anyone who receives this prospectus may obtain a copy of the Convertible Notes Indentures, the form of New Convertible Notes, the Junior Lien Intercreditor Agreement, the Collateral Trust Agreement and the other Junior Lien Collateral Agreements as set forth below under "—Available Information."

Furthermore, Appendix 2: Comparison of Terms of the New Convertible Notes to Old 2020 Notes, contains a summary of "Certain Covenants," "Events of Default" and "Certain Definitions" of the New Convertible Notes as compared to a summary of "Certain Covenants," "Events of Default" and "Certain Definitions" of the 9 ½% Senior Notes due 2020 (the "*Old 2020 Notes*"), showing provisions that will be deleted or changed or provisions that will be added. Such summary does not restate the terms of the New Convertible Notes or the Old 2020 Notes and we urge you to read the documents governing the New Convertible Notes and the Old 2020 Notes, including the 2019 Convertible Notes Indenture, the 2020 Convertible Notes Indenture and the indenture governing the Old 2020 Notes, because they, and not that description, define your rights as a holder of New Convertible Notes or Old 2020 Notes.

You can find the definitions of certain terms used in this "Description of New Convertible Notes" under "—Certain Definitions." The registered Holder of a New Convertible Note will be treated as the owner of it for all purposes. Only registered Holders will have rights under the applicable Convertible Notes Indenture. In this "Description of New Convertible Notes," the words "Comstock," "we," "the Company," "us," or "our" refer only to Comstock Resources, Inc. and not to any of its subsidiaries.

General Terms

The New 2019 Convertible Notes

Up to $288,516,000 in aggregate principal amount of New 2019 Convertible Notes will be issued on the Issue Date in connection with this Exchange Offer and Consent Solicitation. Except for the issuance of Additional New 2019 Convertible Notes in connection with the payment of interest, the 2019 Convertible Notes Indenture will provide that Comstock may not issue more than $288,516,000 aggregate principal amount of New 2019 Convertible Notes. The New 2019 Convertible Notes will mature on April 1, 2019.

Interest on the New 2019 Convertible Notes will accrue at the rate of 7 ¾% per annum and will be payable in kind semi-annually in arrears on April 1 and October 1, commencing on April 1, 2017. Interest on the New 2019

Convertible Notes will accrue from the most recent interest date to which interest has been paid in kind by the issuance of Additional New 2019 Convertible Notes or, if no interest has been paid in kind, from date of original issuance. Comstock will make each interest payment to Persons whose name the New 2019 Convertible Notes are registered in the note register at the close of business on the immediately preceding March 15 and September 15. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

Interest on the New 2019 Convertible Notes will be payable by issuing additional securities (the "*Additional New 2019 Convertible Notes*") in an amount equal to the applicable amount of interest for the interest period (rounded down to the nearest whole dollar). Not later than ten business days prior to the relevant interest payment date, Comstock shall deliver to the 2019 Convertible Notes Trustee and the paying agent (if other than the 2019 Convertible Notes Trustee), (i) with respect to New 2019 Convertible Notes represented by Certificated Notes, the required amount of Additional New 2019 Convertible Notes represented by Certificated Notes (rounded down to the nearest whole dollar) and a company order to authenticate and deliver such Additional New 2019 Convertible Notes or (ii) with respect to New 2019 Convertible Notes represented by one or more Global Notes, a company order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the depositary or otherwise, the required amount of Additional New 2019 Convertible Notes represented by Global Notes (rounded down to the nearest whole dollar) and a company order to authenticate and deliver such new Global Notes).

Any Additional New 2019 Convertible Notes shall, after being executed and authenticated pursuant to the 2019 Convertible Notes Indenture, be (i) if such Additional New 2019 Convertible Notes are Certificated Notes, mailed to the Person entitled thereto as shown on the register maintained by the Note Registrar for the Certificated Notes as of the relevant record date or (ii) if such Additional New 2019 Convertible Notes are Global Notes, deposited into the account specified by the Holder or Holders thereof as of the relevant record date. Alternatively, in connection with any payment of interest, Comstock may direct the paying agent to make appropriate amendments to the schedule of principal amounts of the relevant Global Notes outstanding for which Additional New 2019 Convertible Notes will be issued and arrange for deposit into the account specified by the Holder or Holders thereof as of the relevant record date. All Additional New 2019 Convertible Notes issued pursuant to an interest payment as described above will mature on April 1, 2019 and will be governed by, and subject to the terms, provisions and conditions of, the 2019 Convertible Notes Indenture. The Additional New 2019 Convertible Notes shall have the same rights and benefits as the New 2019 Convertible Notes issued on the Issue Date, and shall be treated together with the New 2019 Convertible Notes as a single class for all purposes under the 2019 Convertible Notes Indenture.

Payment shall be made in such form and terms as specified in the preceding two paragraphs and Comstock shall and the paying agent may take additional steps as is necessary to effect such payment. Comstock may not issue Additional New 2019 Convertible Notes in lieu of paying interest in cash if such interest is payable with respect to any principal amount that is due and payable pursuant to the terms hereof, including upon redemption or repurchase. Payment of accrued and unpaid interest on the Old 2019 Notes will be made in cash on the date on which the Exchange Offer and Consent Solicitation is completed.

If an interest payment date falls on a day that is not a business day, the interest payment to be made on such interest payment date will be made on the next succeeding business day with the same force and effect as if made on such interest payment date, and no additional interest will accrue as a result of such delayed payment.

Principal of, and premium, if any, on the New 2019 Convertible Notes will be payable at the office or agency of Comstock in New York City maintained for such purpose, and the New 2019 Convertible Notes may be surrendered for transfer or exchange at the corporate trust office of the 2019 Convertible Notes Trustee. No service charge will be made for any transfer, exchange or redemption of the New 2019 Convertible Notes, but Comstock may require payment of a sum sufficient to cover any tax or other governmental charge that may be payable in connection therewith. The New 2019 Convertible Notes will be issued only in registered form, without coupons, in denominations of integral multiples of $1.00.

The obligations of Comstock under the New 2019 Convertible Notes will be jointly and severally guaranteed by the Subsidiary Guarantors. See "—Junior Lien Subsidiary Guarantees of New Convertible Notes."

The New 2020 Convertible Notes

Up to $174,607,000 in aggregate principal amount of New 2020 Convertible Notes will be issued on the Issue Date in connection with this Exchange Offer and Consent Solicitation. Except for the issuance of Additional New 2020 Convertible Notes in connection with the payment of interest, the 2020 Convertible Notes Indenture will provide that Comstock may not issue more than $174,607,000 aggregate principal amount of New 2020 Convertible Notes. The New 2020 Convertible Notes will mature on June 15, 2020.

Interest on the New 2020 Convertible Notes will accrue at the rate of 9 ½% per annum and will be payable in kind semi-annually in arrears on June 15 and December 15, commencing on December 15, 2016. Interest on the New 2020 Convertible Notes will accrue from the most recent interest date to which interest has been paid in kind by the issuance of Additional New 2020 Convertible Notes or, if no interest has been paid in kind, from date of original issuance. Comstock will make each interest payment to Persons whose name the New 2020 Convertible Notes are registered in the note register at the close of business on the immediately preceding June 1 and December 1. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

Interest on the New 2020 Convertible Notes will be payable by issuing additional securities (the "*Additional New 2020 Convertible Notes*") in an amount equal to the applicable amount of interest for the interest period (rounded down to the nearest whole dollar). Not later than ten business days prior to the relevant interest payment date, Comstock shall deliver to the 2020 Convertible Notes Trustee and the paying agent (if other than the 2020 Convertible Notes Trustee), (i) with respect to New 2020 Convertible Notes represented by Certificated Notes, the required amount of Additional New 2020 Convertible Notes represented by Certificated Notes (rounded down to the nearest whole dollar) and a company order to authenticate and deliver such Additional New 2020 Convertible Notes or (ii) with respect to New 2020 Convertible Notes represented by one or more Global Notes, a company order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the depositary or otherwise, the required amount of Additional New 2020 Convertible Notes Note represented by Global Notes (rounded down to the nearest whole dollar) and a company order to authenticate and deliver such new Global Notes). All Additional New 2020 Convertible Notes issued pursuant to an interest payment as described above will mature on June 15, 2020 and will be governed by, and subject to the terms, provisions and conditions of, the 2020 Convertible Notes Indenture. The Additional New 2020 Convertible Notes shall have the same rights and benefits as the New 2020 Convertible Notes issued on the Issue Date, and shall be treated together with the New 2020 Convertible Notes as a single class for all purposes under the 2020 Convertible Notes Indenture.

Any Additional New 2020 Convertible Notes shall, after being executed and authenticated pursuant to the 2020 Convertible Notes Indenture, be (i) if such Additional New 2020 Convertible Notes are Certificated Notes, mailed to the Person entitled thereto as shown on the register maintained by the Note Registrar for the Certificated Notes as of the relevant record date or (ii) if such Additional New 2020 Convertible Notes are Global Notes, deposited into the account specified by the Holder or Holders thereof as of the relevant record date. Alternatively, in connection with any payment of interest, Comstock may direct the paying agent to make appropriate amendments to the schedule of principal amounts of the relevant Global Notes outstanding for which Additional New 2020 Convertible Notes will be issued and arrange for deposit into the account specified by the Holder or Holders thereof as of the relevant record date.

Payment shall be made in such form and terms as specified in preceding two paragraphs and Comstock shall and the paying agent may take additional steps as is necessary to effect such payment. Comstock may not issue Additional New 2020 Convertible Notes in lieu of paying interest in cash if such interest is payable with respect to any principal amount that is due and payable pursuant to the terms hereof, including upon redemption or repurchase. Payment of accrued and unpaid interest on the Old 2020 Notes will be made in cash on the date on which the Exchange Offer and Consent Solicitation is completed

If an interest payment date falls on a day that is not a business day, the interest payment to be made on such interest payment date will be made on the next succeeding business day with the same force and effect as if made on such interest payment date, and no additional interest will accrue as a result of such delayed payment.

Principal of, and premium, if any, on the New 2020 Convertible Notes will be payable at the office or agency of Comstock in New York City maintained for such purpose, and the New 2020 Convertible Notes may be surrendered for transfer or exchange at the corporate trust office of the 2020 Convertible Notes Trustee. No service charge will be made for any transfer, exchange or redemption of the New 2020 Convertible Notes, but Comstock may require payment of a sum sufficient to cover any tax or other governmental charge that may be payable in connection therewith. The New 2020 Convertible Notes will be issued only in registered form, without coupons, in denominations of integral multiples of $1.00.

The obligations of Comstock under the New 2020 Convertible Notes will be jointly and severally guaranteed by the Subsidiary Guarantors. See "—Junior Lien Subsidiary Guarantees of New Convertible Notes."

Redemption

Optional Redemption of the New 2019 Convertible Notes

The New 2019 Convertible Notes will be redeemable, at our option, in whole or in part, at any time, upon not less than 30 or more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid interest, if any, to the date of redemption (subject to the right of Holders of record of the New 2019 Convertible Notes on the relevant record date to receive interest due on an interest payment date that is on or prior to the date of redemption), if redeemed during the 12-month period beginning on April 1 of the years indicated below (or the Issue Date for New Convertible Notes redeemed prior to April 1, 2017):

Year	Redemption Price
2016	101.938%
2017 and thereafter	100.000%

For the avoidance of doubt, any redemption pursuant to the provisions under "—Optional Redemption of the New 2019 Convertible Notes" shall be paid in cash.

In the event that less than all of the New 2019 Convertible Notes are to be redeemed, the particular New 2019 Convertible Notes to be redeemed shall be selected not less than 30 nor more than 60 days prior to the date of redemption by the 2019 Convertible Notes Trustee, from the outstanding notes not previously called for redemption, pro rata, by lot or by any other method the 2019 Convertible Notes Trustee shall deem fair and appropriate (or in the case of New 2019 Convertible Notes in global form, the 2019 Convertible Notes Trustee will select the New 2019 Convertible Notes for redemption based on DTC's method that most nearly approximates a pro rata selection).

Offers to Purchase the New 2019 Convertible Notes

As described below, (i) upon the occurrence of a Change of Control, we will be obligated to make an offer to purchase all of the New 2019 Convertible Notes at a purchase price equal to 101% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date of purchase and (ii) upon certain sales or other dispositions of assets, Comstock may be obligated to make offers to purchase the New 2019 Convertible Notes with a portion of the Net Available Cash of such sales or other dispositions at a purchase price equal to 100% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date of purchase. See "—Certain Covenants—Change of Control" and "—Limitation on Asset Sales." For the avoidance of doubt, offers to purchase as set forth in clauses (i) and (ii) above shall only be made in cash.

Optional Redemption of the New 2020 Convertible Notes

The New 2020 Convertible Notes will be redeemable, at our option, in whole or in part, at any time, upon not less than 30 or more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid interest, if any, to the date of redemption (subject to the right of Holders of record of the New 2020 Convertible Notes on the relevant record date to receive interest due on an interest payment date that is on or prior to the date of redemption), if redeemed during the 12-month period beginning on June 15 of the years indicated below (or the Issue Date for New Convertible Notes redeemed prior to June 15, 2017):

Year	Redemption Price
2016	104.750%
2017	102.375%
2018 and thereafter	100.000%

For the avoidance of doubt, any redemption pursuant to the provisions under "—Optional Redemption of the New 2020 Convertible Notes" shall be paid in cash.

In the event that less than all of the New 2020 Convertible Notes are to be redeemed, the particular New 2020 Convertible Notes to be redeemed shall be selected not less than 30 nor more than 60 days prior to the date of redemption by the 2020 Convertible Notes Trustee, from the outstanding notes not previously called for redemption, pro rata, by lot or by any other method the 2020 Convertible Notes Trustee shall deem fair and appropriate (or in the case of New 2020 Convertible Notes in global form, the 2020 Convertible Notes Trustee will select the New 2020 Convertible Notes for redemption based on DTC's method that most nearly approximates a pro rata selection).

Offers to Purchase the New 2020 Convertible Notes

As described below, (i) upon the occurrence of a Change of Control, we will be obligated to make an offer to purchase all of the New 2020 Convertible Notes at a purchase price equal to 101% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date of purchase and (ii) upon certain sales or other dispositions of assets, Comstock may be obligated to make offers to purchase the New 2020 Convertible Notes with a portion of the Net Available Cash of such sales or other dispositions at a purchase price equal to 100% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date of purchase. See "—Certain Covenants—Change of Control" and "—Limitation on Asset Sales." For the avoidance of doubt, offers to purchase as set forth in clauses (i) and (ii) above shall only be made in cash.

Sinking Fund

There will be no sinking fund payments for the New Convertible Notes.

Ranking

The New Convertible Notes

The New Convertible Notes will be:

- senior obligations of Comstock;
- equal in right of payment to all existing and future senior Indebtedness of Comstock;
- secured, on a second priority basis, subject to the Priority Liens securing the Priority Lien Obligations and the Permitted Collateral Liens, by Junior Liens on the same collateral that secures such Priority Lien Obligations (other than Excluded Collateral);

- senior in right of payment to all subordinated Indebtedness of Comstock;
- effectively senior to all existing and future unsecured senior Indebtedness of Comstock, including Comstock's Old Unsecured Notes and Old Senior Secured Notes (which will become unsecured upon completion of this Exchange Offer and Consent Solicitation), to the extent of the value of the Collateral;
- effectively subordinated, pursuant to the terms of the Junior Lien Intercreditor Agreement, to all Priority Lien Obligations, including Indebtedness under the Revolving Credit Agreement and the New Senior Secured Notes, to the extent of the value of the Collateral;
- structurally subordinated to the Indebtedness and other liabilities of Subsidiaries of Comstock that do not guarantee the New Convertible Notes; and
- unconditionally guaranteed by the Subsidiary Guarantors.

The Guarantees

Initially, the New Convertible Notes will be guaranteed by all of our current Subsidiaries. Each Subsidiary Guarantee will be:

- a senior obligation of the Subsidiary Guarantor;
- equal in right of payment to all existing and future senior Indebtedness of that Subsidiary Guarantor;
- secured, on a second priority basis, subject to the Priority Liens securing the Priority Lien Obligations and Permitted Collateral Liens, by Junior Liens on the same collateral that secures such Priority Lien Obligations (other than Excluded Collateral);
- senior in right of payment to all subordinated Indebtedness of that Subsidiary Guarantor;
- effectively senior to all existing and future unsecured senior Indebtedness of the Subsidiary Guarantors, including the Subsidiary Guarantor's guarantees of Comstock's Old Unsecured Notes and the Old Senior Secured Notes (which will become unsecured upon completion of the Exchange Offer), to the extent of the value of the Collateral; and
- effectively subordinated, pursuant to the terms of the Junior Lien Intercreditor Agreement, to all Priority Lien Obligations, including Indebtedness under the Revolving Credit Agreement and the New Senior Secured Notes, to the extent of the value of the Collateral.

As of the date of each of the Convertible Notes Indentures, all of Comstock's Subsidiaries will be "Restricted Subsidiaries." However, under the circumstances described below under the subheading "—Certain Covenants—Future Designation of Restricted and Unrestricted Subsidiaries," Comstock will be permitted to designate certain of its Subsidiaries as "Unrestricted Subsidiaries." Unrestricted Subsidiaries will not be subject to many of the restrictive covenants in the Convertible Notes Indentures and will not guarantee the New Convertible Notes.

Junior Lien Subsidiary Guarantees of New Convertible Notes

Each Subsidiary Guarantor will unconditionally guarantee, jointly and severally, to each Holder and each Convertible Notes Trustee, the full and prompt performance of Comstock's obligations under the Convertible Notes Indentures and the New Convertible Notes, including the payment of principal of, premium, if any, and

interest on the New Convertible Notes pursuant to its Junior Lien Subsidiary Guarantee. The initial Subsidiary Guarantors are currently all of Comstock's subsidiaries. In addition to the initial Subsidiary Guarantors, Comstock is obligated under the applicable Convertible Notes Indenture to 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 Comstock or any other Subsidiary Guarantor, including, without limitation, Indebtedness under the Revolving Credit Agreement, to execute and deliver a supplement to the applicable Convertible Notes Indenture pursuant to which such Restricted Subsidiary will guarantee the payment of the applicable series of New Convertible Notes on the same terms and conditions as the Subsidiary Guarantees by the initial Subsidiary Guarantors. See "—Certain Covenants—Future Junior Lien Subsidiary Guarantees."

The obligations of each Subsidiary Guarantor will be limited to the maximum amount as will result in the obligations of such Subsidiary Guarantor under its Junior Lien Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under applicable law. Each Subsidiary Guarantor that makes a payment or distribution under a Junior Lien Subsidiary Guarantee shall be entitled to a contribution from each other Subsidiary Guarantor in a pro rata amount based on the Adjusted Net Assets of each Subsidiary Guarantor.

Each Subsidiary Guarantor may consolidate with or merge into or sell or otherwise dispose of all or substantially all of its properties and assets to Comstock or another Subsidiary Guarantor without limitation, except to the extent any such transaction is subject to the "Merger, Consolidation and Sale of Assets" covenant of the applicable Convertible Notes Indenture. Each Subsidiary Guarantor may consolidate with or merge into or sell all or substantially all of its properties and assets to a Person other than Comstock or another Subsidiary Guarantor (whether or not affiliated with the Subsidiary Guarantor); *provided* that (i) if the surviving Person is not the Subsidiary Guarantor, the surviving Person agrees to assume such Subsidiary Guarantor's Subsidiary Guarantee and all its obligations pursuant to the applicable Convertible Notes Indenture (except to the extent the following paragraph would result in the release of such Subsidiary Guarantee) and (ii) such transaction does not (a) violate any of the covenants described below under "—Certain Covenants" or (b) result in a Default or Event of Default immediately thereafter that is continuing.

Upon the sale or other disposition (by merger or otherwise) of a Subsidiary Guarantor (or all or substantially all of its properties and assets) to a Person other than Comstock or another Subsidiary Guarantor and pursuant to a transaction that is otherwise in compliance with the Indenture (including as described in the foregoing paragraph), such Subsidiary Guarantor shall be deemed released from its Subsidiary Guarantee and the related obligations set forth in the applicable Convertible Notes Indenture; *provided*, *however*, that any such release shall occur only to the extent that all obligations of such Subsidiary Guarantor under all of its guarantees of, and under all of its pledges of assets or other security interests which secure, other Indebtedness of Comstock or any Restricted Subsidiary shall also be released upon such sale or other disposition.

In addition, in the event that any Subsidiary 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 Comstock or any other Restricted Subsidiary of Comstock, including, without limitation, Indebtedness under the Revolving Credit Agreement, such Subsidiary Guarantor shall also be released from its Subsidiary Guarantee and the related obligations set forth in the applicable Convertible Notes Indenture for so long as it remains not liable with respect to all such other Indebtedness.

Each Subsidiary Guarantor that is designated as an Unrestricted Subsidiary in accordance with the applicable Convertible Notes Indenture shall be released from its Subsidiary Guarantee and related obligations set forth in such Convertible Notes Indenture for so long as it remains an Unrestricted Subsidiary.

Security for the New Convertible Notes

The Convertible Note Obligations will be secured by second-priority perfected Liens in the same Collateral granted to the Priority Lien Collateral Agent for the benefit of the holders of the Priority Lien Obligations.

The Collateral will consist of at least 90% of the present value of the Collateral Grantors' Oil and Gas Properties that constitute Proved Reserves and Proved and Probable Drilling Locations and substantially all other assets of the Collateral Grantors. The Convertible Notes Indentures will provide for a 30-day period following the Issue Date for Comstock to deliver the Junior Lien Mortgages establishing the second-priority perfected Liens on the Oil and Gas Properties and the Proved and Probable Drilling Locations owned by the Collateral Grantors on the Issue Date that are required to become Mortgaged Properties. Prior to the recording of the Junior Lien Mortgages, the New Convertible Notes and the Junior Lien Subsidiary Guarantees will not be secured by Liens on such Oil and Gas Properties and Proved and Probable Drilling Locations. Except as otherwise provided in the Junior Lien Intercreditor Agreement, the Convertible Notes Indentures will provide that the Collateral shall include (x) prior to a default under the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the date of the Convertible Notes Indenture) or, if no Revolving Credit Agreement is then in effect, a default under the Senior Secured Notes Indenture, at least 90% of the present value of the Collateral Grantors' Oil and Gas Properties that constitute Proved Reserves evaluated in the most recently completed Engineering Report delivered pursuant to the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the date of the applicable Indenture) and (y) after the occurrence of a default under the Revolving Credit Agreement or, if no Revolving Credit Agreement is then in effect, a default under the Senior Secured Notes Indenture, at least 95% of the present value of the Collateral Grantors' Oil and Gas Properties and Proved and Probable Drilling Locations.

If no such Engineering Report is delivered pursuant to the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the date of the applicable Convertible Notes Indentures), Comstock shall deliver to the Priority Collateral Agent semi-annually on or before April 1 and October 1 in each calendar year an officers' certificate certifying that as of the date of such certificate, (i) no Default has occurred and is continuing and (ii) the Mortgaged Properties include at least 90% of the present value of the Collateral Grantors' Oil and Gas Properties that constitute Proved Reserves and Proved and Probable Drilling Locations. In the event that the Mortgaged Properties do not meet such 90% requirement, then the Collateral Grantors will be required to grant to the Junior Lien Collateral Agent as security for the Convertible Note Obligations a second-priority Lien on additional Oil and Gas Properties and Proved and Probable Drilling Locations not already subject to a Lien such that after giving effect thereto, the Mortgaged Properties will represent at least 90% of the present value of the Collateral Grantors' Oil and Gas Properties that constitute Proved Reserves and Proved and Probable Drilling Locations. To the extent that any Oil and Gas Properties constituting Collateral are disposed of after the date of any applicable Engineering Report or certificate delivered pursuant to this paragraph, any Proved Reserves attributable to such Oil and Gas Properties shall be deemed excluded from such Engineering Report or certificate for the purpose of determining whether such minimum Junior Lien Mortgage requirement is met after giving effect to such release.

No Collateral Grantor will be permitted to enter into any agreement that requires the proceeds received from any sale of Collateral to be applied to repay, redeem, defease or otherwise acquire or retire any Indebtedness of any Person, other than the New Convertible Notes or otherwise as may be permitted or required by the Convertible Notes Indenture, the Junior Lien Intercreditor Agreement and the other Collateral Trust Agreement and the other Junior Lien Collateral Agreements, including with respect to any Priority Liens and Permitted Collateral Liens; *provided* that subject to the covenant "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock," any such agreement may be entered into to the extent that it permits such proceeds to be applied to all Priority Lien Obligations prior to or instead of such other Indebtedness.

Junior Lien Collateral Agent

On the Issue Date, Comstock and the Subsidiary Guarantors will enter into a collateral trust agreement (the "*Collateral Trust Agreement*") with the Junior Lien Collateral Agent and the Convertible Notes Trustees. The Collateral Trust Agreement will set forth the terms on which the Junior Lien Collateral Agent will receive, hold, administer, maintain, enforce and distribute the proceeds of all Liens upon any property of any Collateral Grantor at any time held by it, in trust for the benefit of the current and future holders of the Convertible Note Obligations.

The Junior Lien Collateral Agent will hold (directly or through co-trustees or agents), and, subject to the terms of the Junior Lien Intercreditor Agreement, will be entitled to enforce, all Liens on the Collateral created by the Junior Lien Collateral Agreements.

Except as provided in the Collateral Trust Agreement or as directed by an Act of Junior Lien Debtholders in accordance with the Collateral Trust Agreement, the Junior Lien Collateral Agent will not be obligated:

(1) to act upon directions purported to be delivered to it by any Person;

(2) to foreclose upon or otherwise enforce any Junior Lien; or

(3) to take any other action whatsoever with regard to any or all of the Junior Lien Collateral Agreements, the Liens created thereby or the Collateral.

Comstock will deliver to each Convertible Notes Trustee copies of all Junior Lien Collateral Agreements delivered to the Junior Lien Collateral Agent.

The Collateral Trust Agreement and/or the Junior Lien Intercreditor Agreement will provide that the Convertible Notes Trustees and each holder of Convertible Note Obligations will waive any claim that may be had against the Junior Lien Collateral Agent, any of its officers, directors, employees and agents, as the case may be, arising out of any actions which the Junior Lien Collateral Agent takes or omits to take (including actions with respect to the creation, perfection or continuation of Junior Liens on any Collateral, actions with respect to the foreclosure upon, sale, release or depreciation of, or failure to realize upon, any Collateral, and actions with respect to the collection of any claim for all or any part of the Convertible Note Obligations from any account debtor, guarantor or any other party) in accordance with the Collateral Trust Agreement, the Junior Lien Intercreditor Agreement and the Junior Lien Collateral Agreements or the valuation, use, protection or release of any security for such Convertible Note Obligations.

The Collateral Trust Agreement and/or the Junior Lien Intercreditor Agreement will additionally provide that, without limiting the generality of the foregoing, the Junior Lien Collateral Agent:

(1) shall not be subject to any fiduciary or other implied duties of any kind or nature to any Person, regardless of whether an event of default under any Convertible Notes Indenture or Junior Lien Collateral Agreement has occurred and is continuing;

(2) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated thereby or by the other Junior Lien Collateral Agreements; *provided* that the Junior Lien Collateral Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose it to liability or that is contrary to any Convertible Note Document or applicable law;

(3) shall not, except as expressly set forth therein and in the Convertible Note Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to Comstock or any of its Affiliates that is communicated to or obtained by the Person serving as the Junior Lien Collateral Agent or any of its Affiliates in any capacity;

(4) shall not be liable for any action taken or not taken by it (A) with the consent or at the request of an Act of Junior Lien Debtholders or (B) in the absence of its own gross negligence or willful misconduct, which may include reliance in good faith on a certificate of an authorized officer of Comstock stating that such action is permitted by the terms of the Collateral Trust Agreement and/or the Junior Lien Intercreditor Agreement, and shall be deemed not to have knowledge of any event of default under any Convertible Note Document unless and until written notice describing such event of default is given by Comstock to the Junior Lien Collateral Agent or by a Convertible Notes Trustee;

(5) shall not be responsible for or have any duty to ascertain or inquire into (A) any statement, warranty or representation made in or in connection with the Collateral Trust Agreement, Junior Lien Intercreditor Agreement or any other Convertible Note Document, (B) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (C) the performance or observance of any of the covenants, agreements or other terms or conditions set forth therein or the occurrence of any event of default or other default, (D) the validity, enforceability, effectiveness or genuineness of the Collateral Trust Agreement, the Junior Lien Intercreditor Agreement, any other Convertible Note Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by any Junior Lien Collateral Agreement, (E) the value or the sufficiency of the Collateral, (F) the satisfaction of any condition set forth in any Convertible Note Document, (G) the state of title to any property purportedly owned by Comstock or any other Person, or (H) the percentage or other measurement of Comstock or any other Person's property which is subject to any Lien or security interests, other than to confirm receipt of items expressly required to be delivered to Junior Lien Collateral Agent;

(6) the Junior Lien Collateral Agent shall not have any fiduciary duties or contractual obligations of any kind or nature under any Convertible Note Document (but shall be entitled to all protection provided to the applicable agent in the Collateral Trust Agreement and the other Junior Lien Collateral Agreements);

(7) with respect to any Convertible Note Document may conclusively assume that Comstock and the Subsidiary Guarantors have complied with all of their obligations thereunder unless advised in writing by a Convertible Notes Trustee to the contrary specifically setting forth the alleged violation;

(8) may conclusively rely on any certificate of an officer of Comstock provided pursuant to the Collateral Trust Agreement and/or the Junior Lien Intercreditor Agreement;

(9) whenever reference is made in any Convertible Note Document to any action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Junior Lien Collateral Agent or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Junior Lien Collateral Agent, it is understood that in all cases the Junior Lien Collateral Agent shall be acting, giving, withholding, suffering, omitting, making or otherwise undertaking and exercising the same (or shall not be undertaking and exercising the same) solely as directed in writing in accordance with the Collateral Trust Agreement and/or the Junior Lien Intercreditor Agreement, as applicable; this provision is intended solely for the benefit of the Junior Lien Collateral Agent and its successors and permitted assigns and is not intended to and will not entitle the other parties hereto to any defense, claim or counterclaim under or in relation to any Convertible Note Document, or confer any rights or benefits on any party;

(10) notwithstanding any other provision of the Collateral Trust Agreement and/or the Junior Lien Intercreditor Agreement, as applicable, or any other Convertible Note Document to the contrary, the Junior Lien Collateral Agent shall not be liable for any indirect, incidental, consequential, punitive or special losses or damages, regardless of the form of action and whether or not any such losses or damages were foreseeable or contemplated;

(11) the Junior Lien Collateral Agent shall not be required to expand or risk any of its own funds or otherwise incur any financial or other liability in the performance of any of its duties under the Junior Lien Intercreditor Agreement, and shall not be obligated to take any legal or other action hereunder, which might in its judgment involve or cause it to incur any expense or liability, unless it shall have been furnished with acceptable indemnification; and

(12) may (and any of its Affiliates may) accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any of Comstock or any other Subsidiary Guarantor or any Subsidiary or Affiliate thereof as if such Person were not the Junior Lien Collateral Agent and without any duty to any other holder of Convertible Note Obligations, including any duty to account therefor.

The Collateral Trust Agreement and/or the Junior Lien Intercreditor Agreement will additionally provide that the Company and the Subsidiary Guarantors agree that they shall defend and be jointly and severally liable to reimburse and indemnify the Junior Lien Collateral Agent for reasonable expenses actually incurred by the Junior Lien Collateral Agent in connection with the execution, delivery, administration and enforcement of the Junior Lien Intercreditor Agreement and from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, actual reasonable expenses or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against the Junior Lien Collateral Agent, in any way relating to or arising out of the Junior Lien Intercreditor Agreement or any other document delivered in connection therewith or the transactions contemplated thereby, or the enforcement of any of the terms thereof, in each case, except to the extent caused by its gross negligence or willful misconduct.

The Collateral Trust Agreement and/or the Junior Lien Intercreditor Agreement will additionally provide that each holder of the Convertible Note Obligations (i) acknowledge that, in addition to acting as the initial Junior Lien Collateral Agent, and the initial Priority Lien Collateral Agent, Bank of Montreal also serves as the Revolving Credit Agreement Agent, and that Bank of Montreal or on or more of its Affiliates may have jointly arranged, syndicated, placed or otherwise participated in the facilities and indebtedness contemplated by the Revolving Credit Agreement and the Convertible Note Obligations, and (ii) waive any right to make any objection or claim against Bank of Montreal, and of its Affiliates or its counsel (or any successor Priority Lien Collateral Agent or Junior Lien Collateral Agent or its counsel) based on any alleged conflict of interest or breach of duties arising from the Junior Lien Collateral Agent or Priority Lien Collateral Agent, and the Bank of Montreal or its Affiliates, also serving in such other capacities.

The Junior Lien Intercreditor Agreement

On the Issue Date, the Junior Lien Collateral Agent will enter into the Junior Lien Intercreditor Agreement with the Priority Lien Collateral Agent, to provide for, among other things, the junior nature of the Junior Liens with respect to Priority Liens. Although the Holders of the applicable series of New Convertible Notes will not be parties to the Junior Lien Intercreditor Agreement, by their acceptance of such New Convertible Notes, they will agree to be bound thereby. The Junior Lien Intercreditor Agreement will permit the Priority Lien Obligations and the Convertible Note Obligations to be refunded, refinanced or replaced by certain permitted refinancing indebtedness without affecting the lien priorities set forth in the Junior Lien Intercreditor Agreement, in each case without the consent of any holder of Priority Lien Obligations or Convertible Note Obligations (including Holders of the applicable series of New Convertible Notes).

Lien Priorities

The Junior Lien Intercreditor Agreement will provide that, notwithstanding:

(1) anything to the contrary contained in any of the Convertible Note Documents or any other agreement or instrument or by operation of law;

(2) how a Lien was acquired (whether by grant, possession, statute, operation of law, subrogation, or otherwise);

(3) the time, manner, order of the grant attachment or perfection of a Lien;

(4) any conflicting provision of the New York Uniform Commercial Code or other applicable law;

(5) any defect in, or non-perfection, setting aside, or avoidance of, a Junior Lien or a Priority Lien Document or a Convertible Note Document;

(6) the modification of a Priority Lien Obligation or a Convertible Note Obligation; or

(7) the subordination of a Lien on Collateral securing a Priority Lien Obligation to a Lien securing another obligation of Comstock or other Person that is permitted under the Priority Lien Documents as in effect on the Issue Date or securing a DIP Financing or the subordination of a Lien on Collateral securing a Convertible Note Obligation to a Lien securing another obligation of Comstock or other Persons (other than a Priority Lien Obligation) that is permitted under the Convertible Note Documents as in effect on the Issue Date;

all Junior Liens at any time granted by any Collateral Grantor will be subject and subordinate to all Priority Liens securing Priority Lien Obligations, subject to the Priority Lien Cap.

The provisions described under "—Lien Priorities" are intended for the benefit of, and will be enforceable as a third party beneficiary by, each present and future holder of Priority Lien Obligations, and each present and future Priority Lien Collateral Agent as holder of Priority Liens. No other Person will be entitled to rely on, have the benefit of or enforce those provisions.

In addition, the provisions under "—Lien Priorities" are intended solely to set forth the relative ranking, as Liens, of the Liens securing the Convertible Note Obligations as against the Priority Liens, and the Liens securing Priority Lien Obligations as against the Junior Liens.

Limitation on Enforcement of Remedies

The Junior Lien Intercreditor Agreement will provide that, except as provided below, prior to the Discharge of Priority Lien Obligations, none of the Junior Lien Collateral Agent or any holder of Convertible Note Obligations may commence any judicial or nonjudicial foreclosure proceedings with respect to, seek to have a trustee, receiver, liquidator or similar official appointed for or over, attempt any action to take possession of, exercise any right, remedy or power with respect to, or otherwise take any action to enforce its interest in or realize upon, or take any other action available to it in respect of, the Collateral under any Convertible Note Document, applicable law or otherwise (including but not limited to right of set off). Only the Priority Lien Collateral Agent will be entitled to take any such actions or exercise any such remedies with respect to the Collateral prior to the Discharge of Priority Lien Obligations. The Junior Lien Intercreditor Agreement will provide that, notwithstanding the foregoing, the Junior Lien Collateral Agent may, but will have no obligation to, on behalf of the holders of Convertible Note Obligations, take all such actions (not adverse to the Priority Liens or the rights of the Priority Lien Collateral Agent and holders of the Priority Lien Obligations) it deems necessary to perfect or continue the perfection of their Junior Liens in the Collateral or to create, preserve or protect (but not enforce) the Junior Liens in the Collateral. Nothing shall limit the right or ability of the Junior Lien Collateral Agent or the holders of Convertible Note Obligations to (i) purchase (by credit bid or otherwise) all or any portion of the Collateral in connection with any enforcement of remedies by the Priority Lien Collateral Agent so long as the Priority Lien Collateral Agent and the holders of the Priority Lien Obligations receive payment in full in cash of all Priority Lien Obligations (subject to the Priority Lien Cap) after giving effect thereto or (ii) file a proof of claim with respect to the Convertible Note Obligations. Until the Discharge of Priority Lien Obligations, the Priority Lien Collateral Agent will have the exclusive right to deal with that portion of the Collateral consisting of deposit accounts and securities accounts, including exercising rights under control agreements with respect to such accounts. In addition, whether before or after the Discharge of Priority Lien Obligations, the Junior Lien Collateral Agent and the holders of Convertible Note Obligations may take any actions and exercise any and all rights that would be available to a holder of unsecured claims; *provided* that the Junior Lien Collateral Agent and such holders of Convertible Note Obligations may not take any of the actions described below under clauses (1) through (9) of the first paragraph under "—No Interference; Payment Over," as applicable, or prohibited by

the provisions described in the first four paragraphs below under "—Agreements With Respect to Insolvency or Liquidation Proceedings," as applicable; *provided, further*, that in the event that the Junior Lien Collateral Agent or any holder of Convertible Note Obligations becomes a judgment lien creditor in respect of any Collateral as a result of its enforcement of its rights as an unsecured creditor with respect to the Convertible Note Obligations, such judgment lien shall be subject to the terms of the Junior Lien Intercreditor Agreement for all purposes (including in relation to the Priority Lien Obligations), as the other liens securing the Convertible Note Obligations, are subject to the Junior Lien Intercreditor Agreement.

Notwithstanding the foregoing, prior to the Discharge of Priority Lien Obligations, both before and during an Insolvency or Liquidation Proceeding, after a period of 180 days has elapsed (which period will be tolled during any period in which the Priority Lien Collateral Agent is not entitled, on behalf of holders of Priority Lien Obligations, to enforce or exercise any rights or remedies with respect to any Collateral as a result of (x) any injunction issued by a court of competent jurisdiction or (y) the automatic stay or any other stay or prohibition in any Insolvency or Liquidation Proceeding) since the date on which the Junior Lien Collateral Agent has delivered to the Priority Lien Collateral Agent written notice of the acceleration of either series of New Convertible Notes (the "*Accelerated Series of New Convertible Notes*" and such period, the "*Junior Lien Standstill Period*"), the Junior Lien Collateral Agent and the holders of Convertible Note Obligations in respect of the Accelerated Series of New Convertible Notes may enforce or exercise any rights or remedies with respect to any Collateral; *provided* that notwithstanding the expiration of the Junior Lien Standstill Period, in no event may the Junior Lien Collateral Agent or any other holder of Convertible Note Obligations enforce or exercise any rights or remedies with respect to any Collateral, or commence, join with any Person at any time in commencing, or petition for or vote in favor of any resolution for, any such action or proceeding, if the Priority Lien Collateral Agent on behalf of the holders of Priority Lien Obligations or any other holder of Priority Lien Obligations shall have commenced, and shall be diligently pursuing (or shall have sought or requested relief from, or modification of, the automatic stay or any other stay or prohibition in any Insolvency or Liquidation Proceeding to enable the commencement and pursuit thereof), the enforcement or exercise of any rights or remedies with respect to any material portion of the Collateral or any such action or proceeding (prompt written notice thereof to be given to the Junior Lien Collateral Agent by the Priority Lien Collateral Agent); *provided, further*, that at any time after the expiration of the Junior Lien Standstill Period, if neither the Priority Lien Collateral Agent nor any holder of Priority Lien Obligations shall have commenced and be diligently pursuing (or shall have sought or requested relief from, or modification of, the automatic stay or any other stay or other prohibition in any Insolvency or Liquidation Proceeding to enable the commencement and pursuit thereof) the enforcement or exercise of any rights or remedies with respect to any material portion of the Collateral or any such action or proceeding, and the Junior Lien Collateral Agent shall have commenced the enforcement or exercise of any rights or remedies with respect to any material portion of the Collateral or any such action or proceeding, then for so long as the Junior Lien Collateral Agent is diligently pursuing such rights or remedies, neither of any holder of Priority Lien Obligations nor the Priority Lien Collateral Agent shall take any action of a similar nature with respect to such Collateral, or commence, join with any Person at any time in commencing, or petition for or vote in favor of any resolution for, any such action or proceeding.

Priority Lien Collateral Agent

The Junior Lien Intercreditor Agreement will provide that neither the Priority Lien Collateral Agent nor any holder of any Priority Lien Obligations will have any duties or other obligations to any holder of Convertible Note Obligations with respect to the Collateral, other than to transfer to the Junior Lien Collateral Agent any remaining Collateral and the proceeds of the sale or other disposition of any Collateral remaining in its possession following the Discharge of Priority Lien Obligations, in each case, without representation or warranty on the part of the Priority Lien Collateral Agent or any holder of Priority Lien Obligations.

In addition, the Junior Lien Intercreditor Agreement will further provide that, until the Discharge of Priority Lien Obligations (but subject to the rights of the Junior Lien Collateral Agent and the holders of Convertible Note Obligations and the following expiration of any of the Junior Lien Standstill Period, as provided in the paragraph

defining "Junior Lien Standstill Period"), the Priority Lien Collateral Agent will be entitled, for the benefit of the holders of the Priority Lien Obligations, to sell, transfer or otherwise dispose of or deal with the Collateral without regard to any Junior Lien therein granted to the holders of Convertible Note Obligations or any rights to which the Junior Priority Lien Collateral Agent or any holder of Convertible Note Obligations would otherwise be entitled as a result of such Junior Lien. Without limiting the foregoing, the Junior Lien Intercreditor Agreement will provide that neither the Priority Lien Collateral Agent nor any holder of any Priority Lien Obligations will have any duty or obligation first to marshal or realize upon the Collateral, or to sell, dispose of or otherwise liquidate all or any portion of the Collateral, in any manner that would maximize the return to the holders of Convertible Note Obligations, notwithstanding that the order and timing of any such realization, sale, disposition or liquidation may affect the amount of proceeds actually received by the holders of Convertible Note Obligations, from such realization, sale, disposition or liquidation.

The Junior Lien Intercreditor Agreement will additionally provide that the Junior Lien Collateral Agent and each holder of Convertible Note Obligations will waive any claim that may be had against the Priority Lien Collateral Agent, any of its officers, directors, employees and agents, as the case may be, or any holder of any Priority Lien Obligations, or any of its officers, directors, employees and agents, as the case may be, arising out of any actions which the Priority Lien Collateral Agent or such holder of Priority Lien Obligations takes or omits to take (including actions with respect to the creation, perfection or continuation of Liens on any Collateral, actions with respect to the foreclosure upon, sale, release or depreciation of, or failure to realize upon, any Collateral, and actions with respect to the collection of any claim for all or any part of the Priority Lien Obligations from any account debtor, Collateral Grantor or any other party) in accordance with the Junior Lien Intercreditor Agreement and the Priority Lien Documents or the valuation, use, protection or release of any security for such Priority Lien Obligations.

The Junior Lien Intercreditor Agreement will additionally provide that, without limiting the generality of the foregoing, the Priority Lien Collateral Agent:

(i) shall not be subject to any fiduciary or other implied duties of any kind or nature to any Person, regardless of whether an event of default under any Secured Debt Document has occured and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Security Documents; *provided* that the Priority Lien Collateral Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose it to liability or that is contrary to any Priority Lien Document or applicable law;

(iii) shall not, except as expressly set forth in the Junior Lien Intercreditor Agreement and in the Priority Lien Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to Comstock or any of its Affiliates that is communicated to or obtained by the Person serving as the Priority Lien Collateral Agent or any of its Affiliates in any capacity;

(iv) shall not be liable for any action taken or not taken by it (A) with the consent or at the request of the Controlling Party (as defined in the Priority Lien Intercreditor Agreement) or (B) in the absence of its own gross negligence or willful misconduct, which may include reliance in good faith on a certificate of an authorized officer of Comstock stating that such action is permitted by the terms of the Junior Lien Intercreditor Agreement; and shall be deemed not to have knowledge of any event of default under any series of Secured Debt unless and until written notice describing such event of default is given by Comstock to the Priority Lien Collateral Agent by the Authorized Representative of such Secured Debt;

(v) shall not be responsible for or have any duty to ascertain or inquire into (A) any statement, warranty or representation made in or in connection with the Junior Lien Intercreditor

Agreement, any Priority Lien Document or any Convertible Note Document, (B) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (C) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any event of default or other default, (D) the validity, enforceability, effectiveness or genuineness of the Junior Lien Intercreditor Agreement, the Collateral Trust Agreement any Priority Lien Document, any Convertible Note Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by any Priority Lien Document or Convertible Note Document, (E) the value or the sufficiency of the Collateral, (F) the satisfaction of any condition set forth in any Priority Lien Document or Convertible Note Document, (G) the state of title to any property purportedly owned by Comstock or any other Person, or (H) the percentage or other measurement of Comstock's or any other Person's property which is subject to any Lien or security interests, other than to confirm receipt of items expressly required to be delivered to Priority Lien Collateral Agent;

(vi) the Priority Lien Collateral Agent shall not have any fiduciary duties or contractual obligations of any kind or nature under any Priority Lien Document or Convertible Note Document (but shall be entitled to all protection provided to the Priority Lien Agent herein);

(vii) with respect to any Priority Lien Document or Convertible Note Document may conclusively assume that the Collateral Grantors have complied with all of their obligations thereunder unless advised in writing by the Authorized Representative thereunder to the contrary specifically setting forth the alleged violation;

(viii) may conclusively rely on any certificate of an officer of Comstock provided pursuant to the Junior Lien Intercreditor Agreement;

(ix) whenever reference is made in any Priority Lien Document or Convertible Note Document to any action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Priority Lien Collateral Agent or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Priority Lien Collateral Agent, it is understood that in all cases the Priority Lien Collateral Agent shall be acting, giving, withholding, suffering, omitting, making or otherwise undertaking and exercising the same (or shall not be undertaking and exercising the same) solely as directed in writing in accordance with the Priority Lien Intercreditor Agreement and/or the Junior Lien Intercreditor Agreement, as applicable; this provision is intended solely for the benefit of the Priority Lien Collateral Agent and its successors and permitted assigns and is not intended to and will not entitle the other parties hereto to any defense, claim or counterclaim under or in relation to any Priority Lien Document or Convertible Note Document, or confer any rights or benefits on any party;

(x) notwithstanding any other provision of the Junior Lien Intercreditor Agreement the Collateral Trust Agreement, any Priority Lien Document or any Convertible Document to the contrary, the Priority Lien Collateral Agent shall not be liable for any indirect, incidental, consequential, punitive or special losses or damages, regardless of the form of action and whether or not any such losses or damages were foreseeable or contemplated;

(xi) the Priority Lien Collateral Agent shall not be required to expand or risk any of its own funds or otherwise incur any financial or other liability in the performance of any of its duties under the Junior Lien Intercreditor Agreement, and shall not be obligated to take any legal or other action thereunder, which might in its judgment involve or cause it to incur any expense or liability, unless it shall have been furnished with acceptable indemnification; and

(xii) may (and any of its Affiliates may) accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any of Comstock or any other Collateral Grantor or any Subsidiary or Affiliate thereof as if such Person were not the Priority Lien Collateral Agent and without any duty to any other holder of the Priority Lien Obligations or Convertible Note Obligations, including any duty to account therefor.

The Junior Lien Intercreditor Agreement will additionally provide that the Collateral Grantors agree that they shall defend and be jointly and severally liable to reimburse and indemnify the Priority Lien Collateral Agent for reasonable expenses actually incurred by the Priority Lien Collateral Agent in connection with the execution, delivery, administration and enforcement of the Junior Lien Intercreditor Agreement and from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, actual reasonable expenses or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against the Priority Lien Collateral Agent, in any way relating to or arising out of the Junior Lien Intercreditor Agreement or any other document delivered in connection therewith or the transactions contemplated thereby, or the enforcement of any of the terms thereof, in each case, except to the extent caused by its gross negligence or willful misconduct.

The Junior Lien Intercreditor Agreement will additionally provide that each holder of the Priority Lien Obligations and the Convertible Note Obligations (i) acknowledge that, in addition to acting as the initial Priority Lien Collateral Agent, and the initial Junior Lien Collateral Agent, Bank of Montreal also serves as the Revolving Credit Agreement Agent, and that Bank of Montreal or on or more of its Affiliates may have jointly arranged, syndicated, placed or otherwise participated in the facilities and indebtedness contemplated by the Revolving Credit Agreement and the Convertible Note Documents, and (ii) waive any right to make any objection or claim against Bank of Montreal, and of its Affiliates or its counsel (or any successor Priority Lien Collateral Agent or Junior Lien Collateral Agent or its counsel) based on any alleged conflict of interest or breach of duties arising from the Priority Lien Collateral Agent or Junior Lien Collateral Agent, and the initial Bank of Montreal or its Affiliates also serving in such other capacities.

No Interference; Payment Over

The Junior Lien Intercreditor Agreement will provide that the Junior Lien Collateral Agent and each holder of Convertible Note Obligations:

(1) will not take or cause to be taken any action the purpose or effect of which is, or could be, to make any Lien that the Junior Lien Collateral Agent or the holders of Convertible Note Obligations have on the Collateral *pari passu* with, or to give the Junior Lien Collateral Agent or any holder of Convertible Note Obligations any preference or priority relative to, any Lien that the Priority Lien Collateral Agent holds on behalf of the holders of any Priority Lien Obligations secured by any Collateral or any part thereof;

(2) will not challenge or question in any proceeding the validity or enforceability of any Priority Lien Obligations or Priority Lien Documents or the validity, attachment, perfection or priority of any Lien held by the Priority Lien Collateral Agent on behalf of the holders of any Priority Lien Obligations, or the validity or enforceability of the priorities, rights or duties established by the provisions of the Junior Lien Intercreditor Agreement;

(3) will not take or cause to be taken any action the purpose or effect of which is, or could be, to interfere, hinder or delay, in any manner, whether by judicial proceedings or otherwise, any sale, transfer or other disposition of the Collateral by the Priority Lien Collateral Agent or the holders of any Priority Lien Obligations in an enforcement action;

(4) will have no right to (A) direct the Priority Lien Collateral Agent or any holder of any Priority Lien Obligations to exercise any right, remedy or power with respect to any Collateral or (B) consent to the exercise by the Priority Lien Collateral Agent or any holder of any Priority Lien Obligations of any right, remedy or power with respect to any Collateral;

(5) will not institute any suit or assert in any suit or in any Insolvency or Liquidation Proceeding, any claim against the Priority Lien Collateral Agent or any holder of any Priority Lien Obligations seeking damages from or other relief by way of specific performance, instructions or otherwise with respect to, and neither the Priority Lien Collateral Agent nor any holders of any Priority Lien Obligations will be liable for, any action taken or omitted to be taken by the Priority Lien Collateral Agent or such holders of Priority Lien Obligations with respect to any Collateral securing such Priority Lien Obligations;

(6) prior to the Discharge of Priority Lien Obligations, will not seek, and will waive any right, to have any Collateral or any part thereof marshaled upon any foreclosure or other disposition of such Collateral;

(7) prior to the Discharge of Priority Lien Obligations, will not attempt, directly or indirectly, whether by judicial proceedings or otherwise, to challenge the enforceability of any provision of the Junior Lien Intercreditor Agreement;

(8) will not object to forbearance by the Priority Lien Collateral Agent or any holder of Priority Lien Obligations; and

(9) prior to the Discharge of Priority Lien Obligations, will not assert, and thereby waive, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or claim the benefit of any marshalling, appraisal, valuation or other similar right that may be available under applicable law to a junior secured creditor with respect to the Collateral or any similar rights a junior secured creditor may have under applicable law.

The Junior Lien Intercreditor Agreement will provide that if the Junior Lien Collateral Agent and any holder of Convertible Note Obligations obtains possession of any Collateral or realizes any proceeds or payment in respect of any Collateral, pursuant to the exercise of any rights or remedies with respect to any of the Collateral under any Security Document, or by the exercise of any rights available to it under applicable law or in any Insolvency or Liquidation Proceeding at any time prior to the Discharge of Priority Lien Obligations, then it will hold such Collateral, proceeds or payment in trust for the Priority Lien Collateral Agent and the holders of Priority Lien Obligations and transfer such Collateral, proceeds or payment, as the case may be, to the Priority Lien Collateral Agent as promptly as practicable. Each of the Junior Lien Collateral Agent and the holders of Convertible Note Obligations will further agree that if, at any time, any of them obtains written notice that all or part of any payment with respect to any Priority Lien Obligations previously made shall be rescinded for any reason whatsoever, they will promptly pay over to the Priority Lien Collateral Agent any payment received by them and then in their possession or under their direct control in respect of any such Collateral subject to a Priority Lien and shall promptly turn any such Collateral then held by them over to the Priority Lien Collateral Agent, and the provisions set forth in the Junior Lien Intercreditor Agreement will be reinstated as if such payment had not been made, until the Discharge of Priority Lien Obligations. All Junior Liens will remain attached to and enforceable against all proceeds so held or remitted, subject to the priorities set forth in the Junior Lien Intercreditor Agreement. The Junior Lien Intercreditor Agreement will provide that the provisions described in this paragraph will not apply to any proceeds of Collateral realized in a transaction not prohibited by the Priority Lien Documents and as to which the possession or receipt thereof by the Junior Lien Collateral Agent or any holder of Convertible Note Obligations is otherwise permitted by the Priority Lien Documents.

Automatic Release of Junior Liens

The Junior Lien Intercreditor Agreement will provide that, prior to the Discharge of Priority Lien Obligations, the Junior Lien Collateral Agent and each holder of Convertible Note Obligations will agree that, if the Priority Lien Collateral Agent or the holders of Priority Lien Obligations release their Lien on any Collateral, the Junior Lien on such Collateral will terminate and be released automatically and without further action if (i) such release is permitted under the Convertible Note Documents (it being agreed that the Priority Lien Collateral Agent may conclusively rely upon a written request of Comstock stating that the release of such Lien is permitted under the Convertible Note Documents), (ii) such release is effected in connection with the Priority Lien Collateral Agent's foreclosure upon, or other exercise of rights or remedies with respect to, such Collateral, or (iii) such release is effected in connection with a sale or other disposition of any Collateral (or any portion thereof) under Section 363 of the Bankruptcy Code or any other provision of the Bankruptcy Code if the Priority Lien Collateral Agent and the holders of Priority Lien Obligations shall have consented to such sale or disposition of such Collateral; *provided* that in the case of each of clauses (i), (ii), and (iii), (A) the net proceeds of such Collateral are applied pursuant to the provisions described in "—Application of Proceeds" and (B) the Junior Liens on such Collateral securing the Convertible Note Obligations shall remain in place (and shall remain subject and subordinate to all Priority Liens securing Priority Lien Obligations, subject to the Priority Lien Cap) with respect to any proceeds of a sale, transfer or other disposition of Collateral not paid to the holders of Priority Lien Obligations or that remain after the Discharge of Priority Lien Obligations.

Agreements With Respect to Insolvency or Liquidation Proceedings

The Junior Lien Intercreditor Agreement is a "subordination agreement" under Section 510(a) of the Bankruptcy Code. If either Comstock or any of its Subsidiaries becomes subject to any Insolvency or Liquidation Proceeding and, as debtor(s)-in-possession, or if any receiver or trustee for such Person or Persons, moves for approval of financing ("*DIP Financing*") to be provided by one or more lenders (the "*DIP Lenders*") under Section 364 of the Bankruptcy Code or the use of cash collateral under Section 363 of the Bankruptcy Code, the Junior Lien Intercreditor Agreement will provide that none of the Junior Lien Collateral Agent and any holder of Convertible Note Obligations will raise any objection, contest or oppose (or join or support any third party in objecting, contesting or opposing), and each holder of Junior Lien Obligations will be deemed to have consented to, and will waive any claim such Person may now or hereafter have, to any such financing or to the Liens on the Collateral securing the same ("*DIP Financing Liens*"), or to any use, sale or lease of cash collateral that constitutes Collateral or to any grant of administrative expense priority under Section 364 of the Bankruptcy Code, unless (1) the Priority Lien Collateral Agent opposes or objects to such DIP Financing, such DIP Financing Liens or such use of cash collateral or (2) the terms of such DIP Financing provide for the sale of a substantial part of the Collateral (other than a sale or disposition pursuant to Section 363 of the Bankruptcy Code with respect to which the holders of the Convertible Note Obligations are deemed to have consented pursuant to the provisions described in "—Agreements With Respect to Insolvency or Liquidation Proceedings") or require the confirmation of a plan of reorganization containing specific terms or provisions (other than repayment in cash of such DIP Financing on the effective date thereof). To the extent such DIP Financing Liens are senior to, or rank *pari passu* with, the Liens on Collateral securing Priority Lien Obligations, the Junior Lien Collateral Agent will, for themselves and on behalf of holders of the Convertible Note Obligations, subordinate the Junior Liens on the Collateral that secure the Convertible Note Obligations to the Liens on the Collateral that secure Priority Lien Obligations and to such DIP Financing Liens, so long as the Junior Lien Collateral Agent, on behalf of holders of the Convertible Note Obligations, retains Junior Liens on all the Collateral, including proceeds thereof arising after the commencement of any Insolvency or Liquidation Proceeding, with the same priority relative to the Liens on the Collateral as existed prior to the commencement of the case under the Bankruptcy Code. Furthermore, the Junior Lien Intercreditor Agreement will provide that prior to the Discharge of Priority Lien Obligations, without the written consent of the Priority Lien Collateral Agent in its sole discretion, none of the Junior Lien Collateral Agent and any holder of Convertible Note Obligations will propose, support or enter into any DIP Financing.

The Junior Lien Intercreditor Agreement will provide that the Junior Lien Collateral Agent and each holder of Convertible Note Obligations will be deemed to have consented to and will not object to, oppose or contest (or

join with or support any third party objecting to, opposing or contesting) a sale or other disposition, a motion to sell or dispose or the bidding procedure for such sale or disposition of any Collateral (or any portion thereof) under Section 363 of the Bankruptcy Code or any other provision of the Bankruptcy Code if (1) the Priority Lien Collateral Agent or the requisite holders of Priority Lien Obligations shall have consented to such sale or disposition of such Collateral, (2) all Priority Liens on the Collateral securing the Priority Lien Obligations and Junior Liens on the Collateral securing the Convertible Note Obligations, shall attach to the proceeds of such sale in the same respective priorities as set forth in the Junior Lien Intercreditor Agreement with respect to the Collateral, (3) the waterfall described in "—Application of Proceeds" is complied with in connection with such credit bid and (4) each of the Junior Lien Collateral Agent and the holders of Convertible Note Obligations shall have the right to credit bid all or any portion of the Collateral so long as the Priority Lien Collateral Agent and the holders of the Priority Lien Obligations receive payment in full in cash of all Priority Lien Obligations after giving effect thereto. The Junior Lien Intercreditor Agreement will further provide that the Junior Lien Collateral Agent and the holders of Convertible Note Obligations will waive any claim that may be had against the Priority Lien Collateral Agent or any holder of Priority Lien Obligations arising out of any DIP Financing Liens (granted in a manner that is consistent with the Junior Lien Intercreditor Agreement) or administrative expense priority under Section 364 of the Bankruptcy Code. The Junior Lien Intercreditor Agreement will further provide that the Junior Lien Collateral Agent and the holders of Convertible Note Obligations will not file or prosecute in any Insolvency or Liquidation Proceeding any motion for adequate protection (or any comparable request for relief) based upon their interest in the Collateral, and will not object to, oppose or contest (or join with or support any third party objecting to, opposing or contesting) (a) any request by the Priority Lien Collateral Agent or any holder of Priority Lien Obligations for adequate protection or (b) any objection by the Priority Lien Collateral Agent or any holder of Priority Lien Obligations to any motion, relief, action or proceeding based on the Priority Lien Collateral Agent or any holder of Priority Lien Obligations claiming a lack of adequate protection, except that the Junior Lien Collateral Agent and the holders of Convertible Note Obligations:

(1) may freely seek and obtain relief granting adequate protection only in the form of a replacement lien co-extensive in all respects with, but subordinated to, and with the same relative priority to the Priority Liens as existed prior to the commencement of the Insolvency or Liquidation Proceeding, all Liens granted in the Insolvency or Liquidation Proceeding to, or for the benefit of, the holders of the Priority Lien Obligations; and

(2) may freely seek and obtain any relief upon a motion for adequate protection (or any comparable relief), without any condition or restriction whatsoever, at any time after the Discharge of Priority Lien Obligations.

In any Insolvency or Liquidation Proceeding, none of the Junior Lien Collateral Agent and any holder of Convertible Note Obligations shall support or vote for any plan of reorganization or disclosure statement of Comstock or any other Collateral Grantor unless such plan is accepted by the class of holders of the Priority Lien Obligations in accordance with Section 1126(c) of the Bankruptcy Code or otherwise provides for the payment in full in cash of all Priority Lien Obligations (including all post-petition interest approved by the bankruptcy court, fees and expenses and cash collateral of all letters of credit) on the effective date of such plan of reorganization or except as otherwise provided in the Junior Lien Intercreditor Agreement, the holders of the Convertible Note Obligations shall remain entitled to vote their claims in any such Insolvency or Liquidation Proceeding.

The Junior Lien Intercreditor Agreement will additionally provide that the Junior Lien Collateral Agent and each holder of Convertible Note Obligations will waive any claim that may be had against the Priority Lien Collateral Agent or any holder of any Priority Lien Obligations arising out of any election by the Priority Lien Collateral Agent or any holder of Priority Lien Obligations in any proceeding instituted under the Bankruptcy Code, of the application of Section 1111(b) of the Bankruptcy Code.

Until the Discharge of Priority Lien Obligations has occurred, none of the Junior Lien Collateral Agent or any holder of Convertible Note Obligations shall seek relief, pursuant to Section 362(d) of the Bankruptcy Code or

otherwise, from the automatic stay of Section 362(a) of the Bankruptcy Code or from any other stay in any Insolvency or Liquidation Proceeding in respect of the Collateral if the Priority Lien Collateral Agent has not received relief from the automatic stay (or it has not been lifted for the Priority Lien Collateral Agent's benefit), without the prior written consent of the Priority Lien Collateral Agent.

Neither the Junior Lien Collateral Agent nor any holder of Convertible Note Obligations shall oppose or seek to challenge (or join or support any third party in opposing or seeking to challenge) any claim by the Priority Lien Collateral Agent or any other holder of Priority Lien Obligations for allowance (but not payment until the Discharge of Priority Lien Obligations has occurred) in any Insolvency or Liquidation Proceeding of Priority Lien Obligations consisting of post-petition interest, fees or expenses or cash collateralization of all letters of credit to the extent of the value of the Priority Liens (it being understood that such value will be determined without regard to the existence of the Junior Liens) subject to the Priority Lien Cap. Neither the Priority Lien Collateral Agent nor any holder of Priority Lien Obligations shall oppose or seek to challenge any claim by the Junior Lien Collateral Agent or any holder of Convertible Note Obligations for allowance (but not payment until the Discharge of Priority Lien Obligations has occurred) in any Insolvency or Liquidation Proceeding of Convertible Note Obligations consisting of post-petition interest, fees or expenses to the extent of the value of the Junior Liens, as applicable, on the Collateral; *provided* that if the Priority Lien Collateral Agent or any holder of Priority Lien Obligations shall have made any such claim, such claim (i) shall have been approved or (ii) will be approved contemporaneously with the approval of any such claim by the Junior Lien Collateral Agent or any holder of Convertible Note Obligations.

Without the express written consent of the Priority Lien Collateral Agent, none of the Junior Lien Collateral Agent or any holder of Convertible Note Obligations shall (or shall join with or support any third party in opposing, objecting to or contesting, as the case may be), in any Insolvency or Liquidation Proceeding involving any Collateral Grantor, (i) oppose, object to or contest the determination of the extent of any Liens held by any of holder of Priority Lien Obligations or the value of any claims of any such holder under Section 506(a) of the Bankruptcy Code or (ii) oppose, object to or contest the payment to the holder of Priority Lien Obligations of interest, fees or expenses, or to the cash collateralization of letters of credit, under Section 506(b) of the Bankruptcy Code, subject to the Priority Lien Cap.

Notwithstanding anything to the contrary contained in the Junior Lien Intercreditor Agreement, if in any Insolvency or Liquidation Proceeding a determination is made that any Lien encumbering any Collateral is not enforceable for any reason, the Junior Lien Collateral Agent and the holders of Convertible Note Obligations agree that any distribution or recovery they may receive in respect of any Collateral shall be segregated and held in trust and forthwith paid over to the Priority Lien Collateral Agent for the benefit of the holders of Priority Lien Obligations in the same form as received without recourse, representation or warranty (other than a representation of the Junior Lien Collateral Agent that it has not otherwise sold, assigned, transferred or pledged any right, title or interest in and to such distribution or recovery) but with any necessary endorsements or as a court of competent jurisdiction may otherwise direct. The Junior Lien Collateral Agent appoints the Priority Lien Collateral Agent, and any officer or agent of the Priority Lien Collateral Agent, with full power of substitution, the attorney-in-fact of each the Junior Lien Collateral Agent and the holders of Convertible Note Obligations for the limited purpose of carrying out the provisions related to this paragraph and taking any action and executing any instrument that the Priority Lien Collateral Agent may deem necessary or advisable to accomplish the purposes of this paragraph, which appointment is irrevocable and coupled with an interest.

The Junior Lien Collateral Agent and the holders of Convertible Note Obligations will agree that the Priority Lien Collateral Agent shall have the exclusive right to credit bid the Priority Lien Obligations (subject to the Priority Lien Cap) and further that none of the Junior Lien Collateral Agent or any holder of Convertible Note Obligations shall (or shall join with or support any third party in opposing, objecting to or contesting, as the case may be) oppose, object to or contest such credit bid by the Priority Lien Collateral Agent; *provided* that (A) the waterfall described in "—Application of Proceeds" is complied with in connection with such credit bid and (B) each of the Junior Lien Collateral Agent and the holders of Convertible Note Obligations shall have the right to credit bid all or

any portion of the Collateral so long as the Priority Lien Collateral Agent and the holders of the Priority Lien Obligations receive payment in full in cash of all Priority Lien Obligations after giving effect thereto.

Until the expiry of the Junior Lien Standstill Period, in the case of the Junior Lien Collateral Agent and the holders of Convertible Note Obligations, without the prior written consent of the Priority Lien Collateral Agent in its sole discretion, the Junior Lien Collateral Agent agrees it will not file an involuntary bankruptcy claim or seek the appointment of an examiner or a trustee.

The Junior Lien Collateral Agent waives any right to assert or enforce any claim under Section 506(c) or 552 of the Bankruptcy Code as against the Priority Lien Collateral Agent, the holders of Priority Lien Obligations or any of the Collateral, except as expressly permitted by the Junior Lien Intercreditor Agreement.

Notice Requirements and Procedural Provisions

The Junior Lien Intercreditor Agreement will also provide for various advance notice requirements and other procedural provisions typical for agreements of this type, including procedural provisions to allow any successor Priority Lien Collateral Agent to become a party to the Junior Lien Intercreditor Agreement (without the consent of any holder of Priority Lien Obligations or Convertible Note Obligations) upon the refinancing or replacement of the Priority Lien Obligations or Convertible Note Obligations as permitted by the applicable Priority Lien Documents and the Convertible Note Documents.

No New Liens; Similar Documents

So long as the Discharge of Priority Lien Obligations has not occurred, neither Comstock nor any of its Subsidiaries shall grant or permit any additional Liens, or take any action to perfect any additional Liens, on any property to secure:

(1) any Convertible Note Obligation unless it has also granted or substantially contemporaneously grants (or offers to grant) a Lien on such property to secure the Priority Lien Obligations and has taken all actions required to perfect such Liens; *provided* that the refusal or inability of the Priority Lien Collateral Agent to accept such Lien will not prevent the Junior Lien Collateral Agent from taking the Lien; or

(2) any Priority Lien Obligation unless it has also granted or substantially contemporaneously grants (or offers to grant) a Lien on such property to secure the Convertible Note Obligations and has taken all actions required to perfect such Liens; *provided* that the refusal, inability or delay of the Junior Lien Collateral Agent to accept such Lien will not prevent the Priority Lien Collateral Agent from taking the Lien,

with each such Lien to be subject to the provisions of the Junior Lien Intercreditor Agreement.

To the extent that the foregoing provisions are not complied with for any reason, without limiting any other rights and remedies available to the Priority Lien Collateral Agent and/or the other holders of Priority Lien Obligations, the Junior Lien Collateral Agent or the holders of Convertible Note Obligations, each of the Junior Lien Collateral Agent and the holders of the Convertible Note Obligations will agree that any amounts received by or distributed to any of them pursuant to or as a result of Liens granted in contravention of this paragraph shall be subject to the Junior Lien Intercreditor Agreement.

The Junior Lien Intercreditor Agreement will include an acknowledgement that it is the intention of the parties to the Junior Lien Intercreditor Agreement that the Collateral subject to a Priority Lien and the Collateral subject to a Junior Lien be identical; *provided* in no event shall any Collateral include any Priority Lien Excluded Collateral. The parties to the Junior Lien Intercreditor Agreement will agree (a) to cooperate in good faith in order to determine the specific assets included in the Collateral, the steps taken to perfect the Liens securing the Priority Lien Obligations or the Convertible Note Obligations and the identity of the respective parties obligated

under the Priority Lien Documents and the Convertible Note Documents in respect of the Priority Lien Obligations and the Convertible Note Obligations, respectively, (b) that all Security Documents providing for the Junior Liens shall be in all material respects the same forms of documents providing for the Priority Liens other than as to the priority nature, other modifications that make the Security Documents with respect to the Junior Liens less restrictive than the corresponding documents with respect to the Priority Liens, provisions in the Security Documents for the Junior Liens which relate solely to rights and duties of the Junior Lien Collateral Agent and the holders of the Convertible Note Obligations and such deletions or modifications of representations, warranties and covenants as are customary with respect to security documents establishing Liens securing publicly traded debt securities, and (c) that at no time shall there be any Collateral Grantor that is an obligor in respect of the Junior Lien Obligations that is not also an obligor in respect of the Priority Lien Obligations.

Insurance

Unless and until the Discharge of Priority Lien Obligations has occurred (but subject to the rights of the Junior Lien Collateral Agent and the holders of Convertible Note Obligations following expiration of any of the Junior Lien Standstill Period as provided in the paragraph defining "Junior Lien Standstill Period"), the Priority Lien Collateral Agent shall have the sole and exclusive right, subject to the rights of the obligors under the Priority Lien Documents, to adjust and settle claims in respect of Collateral under any insurance policy in the event of any loss thereunder and to approve any award granted in any condemnation or similar proceeding (or any deed in lieu of condemnation) affecting the Collateral. Unless and until the Discharge of Priority Lien Obligations has occurred, and subject to the rights of the obligors under the Priority Lien Documents, all proceeds of any such policy and any such award (or any payments with respect to a deed in lieu of condemnation) in respect of the Collateral shall be paid to the Priority Lien Collateral Agent pursuant to the terms of the Priority Lien Documents (including for purposes of cash collateralization of letters of credit). If the Junior Lien Collateral Agent or any holder of Convertible Note Obligations shall, at any time, receive any proceeds of any such insurance policy or any such award or payment in contravention of the foregoing, it shall pay such proceeds over to the Priority Lien Collateral Agent in accordance with the Junior Lien Intercreditor Agreement. In addition, if by virtue of being named as an additional insured or loss payee of any insurance policy of any obligor covering any of the Collateral, the Junior Lien Collateral Agent or any holder of Convertible Note Obligations shall have the right to adjust or settle any claim under any such insurance policy, then unless and until the Discharge of Priority Lien Obligations has occurred, the Junior Lien Collateral Agent or any holder of Convertible Note Obligations shall follow the instructions of the Priority Lien Collateral Agent, or of the obligors under the Priority Lien Documents to the extent the Priority Lien Documents grant such obligors the right to adjust or settle such claims, with respect to such adjustment or settlement (subject to the rights of the holders of Convertible Note Obligations following expiration of the Junior Lien Standstill Period, the Junior Lien First Standstill Period.

Amendment to Convertible Note Documents

Prior to the Discharge of Priority Lien Obligations, without the prior written consent of the Priority Lien Collateral Agent, no Convertible Note Document may be amended, supplemented, restated or otherwise modified and/or refinanced or entered into to the extent such amendment, supplement, restatement or modification and/or refinancing, or the terms of any new Convertible Note Document, would (i) adversely affect the lien priority rights of the Priority Lien Collateral Agent and the holders of Priority Lien Obligations or the rights of the Priority Lien Collateral Agent and the holders of Priority Lien Obligations to receive payments owing pursuant to the Priority Lien Documents, (ii) except as otherwise provided for in the Junior Lien Intercreditor Agreement, add any Liens securing the Collateral granted under the Convertible Note Documents, (iii) confer any additional rights on the Junior Lien Collateral Agent or any holder of Convertible Note Obligations in a manner adverse to the Priority Lien Collateral Agent or the holders of Priority Lien Obligations, (iv) contravene the provisions of the Junior Lien Intercreditor Agreement or the Priority Lien Documents or (v) modify any Convertible Note Document in any manner that would not have been permitted under the Priority Lien Documents to have been included in such Convertible Note Document if such Convertible Note Document, was entered into as of the date of such amendment, supplement, restatement or modification.

Application of Proceeds

Prior to the Discharge of Priority Lien Obligations, and regardless of whether an Insolvency or Liquidation Proceeding has been commenced, Collateral or proceeds received in connection with the enforcement or exercise of any rights or remedies with respect to any portion of the Collateral will be applied:

first, to the payment in full in cash of all Priority Lien Obligations that are not Excess Priority Lien Obligations in accordance with the Priority Lien Intercreditor Agreement,

second, to the payment in full in cash of all Convertible Note Obligations as follows:

(x) first, to the payment in full in cash of all unpaid fees, expenses, reimbursements and indemnification amounts incurred by the Junior Lien Collateral Agent and all fees owed to it in connection with such collection or sale or otherwise in connection with the Junior Lien Intercreditor Agreement or the Convertible Note Documents; and

(y) second, to the payment in full in cash of the Convertible Note Obligations in accordance with the Collateral Trust Agreement, including any interest, fees, costs, expenses, charges or other amounts, pro rata in accordance with the relative amounts thereof on the date of any payment or distribution;

third, to the payment in full in cash of all Excess Priority Lien Obligations, and

fourth, to Comstock or as otherwise required by applicable law.

Postponement of Subrogation

The Junior Lien Intercreditor Agreement will provide that no payment or distribution to any holder of Priority Lien Obligations pursuant to the provisions of the Junior Lien Intercreditor Agreement shall entitle the Junior Priority Lien Collateral Agent or any holder of Convertible Note Obligations to exercise any rights of subrogation in respect thereof until, in the case of the Junior Lien Collateral Agent or the holders of Convertible Note Obligations, the Discharge of Priority Lien Obligations. Following the Discharge of Priority Lien Obligations, each holder of Priority Lien Obligations will execute such documents, agreements, and instruments as any holder of Convertible Note Obligations may reasonably request to evidence the transfer by subrogation to any such Person of an interest in the Priority Lien Obligations resulting from payments or distributions to such holder by such Person, so long as all costs and expenses (including all reasonable legal fees and disbursements) incurred in connection therewith by such holder of Priority Lien Obligations are paid by such Person upon request for payment thereof.

Junior Lien Right to Purchase

Upon the occurrence and continuation of an event of default, as defined in and under the Senior Secured Notes Indenture (a "*Purchase Event*"), the holders of a majority of the principal amount of New Convertible Notes (such holders, the "*Purchasing Holders*") may purchase all, but not less than all, of the Senior Secured Note Obligations. Such purchase will (a) include all principal of, and all accrued and unpaid interest, fees, and expenses in respect of, all Senior Secured Note Obligations outstanding at the time of purchase, (b) be made pursuant to a master assignment agreement, whereby the Purchasing Holders will assume all Senior Secured Note Obligations, and (c) otherwise be subject to the terms and conditions as set forth in the Junior Lien Intercreditor Agreement. Each Priority Lien secured party will retain all rights to indemnification provided in the relevant Priority Lien Documents for all claims and other amounts relating to periods prior to the purchase of the Senior Secured Note Obligations as provided in the Junior Lien Intercreditor Agreement.

Collateral Trust Agreement

Enforcement of Liens

If the Junior Lien Collateral Agent at any time receives written notice from any Convertible Notes Trustee stating that any event has occurred that constitutes a default under any Convertible Note Document entitling the Junior Lien Collateral Agent to foreclose upon, collect or otherwise enforce its Liens under the Junior Lien Collateral Agreements, it will promptly deliver written notice thereof to the other Convertible Notes Trustee. Thereafter, the Junior Lien Collateral Agent may await direction by an Act of Junior Lien Debtholders and, subject to the terms of the Junior Lien Intercreditor Agreement, will act, or decline to act, as directed by an Act of Junior Lien Debtholders, in the exercise and enforcement of the Junior Lien Collateral Agent's interests, rights, powers and remedies in respect of the Collateral or under the Junior Lien Collateral Agreements or applicable law and, following the initiation of such exercise of remedies, the Junior Lien Collateral Agent will act, or decline to act, with respect to the manner of such exercise of remedies as directed by an Act of Junior Lien Debtholders. Unless it has been directed to the contrary by an Act of Junior Lien Debtholders, the Junior Lien Collateral Agent in any event may (but will not be obligated to) take or refrain from taking such action with respect to any default under any Convertible Note Document as it may deem advisable and in the interest of the holders of Convertible Note Obligations.

Order of Application

The Collateral Trust Agreement will provide that if any Collateral is sold or otherwise realized upon by the Junior Lien Collateral Agent in connection with any foreclosure, collection or other enforcement of Liens granted to the Junior Lien Collateral Agent in the Junior Lien Collateral Agreements, subject to the terms of the Junior Lien Intercreditor Agreement, the proceeds received by the Junior Lien Collateral Agent from such foreclosure, collection or other enforcement and the proceeds of any title or other insurance policy received by the Junior Lien Collateral Agent in connection with the exercise of remedies will be distributed by the Junior Lien Collateral Agent in the following order of application:

First, to the payment of all amounts payable under the Collateral Trust Agreement on account of the Junior Lien Collateral Agent's fees and any reasonable legal fees, costs and expenses or other liabilities of any kind incurred by the Junior Lien Collateral Agent or any co-trustee or agent of the Junior Lien Collateral Agent in connection with any Junior Lien Collateral Agreement (including, but not limited to, indemnification obligations);

Second, to the respective Convertible Notes Trustees equally and ratably for application to the payment of all outstanding Convertible Note Obligations that are then due and payable in such order as may be provided in the applicable Convertible Note Documents in an amount sufficient to pay in full in cash all outstanding Convertible Note Obligations that are then due and payable (including, to the extent legally permitted, all interest accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate specified in the Convertible Note Documents, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding but excluding contingent indemnity obligations for which no claim has been made);

Third, any surplus remaining after the payment in full in cash of the amounts described in the preceding clauses will be paid to the applicable Collateral Grantor, its successors or assigns, or as a court of competent jurisdiction may direct.

The provisions set forth above under this caption "—Order of Application" are intended for the benefit of, and will be enforceable as a third party beneficiary by, each present and future holder of Convertible Note Obligations, each present and future Convertible Notes Trustee and the Junior Lien Collateral Agent as holder of Junior Liens.

Release of Junior Liens Securing New Convertible Notes

The Collateral Trust Agreement will provide that the Junior Lien Collateral Agent's Liens on the Collateral will be released:

(1) in whole, upon the full and final payment in cash and performance of all Convertible Note Obligations of the Company and the Subsidiary Guarantors;

(2) with respect to any asset constituting Collateral, if such Collateral is sold or otherwise disposed of to a Person that is not (either before or after giving effect to such transaction) Comstock or a Restricted Subsidiary in accordance with the terms of the covenant set forth under "—Certain Covenants—Limitation on Asset Sales" (other than the provisions thereof relating to the future use of proceeds of such sale or other disposition); *provided* that to the extent that any Collateral is sold or otherwise disposed of in accordance with the terms of the covenant set forth under "—Certain Covenants—Limitation on Asset Sale", the non-cash consideration received is pledged as Collateral under the Junior Lien Collateral Agreements contemporaneously with such sale, in accordance with the requirements set forth in the Convertible Notes Indentures and the Junior Lien Collateral Agreements; *provided*, *further*, that the Liens securing the Convertible Note Obligations will not be released if the sale or disposition is subject to the covenant described below under the caption "—Merger, Consolidation and Sale of Assets";

(3) in whole, upon Legal Defeasance, Covenant Defeasance or satisfaction and discharge of the New Convertible Notes as provided below under "—Legal Defeasance or Covenant Defeasance of Convertible Notes Indenture" and "—Satisfaction and Discharge"; *provided* that if such legal defeasance, covenant defeasance or satisfaction and discharge only applies to one series of the New Convertible Notes, such release shall only apply to that series;

(4) if any Subsidiary Guarantor is released from its Junior Lien Subsidiary Guarantee in accordance with the terms of each Convertible Notes Indenture, that Subsidiary Guarantor's assets and property included in the Collateral will also be released from the Junior Liens securing the Convertible Note Obligations;

(5) with the requisite consent of Holders of New Convertible Notes given in accordance with each Convertible Notes Indenture;

(6) as provided in the Junior Lien Intercreditor Agreement or the other Junior Lien Collateral Agreements, including as described under the caption "—The Junior Lien Intercreditor Agreement—Automatic Release of Junior Liens"; or

(7) upon the conversion of the applicable series of New Convertible Notes in accordance with "—Conversion Rights."

In each such case, upon request of the Company, the Junior Lien Collateral Agent will execute (with such acknowledgements and/or notarizations as are required) and deliver evidence of such release to Comstock *provided*, that to the extent the Company requests the Junior Lien Collateral Agent to deliver evidence of the release of Collateral in accordance with this paragraph, the Comstock will deliver to the Junior Lien Collateral Agent an officers' certificate to the effect that such release of Collateral pursuant to the provisions described in this paragraph did not violate the terms of any applicable Convertible Note Document.

The Junior Lien Collateral Agreements will provide that the Liens securing the Convertible Note Obligations will extend to the proceeds of any sale of Collateral. As a result, subject to the provisions of the Junior Lien

Intercreditor Agreement, the Junior Lien Collateral Agent's Liens will apply to the proceeds of any such Collateral received in connection with any sale or other disposition of Collateral.

Amendment of Junior Lien Collateral Agreements

The Collateral Trust Agreement will provide that, except as provided in the Junior Lien Intercreditor Agreement, no amendment or supplement to the provisions of any Junior Lien Collateral Agreement that secures the Convertible Note Obligations will be effective without the approval of the Junior Lien Collateral Agent acting as directed by an Act of Junior Lien Debtholders, except that:

(1) any amendment or supplement that has the effect solely of:

(a) adding or maintaining Collateral, or preserving, perfecting or establishing the Junior Liens thereon or the rights of the Junior Lien Collateral Agent therein; or

(b) providing for the assumption of a Collateral Grantor's obligations under any Convertible Note Document in the case of a merger or consolidation or sale of all or substantially all of the properties or assets of a Collateral Grantor to the extent permitted by the terms of the Convertible Notes Indentures and the other Convertible Note Documents, as applicable,

will become effective when executed and delivered by the Company or any other applicable Collateral Grantor party thereto and the Junior Lien Collateral Agent;

(2) no amendment or supplement that reduces, impairs or adversely affects the right of any holder of Convertible Note Obligations:

(a) to vote its outstanding Convertible Note Obligations as to any matter described as subject to an Act of Junior Lien Debtholders or direction by the Required Junior Lien Debtholders (or amends the provisions of this clause (2) or the definition of "Act of Junior Lien Debtholders" or "Required Junior Lien Debtholders");

(b) to share in the order of application described above under "—Order of Application" in the proceeds of enforcement of or realization on any Collateral; or

(c) to require that Liens securing Convertible Note Obligations be released only as set forth in the provisions described above under the caption "—Release of Junior Liens Securing New Convertible Notes",

will become effective without the consent of Holders of New Convertible Notes adversely affected thereby under the applicable Convertible Notes Indenture; and

(3) no amendment or supplement that imposes any obligation upon the Junior Lien Collateral Agent or any Convertible Notes Trustee or adversely affects the rights of the Junior Lien Collateral Agent or any Convertible Notes Trustee, respectively, in its individual capacity as such will become effective without the consent of the Junior Lien Collateral Agent or such Convertible Notes Trustee, respectively.

Any amendment or supplement to the provisions of the Junior Lien Collateral Agreements securing the Convertible Note Obligations that releases Collateral will be effective only in accordance with the requirements set forth in the applicable Convertible Note Document referenced above under the caption "—Release of Junior Liens Securing New Convertible Notes."

The Collateral Trust Agreement and the Junior Lien Intercreditor Agreement will provide that, notwithstanding anything to the contrary under this section "—Amendment of Junior Lien Collateral Agreements," but subject to clauses (2) and (3) above:

(1) any Junior Lien Collateral Agreement that secures Convertible Note Obligations may be amended or supplemented with the approval of the Junior Lien Collateral Agent acting as directed in writing by the Required Junior Lien Debtholders, unless such amendment or supplement would not be permitted under the terms of the Junior Lien Intercreditor Agreement or the Priority Lien Documents;

(2) any amendment or waiver of, or any consent under, any provision of any Priority Lien Collateral Agreement will apply automatically to any comparable provision of any comparable Junior Lien Collateral Agreement without the consent of or notice to any holder of Convertible Note Obligations and without any action by Comstock or any other Collateral Grantor, or any Holder; and

(3) any Junior Lien Collateral Agreement, the Junior Lien Intercreditor Agreement and the Collateral Trust Agreement may be amended or supplemented with the approval of the Junior Lien Collateral Agent (but without the consent of or notice to any Holder), in reliance on an officer's certificate and an opinion of counsel (i) to cure any ambiguity, defect or inconsistency, or (ii) solely with respect to a Junior Lien Collateral Agreement that secures Convertible Note Obligations, to make other changes that do not have an adverse effect on the validity of the Lien created thereby.

Voting

In connection with any matter under the Collateral Trust Agreement requiring a vote of holders of Convertible Note Obligations, each series of New Convertible Notes will cast its votes in accordance with the Convertible Notes Indenture governing such series of New Convertible Notes. The amount of Convertible Note Obligations to be voted by a series of Convertible New Notes will equal the aggregate outstanding principal amount of Convertible Note Obligations held by such series of Convertible New Notes. Following and in accordance with the outcome of the applicable vote under its Convertible Notes Indenture, the Convertible Notes Trustee of each series of New Convertible Notes will vote the total amount of Convertible Note Obligations under that series as a block in respect of any vote under the Collateral Trust Agreement.

Provisions of the Indenture Relating to Security

Release of Liens Securing New Convertible Notes

Each Convertible Notes Indenture will provide that the Collateral Grantors will be entitled to releases of assets included in the Collateral from the Liens securing the applicable Convertible Note Obligations under any one or more of the following circumstances:

(1) upon the full and final payment in cash and performance of all related Convertible Note Obligations of Comstock and the Subsidiary Guarantors;

(2) with respect to any asset constituting Collateral, if such Collateral is sold or otherwise disposed of to a Person that is not (either before or after giving effect to such transaction) Comstock or a Restricted Subsidiary in accordance with the terms of the covenant set forth under "—Certain Covenants—Limitation on Asset Sales" (other than the provisions thereof relating to the future use of proceeds of such sale or other disposition); *provided* that to the extent that any Collateral is sold or otherwise disposed of in accordance with the terms of the covenant set forth under "—Certain Covenants—Limitation on Asset Sales", the non-cash consideration received is pledged as Collateral under the Junior Lien Collateral Agreements contemporaneously with such sale, in accordance with the requirements set forth in the Convertible Notes Indenture and the Junior Lien Collateral

Agreements; *provided*, *further*, that the Liens securing the applicable Convertible Note Obligations will not be released if the sale or disposition is subject to the covenant described below under the caption "—Merger, Consolidation and Sale of Assets";

(3) upon Legal Defeasance, Covenant Defeasance or satisfaction and discharge of the applicable series of New Convertible Notes as provided below under the captions "—Legal Defeasance or Covenant Defeasance of Convertible Notes Indentures" and "—Satisfaction and Discharge";

(4) if any Subsidiary Guarantor is released from its Junior Lien Subsidiary Guarantee in accordance with the terms of the applicable Convertible Notes Indenture, that Subsidiary Guarantor's assets and property included in the Collateral will also be released from the Liens securing the applicable Junior Lien Note Obligations;

(5) with the requisite consent of Holders of applicable series of New Convertible Notes given in accordance with the applicable Convertible Notes Indenture;

(6) as provided in the Junior Lien Intercreditor Agreement or the Junior Lien Collateral Agreements; or

(7) upon the conversion of the applicable series of New Convertible Notes in accordance with "—Conversion Rights."

No Impairment of the Security Interests

Under each Convertible Notes Indenture, no Collateral Grantor will be permitted to take any action, or knowingly omit to take any action, which action or omission would have the result of materially impairing the validity, perfection or priority of the security interests in the Collateral created by the Junior Lien Collateral Agreements (except as permitted in such Convertible Notes Indenture, the Junior Lien Intercreditor Agreement or the Junior Lien Collateral Agreements, including any action that would result in a Permitted Collateral Lien).

Further Assurances

Comstock shall, and shall cause each other Collateral Grantor to, at Comstock's sole cost and expense:

(1) at the request of the Junior Lien Collateral Agent, acting in accordance with the Junior Lien Intercreditor Agreement or the Collateral Trust Agreement, as applicable, execute and deliver all such agreements and instruments and take all further action as may be reasonably necessary or desirable (a) to describe more fully or accurately the property intended to be Collateral or the obligations intended to be secured by any Junior Lien Collateral Agreement and/or (b) to continue and maintain the Junior Lien Collateral Agent's second-priority perfected security interest in the Collateral (subject to the Priority Liens securing the Priority Lien Obligations set forth in the Junior Lien Intercreditor Agreement and subject to Permitted Collateral Liens); and

(2) at the request of the Junior Collateral Agent, acting in accordance with the Junior Lien Intercreditor Agreement or the Collateral Trust Agreement, as applicable, file any such notice filings or other agreements or instruments as may be reasonably necessary or desirable under applicable law to perfect the Liens created by the Junior Lien Collateral Agreements.

Additionally, if (a) a Collateral Grantor acquires any asset or property of a type that is required to constitute Collateral pursuant to the terms of the Convertible Notes Indentures and such asset or property is not automatically subject to a second-priority perfected Lien in favor of the Junior Lien Collateral Agent, (b) a Subsidiary of Comstock that is not already a Subsidiary Guarantor is required to become a Subsidiary Guarantor pursuant to the covenant described under "—Certain Covenants—Future Junior Lien Subsidiary Guarantees" or (c) any Collateral Grantor creates any additional Lien upon any Oil and Gas Properties, Proved and Probable

Drilling Locations or any other assets or properties to secure any Priority Lien Obligations or Indebtedness that ranks *pari passu* in right of security with the New Convertible Notes (or takes additional actions to perfect any existing Lien on Collateral), then such Collateral Grantor or such other Subsidiary shall, as soon as practicable after the acquisition of the applicable asset or property, the occurrence of the event requiring such Subsidiary to become a Subsidiary Guarantor or the creation of any such additional Lien or taking of any such additional perfection action (and, in any event, within 10 Business Days after such acquisition, event or creation), (i) grant to the Junior Lien Collateral Agent a second-priority perfected Lien in all assets and property of such Collateral Grantor or such other Subsidiary that are required to, but do not already, constitute Collateral, (ii) deliver any certificates to the Junior Lien Collateral Agent in respect thereof (subject to the terms of the Junior Lien Intercreditor Agreement) and (iii) take all other appropriate actions as necessary to ensure the Junior Lien Collateral Agent has a second-priority perfected Lien therein. All references to a "second-priority perfected Lien" in this paragraph shall be understood to be subject to the Junior Lien Intercreditor Agreement and subject to Permitted Collateral Liens, if any.

Authorization of Actions to Be Taken

Each Holder of the New Convertible Notes, by its acceptance thereof, will be deemed to have consented and agreed to the terms of the Junior Lien Intercreditor Agreement and each other Junior Lien Collateral Agreement, as originally in effect and as amended, restated, replaced, supplemented or modified from time to time in accordance with its terms or the terms of the Convertible Notes Indentures or the Junior Lien Intercreditor Agreement, to have authorized and directed the applicable Convertible Notes Trustees and the Junior Lien Collateral Agent to enter into the Junior Lien Intercreditor Agreement and the other Junior Lien Collateral Agreements to which they are a party, and to have authorized and empowered the Junior Lien Collateral Agent to bind the Holders of the New Convertible Notes as set forth in the Junior Intercreditor Agreement and the other Junior Lien Collateral Agreements to which they are a party and to perform its obligations and exercise its rights and powers thereunder, including entering into amendments permitted by the terms of the Convertible Notes Indentures, the Junior Lien Intercreditor Agreement or the other Junior Lien Collateral Agreements.

Conversion Rights

General

At any time following the receipt of the Required Stockholder Approval and the effectiveness of the Charter Amendment, Holders of the New Convertible Notes may convert (the "*Optional Conversion*") their outstanding New Convertible Notes into the Common Stock, at a conversion rate (the "*Conversion Rate*") of 81.2 shares per $1,000 principal amount of the New Convertible Notes (equal to a conversion price of $12.32 per share of Common Stock); *provided* that any Holder of Notes who would beneficially own (as determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder) in excess of 9.99% of the outstanding shares of Common Stock upon conversion of such Holder's Notes shall be required to provide 61 days' written notice to the Company prior to any such conversion. The conversion rate is subject to adjustment as described below. Comstock will not issue fractional shares of Common Stock upon conversion of the New Convertible Notes. Instead, Comstock will pay the cash value of such fractional shares based upon the sale price of Comstock's Common Stock on the business day immediately preceding the conversion date.

If a Holder exercises its right to require Comstock to repurchase the New Convertible Notes as described under "—Certain Covenants—Change of Control" or "—Limitation on Asset Sales," such Holder may convert its New Convertible Notes into Common Stock only if it withdraws its change of control repurchase notice or asset sale repurchase notice and converts its New Convertible Notes prior to the close of business on the business day immediately preceding the applicable repurchase date.

Following the receipt of the Required Stockholder Approval and the effectiveness of the Charter Amendment, Comstock shall convert (the "*Mandatory Conversion*") any outstanding New Convertible Notes into a number of shares of Common Stock per $1,000 principal amount of New Convertible Notes equal to the Conversion Rate then in effect (plus cash in lieu of fractional shares) if the Daily VWAP of the Common Stock exceeds or is equal

to the Threshold Price in effect on each applicable Trading Day for a least 15 consecutive Trading Days (the "*Mandatory Conversion Event*"). Upon the occurrence of the Mandatory Conversion Event, Comstock shall deliver notice to the Holders, the Convertible Notes Trustees and the conversion agent (if other than the Convertible Notes Trustees) not later than the open of business on the second business day following such Mandatory Conversion Event, which notice shall specify that the Mandatory Conversion shall occur not later than the third business day following the notice of the Mandatory Conversion Event.

Interest shall cease to accrue on any New Convertible Notes on the date of occurrence of the Optional Conversion or the Mandatory Conversion (such date, the "*Conversion Date*"). The accrued and unpaid interest on any New Convertible Note being converted pursuant to an Optional Conversion or Mandatory Conversion shall be added to the principal amount of such New Convertible Note being converted.

In the event that any Holder notifies Comstock (1) in the case of an Optional Conversion, at any time beginning on the date of the provision of the notice of such Optional Conversion and ending with the effectiveness of such Optional Conversion, and (2) in the case of a Mandatory Conversion, at any time beginning with the date of the Mandatory Conversion Event and ending 30 calendar days following the effectiveness of such conversion, that such Holder will beneficially own (as determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder) in excess of 9.99% of the outstanding shares of Common Stock or otherwise be deemed to be an "affiliate" of Comstock for purposes of the Securities Act and/or the Exchange Act upon such conversion, then Comstock will promptly enter into a Registration Rights Agreement covering the shares of Common Stock received upon such conversion. The Registration Rights Agreement will obligate Comstock to file a registration statement and use its commercially reasonable efforts to keep such registration statement effective under the Securities Act until the earliest to occur of the following: (i) all registrable securities (within the meaning of the Registration Rights Agreement) covered by the registration statement have been distributed in the manner set forth and as contemplated in such registration statement, (ii) there are no longer any registrable securities outstanding and (iii) one year from the effective date of such registration statement. A stockholder that sells shares under a shelf registration statement generally will be required to be named as a selling security holder in the related prospectus and to deliver a prospectus to purchasers, will be subject to certain of the civil liability provisions under the Securities Act in connection with those sales and will be bound by the provisions of the registration rights agreement that are applicable to such a stockholder (including certain indemnification obligations).

At the request of any Holder, Comstock will use its reasonable efforts to cooperate with such Holder to confirm with brokers that such Holder will not be an "affiliate" of Comstock for purposes of the Securities Act and/or the Exchange Act upon any Optional Conversion or Mandatory Conversion.

Until the Required Stockholder Approval is obtained and the Charter Amendment becomes effective, the New Convertible Notes will not be convertible into Common Stock. The failure to obtain the Required Stockholder Approval and have the Charter Amendment will result in a default. See "—Events of Default."

Conversion Procedures

In connection with an Optional Conversion or Mandatory Conversion, Comstock shall deliver to the Holder of the applicable series of New Convertible Notes, through the conversion agent, a number of shares of Common Stock per $1,000 of principal amount of New Convertible Notes being converted equal to the Conversion Rate in effect on the applicable Conversion Date (plus cash in lieu of fractional shares in accordance with the applicable Convertible Notes Indenture and adjusted pro rata for amounts being converted in integral multiples of $1.00). Settlement shall occur on the third business day immediately following the applicable Conversion Date.

Comstock shall pay any documentary, stamp or similar issue or transfer tax or duty due on the issue, if any, of the Common Stock upon the conversion of a New Convertible Note. However, such Holder shall pay any such tax or duty that is due because such shares are issued in a name other than such Holder's name. The conversion

agent may refuse to deliver a certificate representing the Common Stock to be issued in a name other than such Holder's name until the conversion agent receives a sum sufficient to pay any tax or duty which will be due because such shares are to be issued in a name other than such Holder's name.

Adjustments to Conversion Rate

If Comstock issues shares of Common Stock as a dividend or distribution on all shares of the Common Stock, or if Comstock effects a share split or share combination (including a "reverse split"), the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR0 \times \frac{OS'}{OS0}$$

where,

CR' = the Conversion Rate in effect immediately after the close of business on the record date for such dividend or distribution, or immediately after the open of business on the effective date of such share split or share combination, as the case may be;

CR0 = the Conversion Rate in effect immediately prior to the close of business on the record date for such dividend or distribution, or immediately prior to open of business on the effective date of such share split or share combination, as the case may be;

OS' = the number of shares of Common Stock outstanding immediately after such dividend or distribution, or such share split or share combination, as the case may be; and

OS0 = the number of shares of Common Stock outstanding immediately prior to the close of business on the record date for such dividend or distribution, or immediately prior to the open of business on the effective date of such share split or share combination, as the case may be.

Any adjustment made to the applicable Convertible Notes Indenture shall become effective immediately after the close of business on the record date for such dividend or distribution, or immediately after the open of business on the effective date for such share split or share combination, as the case may be. If any dividend or distribution of the type described in this section "—Conversion Rights—Adjustments to Conversion Rate" is declared but not so paid or made, then the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors of Comstock determines not to pay such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

In addition to the foregoing adjustments in subsection (a) above, Comstock may, from time to time and to the extent permitted by law, increase the Conversion Rate by any amount for a period of at least 20 business days or any longer period as may be permitted or required by law, if the Board of Directors of Comstock has made a determination, which determination shall be conclusive, that such increase would be in the best interests of Comstock. Such Conversion Rate increase shall be irrevocable during such period. Comstock shall give notice to the applicable Convertible Notes Trustee and cause notice of such increase to be mailed to each Holder of New Convertible Notes in the applicable series at such Holder's address as the same appears in the Register at least 15 days prior to the date on which such increase commences.

Effect of Reclassifications, Consolidations, Mergers, Binding Share Exchanges or Sales of Assets

In the event of:

(a) any reclassification of the Common Stock (other than a change as a result of a subdivision or combination of Common Stock as to which an adjustment set forth in "—Adjustments to Conversion Rate" applies);

(b) a consolidation, merger, binding share exchange or combination involving Comstock; or

(c) a sale or conveyance to another person or entity of all or substantially all of Comstock's property or assets;

in which holders of Common Stock would be entitled to receive stock, other securities, other property, assets or cash for their Common Stock (any such event, a "*Merger Event*"), the principal amount of the applicable series of New Convertible Notes will, from and after the effective time of such Merger Event, in lieu of being convertible into Common Stock, be convertible into the same kind, type and proportions of consideration that a holder of a number of shares of Common Stock equal to the Conversion Rate in effect (adjusted pro rata for amounts in integral multiples of $1.00) immediately prior to such Merger Event would have received in such Merger Event ("*Reference Property*") and, prior to or at the effective time of such Merger Event, Comstock or the successor or purchasing Person, as the case may be, shall execute with the applicable Convertible Notes Trustee a supplemental indenture providing for such change in the right to convert the applicable series of New Convertible Notes.

If the Merger Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), then:

(a) the Reference Property into which the applicable series of New Convertible Notes will be convertible shall be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make such an election; and

(b) the unit of Reference Property for purposes of the immediately preceding paragraph shall refer to the consideration referred to in clause (i) attributable to one share of Common Stock.

Comstock shall notify applicable Holders, the applicable Convertible Notes Trustee and the conversion agent (if other than a Convertible Notes Trustee) of such weighted average as soon as practicable after such determination is made.

The supplemental indenture referred above shall, in the good faith judgment of Comstock as evidenced by an officers' certificate, (i) provide for adjustments to the Conversion Rate that shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Rate provided for in the applicable Convertible Notes Indenture and for the delivery of cash by Comstock in lieu of fractional securities or property that would otherwise be deliverable to applicable Holders upon conversion as part of the Reference Property, with such amount of cash determined by Comstock in a manner as nearly equivalent as may be practicable to that used by Comstock to determine the Daily VWAP of the Common Stock and (ii) provide that after the Merger Event, the Mandatory Conversion Event (and related calculations) shall be determined with reference to the trading value of the Reference Property as determined in good faith by Comstock in a manner as nearly equivalent as may be practicable to that used by Comstock to determine the Daily VWAP of the Common Stock.

Comstock shall not become a party to any Merger Event unless its terms are consistent with this section "*—Effect of Reclassifications, Consolidations, Mergers, Binding Share Exchanges or Sales of Assets*."

Notice of Certain Transactions

In the event that:

(a) Comstock takes any action that would require an adjustment in the Conversion Rate,

(b) Comstock takes any action that would require a supplemental indenture pursuant to the provisions of "*—Effect of Reclassifications, Consolidations, Mergers, Binding Share Exchanges or Sales of Assets*," or

(c) there is a dissolution or liquidation of Comstock,

Comstock shall promptly mail to the Holders of the applicable series of New Convertible Notes at the addresses appearing on the registrar's books and the applicable Convertible Notes Trustee a written notice stating the proposed record date and effective date of the transaction referred to in clause (a), (b) or (c) above.

Covenant Suspension

During any period that the New Convertible Notes have a rating equal to or higher than BBB- (or the equivalent) by S&P and Baa3 (or the equivalent) by Moody's ("*Investment Grade Ratings*") and no Default or Event of Default has occurred and is continuing, Comstock and the Restricted Subsidiaries will not be subject to the following covenants (collectively, the "*Suspended Covenants*"):

- "—Limitation on Indebtedness and Disqualified Capital Stock;"
- "—Limitation on Restricted Payments;"
- "—Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries;"
- "—Limitation on Transactions with Affiliates;"
- "—Limitation on Asset Sales;"
- "—Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries;" and
- clause (3) of "—Merger, Consolidation and Sale of Assets"

In the event that Comstock and the Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the preceding paragraph and either S&P or Moody's subsequently withdraws its rating or downgrades its rating of the New Convertible Notes below the applicable Investment Grade Rating, or a Default or Event of Default occurs and is continuing, then Comstock and its Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants, and compliance with the Suspended Covenants with respect to Restricted Payments made after the time of such withdrawal, downgrade, Default or Event of Default will be calculated in accordance with the covenant described under "Certain Covenants—Limitation on Restricted Payments" as though such covenant had been in effect during the entire period of time from the Issue Date.

During any period when the Suspended Covenants are suspended, the Board of Directors of Comstock may not designate any of Comstock's Subsidiaries as Unrestricted Subsidiaries pursuant to the Convertible Notes Indentures.

Certain Covenants

Limitation on Indebtedness and Disqualified Capital Stock

Comstock will not, and will not permit any of its Restricted Subsidiaries to, create, incur, issue, assume, guarantee or in any manner become directly or indirectly liable for the payment of (collectively, "incur") any Indebtedness (including any Acquired Indebtedness), and Comstock will not, and will not permit any of its Restricted Subsidiaries to, issue any Disqualified Capital Stock (except for the issuance by Comstock of Disqualified Capital Stock (A) which is redeemable at Comstock's option in cash or Qualified Capital Stock and (B) the dividends on which are payable at Comstock's option in cash or Qualified Capital Stock); *provided, however,* that Comstock and its Restricted Subsidiaries that are Subsidiary 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 2.25 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.

The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "*Permitted Indebtedness*"):

(1) Indebtedness under the Revolving Credit Agreement in an aggregate principal amount not in excess of $50.0 million at any one time outstanding and any guarantee thereof by a Subsidiary Guarantor;

(2) Indebtedness under (a) the New 2019 Convertible Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation and the Additional New 2019 Convertible Notes issued in connection with the payment of interest thereon and (b) the New 2020 Convertible Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation and the Additional New 2020 Convertible Notes issued in connection with the payment of interest thereon;

(3) Indebtedness outstanding or in effect on the Issue Date (and not exchanged in connection with this Exchange Offer and Consent Solicitation);

(4) 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;

(5) the Junior Lien Subsidiary Guarantees of (a) the New 2019 Convertible Notes issued on the Issue Date in this Exchange and Consent Solicitation (and any assumption of the obligations guaranteed thereby) and the Additional New 2019 Convertible Notes issued in connection with the payment of interest thereon and (b) the New 2020 Convertible Notes issued on the Issue Date in this Exchange and Consent Solicitation (and any assumption of obligations guaranteed thereby) and the Additional New 2020 Convertible Notes issued in connection with the payment of interest thereon;

(6) the incurrence by Comstock or any of its Restricted Subsidiaries of intercompany Indebtedness between or among Comstock and any of its Restricted Subsidiaries; *provided*, *however*, that:

(a) if the Company is the obligor on such Indebtedness and a Subsidiary Guarantor is not the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the New Convertible Notes, or if a Subsidiary Guarantor is the obligor on such Indebtedness and neither Comstock nor another Subsidiary Guarantor is the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Junior Lien Subsidiary Guarantee of such Subsidiary Guarantor; and

(b) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than Comstock or a Restricted Subsidiary of Comstock and (ii) any sale or other transfer of any such Indebtedness to a Person that is neither Comstock nor a Restricted Subsidiary of Comstock will be deemed, in each case, to constitute an incurrence of such Indebtedness by Comstock or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);

(7) Permitted Refinancing Indebtedness and any guarantee thereof;

(8) Non-Recourse Indebtedness;

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

(10) Indebtedness in respect of bid, performance or surety bonds issued for the account of Comstock 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);

(11) any additional Indebtedness in an aggregate principal amount not in excess of $75.0 million at any one time outstanding and any guarantee thereof; *provided* that the Company may issue (and the Subsidiary Guarantors may guarantee) up to $91,875,000 of Additional New Senior Secured Notes under this clause (11) in lieu of paying cash interest of up to $75,000,000 on the New Senior Secured Notes, and any such issuance of Additional New Senior Secured Notes shall reduce (on a dollar for dollar basis) the amount of other Indebtedness that is permitted to be incurred under this clause (11); and

(12) Indebtedness under the New Senior Secured Notes issued on the Issue Date in an aggregate principal amount not to exceed $700.0 million and any guarantee thereof by a Subsidiary Guarantor.

For purposes of determining compliance with this covenant, in the event that an item of Indebtedness meets the criteria of one or more of the categories of Permitted Indebtedness described in clauses (1) through (12) described above or is entitled to be incurred pursuant to the first paragraph of this covenant, Comstock 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 to 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; *provided* that all Indebtedness outstanding on the Issue Date under the Revolving Credit Agreement shall be deemed incurred under clause (1) of the second paragraph of this covenant and not under the first paragraph or clause (3) of the second paragraph and may not be later reclassified; *provided*, *further*, that all Indebtedness under the New Senior Secured Notes incurred on the Issue Date shall be deemed incurred under clause (12) of the second paragraph of this covenant and not under the first paragraph or clause (3) of the second paragraph and may not be later reclassified; *provided*, *further*, that all Indebtedness under the New Convertible Notes (including the Additional New 2019 Convertible Notes or the Additional 2020 Convertible Notes, as applicable) shall be deemed to be incurred under clause (2) of the second paragraph and not under the first paragraph or clause (3) of the second paragraph and may not be later reclassified.

The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount or liquidation preference thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing

Indebtedness does not exceed the principal amount of such Indebtedness being refinanced (plus all accrued interest on the Indebtedness being refinanced and the amount of all expenses and premiums incurred in connection therewith).

Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that Comstock or any Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

Limitation on Restricted Payments

Comstock will not, and will not permit any Restricted Subsidiary to, directly or indirectly:

(1) declare or pay any dividend on, or make any other distribution to holders of, any shares of Capital Stock of Comstock or any Restricted Subsidiary (other than dividends or distributions payable solely in shares of Qualified Capital Stock of Comstock or in options, warrants or other rights to purchase Qualified Capital Stock of Comstock);

(2) purchase, redeem or otherwise acquire or retire for value any Capital Stock of Comstock or any Affiliate thereof (other than any Wholly Owned Restricted Subsidiary of Comstock) 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 Comstock solely in shares of Qualified Capital Stock of Comstock);

(3) 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 (excluding any intercompany Indebtedness between or among Comstock and any of its Restricted Subsidiaries), except in any case out of the net cash proceeds of Permitted Refinancing Indebtedness; or

(4) make any Restricted Investment;

(such payments or other actions described in clauses (1) through (4) above being collectively referred to as “Restricted Payments”), unless at the time of and after giving effect to the proposed Restricted Payment:

(1) no Default or Event of Default shall have occurred and be continuing;

(2) Comstock could incur $1.00 of additional Indebtedness in accordance with the Fixed Charge Coverage Ratio test set forth in the first paragraph of the “Limitation on Indebtedness and Disqualified Capital Stock” covenant; and

(3) the aggregate amount of all Restricted Payments declared or made after January 1, 2004 shall not exceed the sum (without duplication) of the following (the “*Restricted Payments Basket*”):

(a) 50% of the Consolidated Net Income of Comstock accrued on a cumulative basis during the period beginning on January 1, 2004 and ending on the last day of Comstock’s last fiscal quarter ending prior to the date of such proposed Restricted Payment (or, if such Consolidated Net Income is a loss, minus 100% of such loss); plus

(b) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after January 1, 2004 by Comstock from the issuance or sale (other

than to any of its Restricted Subsidiaries) of shares of Qualified Capital Stock of Comstock or any options, warrants or rights to purchase such shares of Qualified Capital Stock of Comstock; plus

(c) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after January 1, 2004 by Comstock (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 Comstock; plus

(d) the aggregate Net Cash Proceeds received after January 1, 2004 by Comstock 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 Comstock, together with the aggregate cash received by Comstock at the time of such conversion or exchange; plus

(e) 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 Comstock or a Restricted Subsidiary after January 1, 2004 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 Comstock and its Restricted Subsidiaries in such Unrestricted Subsidiary after January 1, 2004.

Notwithstanding the preceding provisions, Comstock and its Restricted Subsidiaries may take the following actions so long as (in the case of clauses (3), (4), (5) and (7) below) no Default or Event of Default shall have occurred and be continuing:

(1) the payment of any dividend on any Capital Stock of Comstock within 60 days after the date of declaration thereof, if at such declaration date such declaration complied with the provisions of the preceding paragraph (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 the preceding paragraph);

(2) the payment of any dividend payable from a Restricted Subsidiary to Comstock or any other Restricted Subsidiary of Comstock;

(3) the repurchase, redemption or other acquisition or retirement of any shares of any class of Capital Stock of Comstock or any Restricted Subsidiary, in exchange for, or out of the aggregate Net Cash Proceeds from, a substantially concurrent issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of Comstock;

(4) the purchase, 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 issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of Comstock;

(5) 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 Comstock 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 Comstock as necessary to accomplish such refinancing, plus the amount of expenses of Comstock incurred in connection with such refinancing, (b) such new Indebtedness is subordinated to the New Convertible Notes 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 New Convertible Notes 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 New Convertible Notes;

(6) loans made to officers, directors or employees of Comstock or any Restricted Subsidiary approved by the Board of Directors in an aggregate amount not to exceed $1.0 million outstanding at any one time, the proceeds of which are used solely (a) to purchase common stock of Comstock 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 (6); and

(7) other Restricted Payments in an aggregate amount not to exceed $10.0 million.

The actions described in clauses (1), (3), (4) and (6) above shall be Restricted Payments that shall be permitted to be made in accordance with the preceding paragraph but shall reduce the amount that would otherwise be available for Restricted Payments under clause (3) of the second preceding paragraph (provided that any dividend paid pursuant to clause (1) above shall reduce the amount that would otherwise be available under clause (3) of the second preceding paragraph when declared, but not also when subsequently paid pursuant to such clause (1)), and the actions described in clauses (2), (5) and (7) above 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 the second preceding paragraph.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries

Comstock (1) will not permit any Restricted Subsidiary to issue or sell any Preferred Stock to any Person other than Comstock or one of its Wholly Owned Restricted Subsidiaries and (2) will not permit any Person other than Comstock or one of its Wholly Owned Restricted Subsidiaries to own any Preferred Stock of any Restricted Subsidiary, except, in each case, for (a) the Preferred Stock of a Restricted Subsidiary owned by a Person at the time such Restricted Subsidiary became a Restricted Subsidiary, or (b) a sale of Preferred Stock in connection with the sale of all the Capital Stock of a Restricted Subsidiary owned by Comstock or its Subsidiaries effected in accordance with the provisions of the applicable Convertible Notes Indenture described under "— Limitation on Asset Sales."

Limitation on Transactions with Affiliates

Comstock will not, and will not permit any Restricted Subsidiary 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 assets or property or the rendering of any services) with, or for the benefit of, any Affiliate of Comstock (other than Comstock or a Wholly Owned Restricted Subsidiary) (each, an "*Affiliate Transaction*"), unless

(1) such transaction or series of related transactions is on terms that are no less favorable to Comstock or such Restricted Subsidiary, as the case may be, than those that would be available in a comparable arm's length transaction with unrelated third parties; and

(2) Comstock delivers to the applicable Convertible Notes Trustee:

(a) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $10.0 million but no greater than $25.0 million, an officers' certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this covenant; and

(b) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $25.0 million, an officers' certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this covenant and that such Affiliate Transaction or series of Affiliate Transactions has been approved by a majority of the Disinterested Directors of Comstock.

The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph:

(1) loans or advances to officers, directors and employees of Comstock or any Restricted Subsidiary made in the ordinary course of business in an aggregate amount not to exceed $1.0 million outstanding at any one time;

(2) indemnities of officers, directors, employees and other agents of Comstock or any Restricted Subsidiary permitted by corporate charter or other organizational document, bylaw or statutory provisions;

(3) the payment of reasonable and customary fees to directors of Comstock or any of its Restricted Subsidiaries who are not employees of Comstock or any Affiliate;

(4) Comstock's employee compensation and other benefit arrangements;

(5) transactions exclusively between or among Comstock and any of the Restricted Subsidiaries or exclusively between or among such Restricted Subsidiaries, provided such transactions are not otherwise prohibited by the applicable Convertible Notes Indenture; and

(6) any Restricted Payment permitted to be paid pursuant to the terms of the applicable Convertible Notes Indenture described under "—Limitation on Restricted Payments."

Limitation on Liens

Comstock will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness on any of its property or assets, except for Permitted Liens.

Limitation on Asset Sales

Comstock will not, and will not permit any Restricted Subsidiary to, consummate any Asset Sale unless (i) Comstock 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 assets and property subject to such Asset Sale and (ii) all of the consideration paid to Comstock 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 Comstock (other than liabilities of Comstock that are by their terms subordinated to the New Convertible Notes) or liabilities of any Subsidiary Guarantor that made such Asset Sale (other than liabilities of a Subsidiary Guarantor that are by their terms subordinated to such Subsidiary Guarantor's Junior Lien Subsidiary Guarantee), in each case as a result of which Comstock and its remaining Restricted Subsidiaries are no longer liable for such liabilities ("*Permitted Consideration*"); *provided*, *however*, that Comstock and its Restricted Subsidiaries shall be permitted to receive assets and property other than Permitted Consideration, so long as the aggregate Fair Market Value of all such assets and property other than Permitted Consideration received from Asset Sales since the 2009 Notes Issue Date and held by Comstock 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 Comstock or a Restricted Subsidiary may be applied by Comstock or such Restricted Subsidiary, to the extent Comstock or such Restricted Subsidiary elects (or is required by the terms of any Senior Indebtedness of Comstock or a Restricted Subsidiary), to

- prepay, repay, redeem or purchase Senior Indebtedness of Comstock or a Restricted Subsidiary; or

- reinvest in Additional Assets (including by means of an Investment in Additional Assets by a Restricted Subsidiary with Net Available Cash received by Comstock or another Restricted Subsidiary); *provided* that if such Asset Sale includes Oil and Gas Properties or Proved and Probable Drilling Locations, after giving effect to such Asset Sale, Comstock is in compliance with the Collateral requirements in the applicable Convertible Notes Indenture.

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 $10.0 million, Comstock will be required to make an offer (the "*Prepayment Offer*") to all Holders of the applicable series New Convertible Notes and all Holders of other Indebtedness that is *pari passu* with such series of the New Convertible Notes containing provisions similar to those set forth in the applicable Convertible Notes Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of such New Convertible Notes and such other *pari passu* Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Prepayment Offer will be equal to 100% of principal amount plus accrued and unpaid interest, if any, to the Purchase Date (subject to the right of the Holders of record of the applicable series of New Convertible Notes on the relevant record date to receive interest due on an interest payment date that is on or prior to the Purchase Date), and will be payable in cash. If the aggregate principal amount of New Convertible Notes tendered by Holders thereof exceeds the amount of available Excess Proceeds allocated for repurchases of New Convertible Notes pursuant to the Prepayment Offer for the applicable series of New Convertible Notes, then such Excess Proceeds will be allocated pro rata according to the principal amount of the New Convertible Notes tendered and the applicable Convertible Notes Trustee will select the New Convertible Notes to be purchased in accordance with the applicable Convertible Notes Indenture. 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 the applicable series of New Convertible Notes have been given the opportunity to tender their New Convertible Notes for purchase as described in the following paragraph in accordance with the applicable Convertible Notes Indenture, Comstock and its Restricted Subsidiaries may use such remaining amount for purposes permitted by the applicable Convertible Notes Indenture and the amount of Excess Proceeds will be reset to zero.

Within 30 days after the 365th day following the date of an Asset Sale, Comstock shall, if it is obligated to make an offer to purchase the applicable series New Convertible Notes pursuant to the preceding paragraph, deliver a written Prepayment Offer notice, by first-class mail, to the Holders of the applicable series New Convertible Notes, with a copy to the applicable Convertible Notes Trustee (the "*Prepayment Offer Notice*"), accompanied by

such information regarding Comstock and its Subsidiaries as Comstock believes will enable such Holders of such New Convertible Notes to make an informed decision with respect to the Prepayment Offer. The Prepayment Offer Notice will state, among other things:

- that Comstock is offering to purchase New Convertible Notes pursuant to the provisions of the Convertible Notes Indenture;
- that any New Convertible Note (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;
- that any New Convertible Note (or portions thereof) not properly tendered will continue to accrue interest;
- 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*");
- the aggregate principal amount of New Convertible Notes to be purchased;
- a description of the procedure which Holders of New Convertible Notes must follow in order to tender their New Convertible Notes and the procedures that Holders of New Convertible Notes must follow in order to withdraw an election to tender their New Convertible Notes for payment; and
- all other instructions and materials necessary to enable Holders to tender New Convertible Notes pursuant to the Prepayment Offer.

Comstock will 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 New Convertible Notes as described above. To the extent that the provisions of any securities laws or regulations conflict with the provisions relating to the Prepayment Offer, Comstock will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations described above by virtue thereof.

Future Junior Lien Subsidiary Guarantees

If any Restricted Subsidiary that is not already a Subsidiary Guarantor has outstanding or guarantees any other Indebtedness of Comstock or a Subsidiary Guarantor, then in either case that Subsidiary will become a Subsidiary Guarantor by executing (x) a supplemental indenture and delivering it to the applicable Convertible Notes Trustee within 20 business days of the date on which it incurred or guaranteed such Indebtedness, as the case may be; *provided, however*, that the foregoing shall not apply to Subsidiaries of Comstock that have properly been designated as Unrestricted Subsidiaries in accordance with the applicable Convertible Notes Indenture for so long as they continue to constitute Unrestricted Subsidiaries, (y) amendments to the Junior Lien Collateral Agreements pursuant to which it will grant a Junior Lien on any Collateral held by it in favor of the Junior Lien Collateral Agent for the benefit of the holders of the New Convertible Notes and the other Convertible Note Obligations, the Convertible Notes Trustee and the Junior Lien Collateral Agent, and become a Collateral Grantor thereunder, and cause such Liens to be perfected as required thereby and (z) deliver to the applicable Convertible Notes Trustee or the Collateral Agent, the Registrar, the Paying Agent or any other agents under the applicable Convertible Note Documents one or more opinions of counsel in connection with the foregoing as specified in the applicable Convertible Notes Indenture.

Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries

Comstock will not, and will 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 pay dividends, in cash or otherwise, or make any other distributions on its Capital Stock, or make payments on any Indebtedness owed, to Comstock or any other Restricted Subsidiary;
- to make loans or advances to Comstock or any other Restricted Subsidiary; or
- to transfer any of its property or assets to Comstock or any other Restricted Subsidiary

(any such restrictions being collectively referred to herein as a "*Payment Restriction*"). However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(1) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of Comstock or any Restricted Subsidiary, or customary restrictions in licenses relating to the property covered thereby and entered into in the ordinary course of business;

(2) any instrument governing Indebtedness of a Person acquired by Comstock 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 or assets of the Person, so acquired, provided that such Indebtedness was not incurred in anticipation of such acquisition;

(3) any instrument governing Indebtedness or Disqualified Capital Stock of a Restricted Subsidiary that is not a Subsidiary Guarantor; *provided* that (a) such Indebtedness or Disqualified Capital Stock is permitted under the covenant described in "—Limitation on Indebtedness and Disqualified Capital Stock" and (b) the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement and the Convertible Notes Indentures as in effect on the Issue Date;

(4) the Revolving Credit Agreement as in effect on the Issue Date or any agreement that amends, modifies, supplements, restates, extends, renews, refinances or replaces the Revolving Credit Agreement; *provided* that the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement as in effect on the Issue Date;

(5) the Senior Secured Notes Indenture, the New Senior Secured Notes and the subsidiary guarantees thereof; or

(6) the Convertible Notes Indentures, the New Convertible Notes and any Junior Lien Subsidiary Guarantees, in each case as in effect on the Issue Date.

Limitation on Sale and Leaseback Transactions

Comstock will not, and will not permit any of its Restricted Subsidiaries to, enter into any Sale/ Leaseback Transaction unless (1) Comstock 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 (2) Comstock or such Restricted Subsidiary receives proceeds from such Sale/ Leaseback Transaction at least equal to the Fair Market Value thereof 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.

Change of Control

Each Convertible Notes Indenture will provide that upon the occurrence of a Change of Control, Comstock shall be obligated to make an offer to purchase all of the then outstanding New Convertible Notes under the applicable series (a "*Change of Control Offer*"), and shall purchase, on a business day (the "*Change of Control Purchase Date*") not more than 60 nor less than 30 days following such Change of Control, all of the then outstanding New Convertible Notes under the applicable series validly tendered pursuant to such Change of Control Offer, at a purchase price (the "*Change of Control Purchase Price*") equal to 101% of the principal amount thereof plus accrued and unpaid interest to the Change of Control Purchase Date (subject to the right of Holders of record on the relevant record date to receive interest due on an interest payment date that is on or prior to the Change of Control Purchase Date). 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.

In order to effect a Change of Control Offer, Comstock shall, not later than the 30th day after the occurrence of a Change of Control, give to the applicable Convertible Notes Trustee and each applicable Holder a notice of the Change of Control Offer, which notice shall govern the terms of the Change of Control Offer and shall state, among other things, the procedures that Holders must follow to accept the Change of Control Offer.

Comstock will not be required to make a Change of Control Offer upon a Change of Control 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 set forth in the Convertible Notes Indenture applicable to a Change of Control Offer to be made by Comstock and purchases all related New Convertible Notes validly tendered and not withdrawn under such Change of Control Offer.

If Holders of not less than 90% in aggregate principal amount of the outstanding New Convertible Notes under the applicable series validly tender and do not withdraw such New Convertible Notes in a Change of Control Offer and Comstock, or any third party making a Change of Control Offer in lieu of Comstock as described above, purchases all of the New Convertible Notes validly tendered and not withdrawn by such Holders, Comstock will have the right, upon not less than 30 nor more than 60 days' prior notice, given not more than 30 days following such purchase pursuant to the Change of Control Offer described above, to redeem all New Convertible Notes that remain outstanding following such purchase at a redemption price in cash equal to the applicable Change of Control Purchase Price plus, to the extent not included in the Change of Control Purchase Price, accrued and unpaid interest, if any, to the date of redemption.

The definition of Change of Control includes a phrase relating to the disposition of "all or substantially all" of the properties and assets of Comstock and its Restricted Subsidiaries, taken as a whole. Although there is a limited body of case law interpreting the phrase "substantially all," there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a Holder of New Convertible Notes to require Comstock to repurchase its New Convertible Notes as a result of a disposition of less than all of the properties and assets of Comstock and its Restricted Subsidiaries, taken as a whole, to another Person may be uncertain.

Comstock intends to comply with Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder, if applicable, in the event that a Change of Control occurs and Comstock is required to purchase notes as described above. The Change of Control provisions of the New Convertible Notes may, in certain circumstances, make more difficult or discourage a sale or takeover of Comstock and, thus, the removal of incumbent management. Subject to the limitations discussed below, Comstock could, in the future, enter into certain transactions, including acquisitions, refinancings or other recapitalizations, that would not constitute a Change of Control under the applicable Convertible Notes Indenture, but that could increase the amount of Indebtedness outstanding at such time or otherwise affect Comstock's capital structure or credit ratings. Restrictions on Comstock's ability to Incur additional Indebtedness are contained in the covenants described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" and "—Certain Covenants—Limitation on Restricted Payments." Such restrictions in the applicable Convertible Notes Indenture

can be waived only with the consent of Holders of a majority in principal amount of the applicable series of New Convertible Notes then outstanding. Except for the limitations contained in such covenants, however, the Convertible Notes Indentures will not contain any covenants or provisions that may afford Holders of the New Convertible Notes protection in the event of a highly leveraged transaction.

Comstock's ability to repurchase the New Convertible Notes pursuant to the Change of Control Offer may be limited by a number of factors. The ability of Comstock to pay cash to the Holders of the New Convertible Notes following the occurrence of a Change of Control may be limited by Comstock's and the Restricted Subsidiaries' then existing financial resources, and sufficient funds may not be available when necessary to make any required repurchases. See "Risk Factors—Risks Related to the Exchange Offer and Holding the New Notes—Risks Related to Holding the New Notes—We may not have the ability to purchase the new notes upon a change of control or upon certain sales or other dispositions of assets, or to make the cash payment due upon conversion or at maturity."

The Revolving Credit Agreement and the Senior Secured Notes Indenture contain, and future agreements governing Indebtedness of Comstock or its Subsidiaries may contain prohibitions of certain events, including events that would constitute a Change of Control and including repurchases or other prepayments in respect of the New Convertible Notes. The exercise by the Holders of New Convertible Notes of their right to require Comstock to repurchase the New Convertible Notes upon a Change of Control could cause a default under these other agreements, even if the Change of Control itself does not, due to the financial effect of such repurchases on Comstock or its Subsidiaries. In the event a Change of Control occurs at a time when Comstock is prohibited from purchasing or redeeming New Convertible Notes, Comstock could seek the consent of its other applicable debt holders or lenders to purchase the New Convertible Notes or could attempt to refinance the borrowings that contain such prohibition. If Comstock does not obtain a consent or repay those borrowings, Comstock will remain prohibited from purchasing New Convertible Notes. In that case, Comstock's failure to purchase tendered New Convertible Notes would constitute an Event of Default under the Convertible Notes Indentures, which could, in turn, constitute a default under other Indebtedness of Comstock.

Reports

Each Convertible Notes Indenture will provide that, whether or not Comstock is subject to the reporting requirements of Section 13 or Section 15(d) of the Exchange Act, to the extent not prohibited by the Exchange Act, Comstock will file with the Commission, and make available to the Convertible Notes Trustees and the Holders of the New Convertible Notes without cost to any Holder, the annual reports and the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) that are specified in Sections 13 and 15(d) of the Exchange Act and applicable to a U.S. corporation within the time periods specified therein with respect to an accelerated filer. In the event that Comstock is not permitted to file such reports, documents and information with the Commission pursuant to the Exchange Act, Comstock will nevertheless make available such Exchange Act information to the Convertible Notes Trustees and the Holders of the New Convertible Notes without cost to any Holder as if Comstock were subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act within the time periods specified therein with respect to a non-accelerated filer.

If Comstock has designated any of its Subsidiaries as Unrestricted Subsidiaries, then, to the extent material, the quarterly and annual financial information required by the preceding paragraph will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of Comstock and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of Comstock.

The availability of the foregoing materials on the Commission's website or on Comstock's website shall be deemed to satisfy the foregoing delivery obligations.

Each New Convertible Notes Indenture will also provide that Comstock will deliver all reports and other information required to be delivered under the TIA within the time periods set forth in the TIA.

Future Designation of Restricted and Unrestricted Subsidiaries

The foregoing covenants (including calculation of financial ratios and the determination of limitations on the incurrence of Indebtedness and Liens) may be affected by the designation by Comstock of any existing or future Subsidiary of Comstock as an Unrestricted Subsidiary. The definition of "Unrestricted Subsidiary" set forth under "—Certain Definitions" describes the circumstances under which a Subsidiary of Comstock may be designated as an Unrestricted Subsidiary by the Board of Directors of Comstock.

Merger, Consolidation and Sale of Assets

Comstock will not, in any single transaction or 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 of the properties and assets of Comstock and its Restricted Subsidiaries on a consolidated basis to any Person or group of Affiliated Persons, and Comstock will 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 the sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the properties and assets of Comstock and its Restricted Subsidiaries on a consolidated basis to any other Person or group of Affiliated Persons, unless at the time and after giving effect thereto:

(1) either (a) if the transaction is a merger or consolidation, Comstock shall be the surviving Person of such merger or consolidation, or (b) the Person (if other than Comstock) formed by such consolidation or into which Comstock is merged or to which the properties and assets of Comstock 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 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 a supplemental indenture to the applicable Convertible Notes Indenture executed and delivered to the applicable Convertible Notes Trustee, in form satisfactory to such Convertible Notes Trustee, and pursuant to agreements reasonably satisfactory to such Convertible Notes Trustee or the Junior Lien Collateral Agent, as applicable, all the obligations of Comstock under the applicable series of New Convertible Notes, the applicable Convertible Notes Indenture and the other Convertible Note Documents to which Comstock is a party, and, in each case, such Convertible Note Documents shall remain in full force and effect;

(2) 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 Comstock or any of its Restricted Subsidiaries which becomes an obligation of Comstock or any of its Restricted Subsidiaries in connection with or as a result of such transaction as having been incurred at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(3) except in the case of the consolidation or merger of any Restricted Subsidiary with or into Comstock or another Restricted Subsidiary, either:

(a) 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 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), Comstock (or the Surviving Entity if Comstock is not the continuing obligor under the applicable Convertible Notes Indenture) could incur $1.00 of additional Indebtedness in accordance with the Fixed Charge Coverage Ratio test set forth in the first paragraph of the "—Limitation on Indebtedness and Disqualified Capital Stock" covenant; or

(b) 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 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 Fixed Charge Coverage Ratio of Comstock (or the Surviving Entity if Comstock is not the continuing obligor under the applicable Convertible Notes Indenture) will be equal to or greater than the Fixed Charge Coverage Ratio of Comstock immediately before such transaction or transactions;

(4) if Comstock is not the continuing obligor under the applicable Convertible Notes Indenture, then each Subsidiary Guarantor, unless it is the Surviving Entity, shall have by supplemental indenture to the applicable Convertible Notes Indenture confirmed that its Junior Lien Subsidiary Guarantee of the applicable series of New Convertible Notes shall apply to the Surviving Entity's obligations under such Convertible Notes Indenture and such New Convertible Notes;

(5) any Collateral owned by or transferred to the Surviving Entity shall (a) continue to constitute Collateral under the applicable Convertible Notes Indenture and the Junior Lien Collateral Agreements and (b) be subject to a Junior Lien in favor of the Junior Lien Collateral Agent for the benefit of the holders of the Junior Lien Note Obligations, the applicable Convertible Notes Trustee and the Junior Lien Collateral Agent;

(6) the Surviving Entity shall take such action (or agree to take such action) as may be reasonably necessary to cause any property or assets that constitute Collateral owned by or transferred to the Surviving Entity to be subject to the Junior Liens in the manner and to the extent required under the Junior Lien Collateral Agreements and shall deliver an opinion of counsel as to the enforceability of any amendments, supplements or other instruments with respect to the Junior Lien Collateral Agreements to be executed, delivered, filed and recorded, as applicable, and such other matters as the Convertible Notes Trustees or Junior Lien Collateral Agent, as applicable, may reasonably request; and

(7) Comstock (or the Surviving Entity if Comstock is not the continuing obligor under the applicable Convertible Notes Indenture) shall have delivered to the applicable Convertible Notes Trustee, in form and substance reasonably satisfactory to such Convertible Notes Trustee, an (a) officers' certificate and an opinion of counsel each stating that such consolidation, merger, transfer, lease or other disposition and any supplemental indenture in respect thereto comply with the requirements under such Convertible Notes Indenture and (b) an opinion of counsel that the requirements of clause (1) of this paragraph have been complied with.

Upon any consolidation or merger or any sale, assignment, lease, conveyance, transfer or other disposition of all or substantially all of the properties and assets of Comstock and its Restricted Subsidiaries on a consolidated basis in accordance with the foregoing, in which Comstock is not the continuing corporation, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of, Comstock under the applicable Convertible Notes Indenture and the other Convertible Note Documents with the same effect as if the Surviving Entity had been named as Comstock therein, and thereafter Comstock, except in the case of a lease,

will be discharged from all obligations and covenants under the applicable series of New Convertible Notes, the related Convertible Notes Indenture and the other Convertible Note Documents and may be liquidated and dissolved.

Events of Default

The following are "Events of Default" under each of the Convertible Notes Indentures:

(1) default in the payment of the principal of or premium, if any, on any of the applicable series of New Convertible Notes, 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;

(2) default in the payment of any installment of interest on any of the applicable series of New Convertible Notes, when due, and the continuance of such default for a period of 30 days;

(3) default in the performance or breach of the provisions of the "Merger, Consolidation and Sale of Assets" section of the applicable Convertible Notes Indenture, the failure to make or consummate a Change of Control Offer in accordance with the provisions of the "Change of Control" covenant or the failure to make or consummate a Prepayment Offer in accordance with the provisions of the "Limitation on Asset Sales" covenant;

(4) Comstock or any Subsidiary Guarantor shall fail to comply with the provisions described under "—Certain Covenants—Reports" for a period of 90 days after written notice of such failure stating that it is a "notice of default" under the applicable Convertible Notes Indenture shall have been given (a) to Comstock by the applicable Convertible Notes Trustee or (y) to Comstock and the applicable Convertible Notes Trustee by the Holders of at least 25% in aggregate principal amount of the applicable series of New Convertible Notes then outstanding);

(5) Comstock or any Subsidiary Guarantor shall fail to perform or observe any other term, covenant or agreement contained in the applicable series of New Convertible Notes, any Subsidiary Guarantee or the applicable Convertible Notes Indenture (other than a default specified in (1), (2), (3) or (4) above) for a period of 60 days after written notice of such failure stating that it is a "notice of default" under the applicable Convertible Notes Indenture shall have been given (a) to Comstock by the applicable Convertible Notes Trustee or (b) to Comstock and the applicable Convertible Notes Trustee by the Holders of at least 25% in aggregate principal amount of the applicable series of New Convertible Notes then outstanding);

(6) the occurrence and continuation beyond any applicable grace period of any default in the payment of the principal of, premium, if any, or interest on any Indebtedness of Comstock (other than the applicable series New Convertible Notes) or any Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed when due, or any other default resulting in acceleration of any Indebtedness of Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed; *provided* that the aggregate principal amount of such Indebtedness, together with the aggregate principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, shall exceed $50.0 million and *provided, further*, that if any such default is cured or waived or any such acceleration rescinded, or such Indebtedness is repaid, within a period of 10 days from the continuation of such default beyond the applicable grace period or the occurrence of such acceleration, as the case may be, such Event of Default under the

applicable Convertible Notes Indenture and any consequential acceleration of the notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;

(7) any Subsidiary Guarantee shall for any reason cease to be, or be asserted by Comstock or any Subsidiary Guarantor, as applicable, not to be in full force and effect (except pursuant to the release of any such Subsidiary Guarantee in accordance with the applicable Convertible Notes Indenture);

(8) failure by Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary to pay final judgments or orders rendered against Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary aggregating in excess of $50.0 million (net of any amounts covered by insurance with a reputable and creditworthy insurance company that has not disclaimed liability) and either (a) commencement by any creditor of an enforcement proceeding upon such judgment (other than a judgment that is stayed by reason of a 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;

(9) the entry of a decree or order by a court having jurisdiction in the premises (a) for relief in respect of Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or (b) adjudging Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary bankrupt or insolvent, or approving a petition seeking reorganization, arrangement, adjustment or composition of Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary under any applicable federal or state law, or appointing under any such law a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of Comstock or any Subsidiary 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;

(10) the commencement by Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary of a voluntary case or proceeding under any 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 Comstock or any Subsidiary 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 any 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 Comstock or any Subsidiary 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 Comstock or any Subsidiary 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 Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary in furtherance of any such action;

(11) the occurrence of the following:

(a) except as permitted by the applicable Convertible Note Documents, any Junior Lien Collateral Agreement establishing the Junior Liens ceases for any reason to be enforceable;

provided that it will not be an Event of Default under this clause (11)(a) if the sole result of the failure of one or more Junior Lien Collateral Agreements to be fully enforceable is that any Junior Lien purported to be granted under such Junior Lien Collateral Agreements on Collateral, individually or in the aggregate, having a fair market value of not more than $10.0 million, ceases to be an enforceable and perfected second-priority Lien, subject only to the Priority Liens securing the Priority Lien Obligations and subject to Permitted Collateral Liens; *provided*, *further*, that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of Comstock or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period;

(b) except as permitted by the applicable Convertible Note Documents, any Junior Lien purported to be granted under any Junior Lien Collateral Agreement on Collateral, individually or in the aggregate, having a fair market value in excess of $10.0 million, ceases to be an enforceable and perfected second-priority Lien, subject only to the Priority Liens securing the Priority Lien Obligations and subject to Permitted Collateral Liens; *provided* that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of Comstock or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period; and

(c) Comstock or any other Collateral Grantor, or any Person acting on behalf of any of them, denies or disaffirms, in writing, any obligation of Comstock or any other Collateral Grantor set forth in or arising under any Junior Lien Collateral Agreement establishing Junior Liens; and

(12) the Required Stockholder Approval is not obtained and the Charter Amendment has not become effective, in each case by December 31, 2016, and such failure shall continue for a period of 90 days.

If an Event of Default (other than as specified in clause (9) or (10) above) shall occur and be continuing, the applicable Convertible Notes Trustee, by written notice to Comstock, or the Holders of at least 25% in aggregate principal amount of the applicable New Convertible Notes then outstanding, by written notice to the applicable Convertible Notes Trustee and Comstock, may declare the principal of, premium, if any, and accrued and unpaid interest on all of such New Convertible Notes due and payable immediately, upon which declaration all amounts payable in respect of such New Convertible Notes shall be immediately due and payable. If an Event of Default specified in clause (9) or (10) above occurs and is continuing, then the principal of, premium, if any, and accrued and unpaid interest on all of such New Convertible Notes shall become and be immediately due and payable without any declaration, notice or other act on the part of the applicable Convertible Notes Trustee or any Holder of the applicable series of New Convertible Notes.

After a declaration of acceleration under the applicable Convertible Notes Indenture, but before a judgment or decree for payment of the money due has been obtained by the applicable Convertible Notes Trustee, the Holders of a majority in aggregate principal amount of the applicable series of New Convertible Notes then outstanding, by written notice to Comstock, the Subsidiary Guarantors and the applicable Convertible Notes Trustee, may rescind and annul such declaration if (1) Comstock or any Subsidiary Guarantor has paid or deposited with the applicable Convertible Notes Trustee a sum sufficient to pay (a) all sums paid or advanced by such Convertible Notes Trustee under the applicable Convertible Notes Indenture and the reasonable compensation, expenses, disbursements and advances of such Convertible Notes Trustee, its agents and counsel, (b) all overdue interest on the applicable series of New Convertible Notes, (c) the principal of and premium, if any, on any New Convertible Notes under the applicable series that have become due otherwise than by such declaration of acceleration and interest thereon at the rate borne by such New Convertible Notes, and (d) to the extent that payment of such interest is lawful, interest upon overdue interest and overdue principal at the rate borne by such New Convertible Notes (without duplication of any amount paid or deposited pursuant to clause (b) or (c)); (2) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and (3) all Events of

Default, other than the non-payment of principal of, premium, if any, or interest on the New Convertible Notes under the applicable series that has become due solely by such declaration of acceleration, have been cured or waived.

No Holder will have any right to institute any proceeding under the applicable Convertible Notes Indenture or any remedy thereunder, unless (i) such Holder has notified the applicable Convertible Notes Trustee of a continuing Event of Default and the Holders of at least 25% in aggregate principal amount of the outstanding New Convertible Notes under the applicable series have made written request, and offered such indemnity satisfactory to the applicable Convertible Notes Trustee, to such Convertible Notes Trustee to institute such proceeding under such New Convertible Notes and the related New Convertible Notes Indenture, (ii) such Convertible Notes Trustee has failed to institute such proceeding within 60 days after receipt of such notice and (iii) such Convertible Notes Trustee, within such 60-day period, has not received directions inconsistent with such written request by Holders of a majority in aggregate principal amount of the outstanding New Convertible Notes under the applicable series. Such limitations will not apply, however, to a suit instituted by the Holder of any New Convertible Note for the enforcement of the payment of the principal of, premium, if any, or interest on such New Convertible Note on or after the respective due dates expressed in such New Convertible Note.

During the existence of an Event of Default, the applicable Convertible Notes Trustee will be required to exercise such rights and powers vested in it under the applicable Convertible Notes Indenture and use the same degree of care and skill in its exercise thereof as a prudent person would exercise under the circumstances in the conduct of such person's own affairs. Subject to the provisions of the applicable Convertible Notes Indenture relating to the duties of the trustee thereunder, in case an Event of Default shall occur and be continuing, the applicable Convertible Notes Trustee will not be under any obligation to exercise any of its rights or powers under the applicable Convertible Notes Indenture at the request or direction of any of the applicable Holders unless such Holders shall have offered to such Convertible Notes Trustee such security or indemnity satisfactory to the Convertible Notes Trustee. Subject to certain provisions concerning the rights of such Convertible Notes Trustee, the Holders of a majority in aggregate principal amount of the outstanding New Convertible Notes under the applicable series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the applicable Convertible Notes Trustee, or exercising any trust or power conferred on such Convertible Notes Trustee under the related Convertible Notes Indenture.

If a Default or an Event of Default occurs and is continuing and is known to the applicable Convertible Notes Trustee, such trustee shall mail to each applicable Holder notice of the Default or Event of Default within 60 days after the occurrence thereof. Except in the case of a Default or an Event of Default in payment of principal of, premium, if any, or interest on any New Convertible Notes, the applicable Convertible Notes Trustee may withhold the notice to the applicable Holders if such trustee determines in good faith that withholding the notice is in the interest of such Holders.

Each Convertible Notes Indenture will provide that Comstock will be required to furnish to the applicable Convertible Notes Trustee annual statements as to the performance by Comstock of its obligations under the applicable Convertible Notes Indenture and as to any default in such performance. Comstock is also required to notify such Convertible Notes Trustee within 10 days of any Default or Event of Default.

Legal Defeasance or Covenant Defeasance of Convertible Notes Indentures

Comstock may, at its option and at any time, terminate the obligations of Comstock and the Subsidiary Guarantors with respect to the outstanding New Convertible Notes under the applicable series (such action being a "*legal defeasance*"). Such legal defeasance means that Comstock and the Subsidiary Guarantors shall be

deemed to have paid and discharged the entire Indebtedness represented by the outstanding New Convertible Notes under the applicable series, to have been discharged from all their other obligations with respect to such series of New Convertible Notes and the Subsidiary Guarantees, and, in the case of the Collateral Guarantors, to have satisfied all of their obligations under the Junior Lien Collateral Agreements, except for, among other things:

(1) the rights of the Holders of the outstanding New Convertible Notes under the applicable series to receive payment in respect of, the principal of, premium, if any, and interest on such New Convertible Notes when such payments are due;

(2) Comstock's obligations to replace any temporary notes, register the transfer or exchange of any notes, replace mutilated, destroyed, lost or stolen notes and maintain an office or agency for payments in respect of the notes;

(3) the rights, powers, trusts, duties, indemnities and immunities of the applicable Agents; and

(4) the defeasance provisions of the applicable Convertible Notes Indenture.

In addition, each Convertible Notes Indenture will provide that Comstock may, at its option and at any time, elect to terminate the obligations of Comstock and each Subsidiary Guarantor with respect to certain covenants that are set forth in the a Convertible Notes Indenture, some of which are described under "—Certain Covenants" above, and any omission to comply with such obligations shall not constitute a Default or an Event of Default with respect to the notes (such action being a "*covenant defeasance*").

In order to exercise either legal defeasance or covenant defeasance, each Convertible Notes Indenture will provide that:

(1) Comstock or any Subsidiary Guarantor must irrevocably deposit with the applicable Convertible Notes Trustee, in trust, for the benefit of the Holders of the applicable series of New Convertible Notes, cash in United States dollars, U.S. Government Obligations (as defined in the applicable Convertible Notes Indenture), or a combination thereof, in such amounts as will be sufficient without consideration of any reinvestment of interest, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay the principal of, premium, if any, and interest on the New Convertible Notes under the applicable series to redemption or maturity;

(2) Comstock shall have delivered to the applicable Convertible Notes Trustee an Opinion of Counsel to the effect that the Holders of the applicable series of New Convertible Notes then outstanding will not recognize income, gain or loss for federal income tax purposes as a result of such legal defeasance or 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 legal defeasance or covenant defeasance had not occurred (in the case of legal defeasance, such opinion must refer to and be based upon a published ruling of the Internal Revenue Service or a change in applicable federal income tax laws);

(3) no Default or Event of Default shall have occurred and be continuing on the date of such deposit or insofar as clauses (8) and (9) under the first paragraph of "Events of Default" are concerned, at any time during the period ending on the 91st day after the date of deposit;

(5) such legal defeasance or covenant defeasance shall not cause the applicable Convertible Notes Trustee to have a conflicting interest under the related Convertible Notes Indenture or the TIA with respect to any securities of Comstock or any Subsidiary Guarantor;

(6) such legal defeasance or covenant defeasance shall not result in a breach or violation of, or constitute a default under, any material agreement or instrument to which Comstock or any Subsidiary Guarantor is a party or by which it is bound; and

(7) Comstock shall have delivered to the applicable Convertible Notes Trustee, an officers' certificate and an opinion of counsel satisfactory to such Convertible Notes Trustee, which, taken together, state that all conditions precedent under the applicable Convertible Notes Trustee to either legal defeasance or covenant defeasance, as the case may be, have been complied with.

Satisfaction and Discharge

Each Convertible Notes Indenture and the other related Convertible Note Documents will be discharged and cease to be of further effect (except as to surviving rights of registration of transfer or exchange of such New Convertible Notes, as expressly provided for in such Convertible Notes Indenture) as to all New Convertible Notes issued thereunder when:

(1) either:

(a) all New Convertible Notes issued thereunder that have been authenticated and delivered (except lost, stolen, mutilated or destroyed New Convertible Notes that have been replaced or paid and New Convertible Notes for whose payment money or certain United States government obligations have theretofore been deposited in trust or segregated and held in trust by Comstock and thereafter repaid to Comstock or discharged from such trust) have been delivered to the applicable Convertible Notes Trustee for cancellation; or

(b) all New Convertible Notes issued thereunder that have not been delivered to the applicable Convertible Notes Trustee for cancellation have become due and payable or will become due and payable at their Stated Maturity within one year, or are to be called for redemption within one year under arrangements satisfactory to the applicable Convertible Notes Trustee for the serving of notice of redemption by such trustee in the name, and at the expense, of Comstock, and Comstock has irrevocably deposited or caused to be deposited with the applicable Convertible Notes Trustee funds in an amount sufficient to pay and discharge the entire Indebtedness on the New Convertible Notes under the applicable series not theretofore delivered to such trustee for cancellation, for principal of, premium, if any, and interest on such New Convertible Notes to the date of deposit (in the case of notes which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be, together with instructions from Comstock irrevocably directing the applicable Convertible Notes Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be;

(2) Comstock has paid all other sums payable under the applicable Convertible Notes Indenture by Comstock; and

(3) Comstock has delivered to the applicable Convertible Notes Trustee an officers' certificate and an opinion of counsel which, taken together, state that all conditions precedent under the applicable Convertible Notes Indenture relating to the satisfaction and discharge of such indenture have been complied with.

Amendments and Waivers

From time to time, Comstock, the Subsidiary Guarantors, the applicable Convertible Notes Trustee and the Junior Lien Collateral Agent may, without the consent of the Holders of the applicable series of New Convertible Notes, amend or supplement the applicable Convertible Notes Indenture, the New Convertible Notes and the other Convertible Note Documents for certain specified purposes, including, among other things, curing ambiguities, defects or inconsistencies, qualifying, or maintaining the qualification of, such Convertible Notes

Indenture under the TIA, complying with the Junior Lien Intercreditor Agreement and/or the Collateral Trust Agreement, adding or releasing any Subsidiary Guarantor or Lien pursuant to the terms of such Convertible Notes Indenture, the Junior Lien Collateral Documents, the Junior Lien Intercreditor Agreement or the Collateral Trust Agreement, making, completing or confirming any grant of Collateral permitted or required by the Convertible Notes Indentures or any of the Convertible Note Documents related thereto, or making any change that does not adversely affect the rights of any Holder of the applicable series of New Convertible Notes. Other amendments and modifications of the applicable Convertible Notes Indenture or New Convertible Notes may be made by Comstock, the Subsidiary Guarantors and the applicable Convertible Notes Trustee with the consent of the Holders of not less than a majority of the aggregate principal amount of the outstanding New Convertible Notes under the applicable series; *provided*, *however*, that no such modification or amendment may, without the consent of the applicable Holder of each outstanding New Convertible Note affected thereby:

(1) change the Stated Maturity of the principal of, or any installment of interest on, any New Convertible Note;

(2) reduce the principal amount of, premium, if any, or interest on any New Convertible Note;

(3) change the coin or currency of payment of principal of, premium, if any, or interest on, any New Convertible Note;

(4) impair the right of any Holder of the applicable series of New Convertible Notes to institute suit for the enforcement of any payment on or with respect to any New Convertible Note;

(5) reduce the above-stated percentage of aggregate principal amount of outstanding New Convertible Notes with respect to any series necessary to modify or amend the applicable Convertible Notes Indenture;

(6) reduce the percentage of aggregate principal amount of outstanding New Convertible Notes with respect to any series necessary for waiver of compliance with certain provisions of the applicable Convertible Notes Indenture or for waiver of certain defaults;

(7) modify any provisions of the applicable Convertible Notes Indenture relating to the modification and amendment of such indenture or the waiver of past defaults or covenants, except as otherwise specified;

(8) modify any provisions of the applicable Convertible Notes Indenture relating to the Subsidiary Guarantees in a manner adverse to the applicable Holders;

(9) amend, change or modify the obligation of Comstock to make and consummate a Change of Control Offer in the event of a Change of Control or make and consummate a Prepayment Offer with respect to any Asset Sale or modify any of the provisions or definitions with respect thereto; or

(10) release any Subsidiary Guarantor of such New Convertible Notes from any of its obligations under its Junior Lien Subsidiary Guarantee or the applicable Convertible Notes Indenture, except in accordance with the terms of such Convertible Notes Indenture, the Junior Lien Intercreditor Agreement and/or the Collateral Trust Agreement.

The Holders of not less than a majority in aggregate principal amount of the outstanding New Convertible Notes under an applicable series may, on behalf of the Holders of all such New Convertible Notes, waive any past default under the applicable Convertible Notes Indenture, except a default in the payment of principal of, premium, if any, or interest on such New Convertible Notes, or in respect of a covenant or provision that under the applicable Convertible Notes Indenture cannot be modified or amended without the consent of the Holder of each New Convertible Note outstanding.

Notwithstanding anything to the contrary herein, the consent of Holders representing at least two-thirds of outstanding New Convertible Notes under the applicable series will be required to release the Liens for the benefit of the Holders of such New Convertible Notes on all or substantially all of the Collateral, other than in accordance with the Convertible Note Documents applicable to such series of New Convertible Notes.

In addition to the foregoing, the Junior Lien Intercreditor Agreement and the Collateral Trust Agreement may be amended in accordance with its terms and without the consent of any Holder of a series of New Convertible Notes, the Convertible Notes Trustees, the Junior Lien Collateral Agent or the Priority Lien Collateral Agent to add other parties (or any authorized agent thereof or trustee therefor) holding Indebtedness subject thereto and to establish that the Liens on any Collateral securing such Indebtedness shall rank equally with the Junior Liens on such Collateral securing the Convertible Note Obligations then outstanding.

No Personal Liability of Directors, Officers, Employees and Stockholders

No director, officer, employee, incorporator, stockholder, member, partner or trustee of Comstock or any Subsidiary Guarantor, as such, shall have any liability for any obligations of Comstock or any Subsidiary Guarantor under the Convertible Note Documents for each series of New Convertible Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a New Convertible Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of each series of New Convertible Notes.

The Convertible Notes Trustees

American Stock Transfer & Trust Company, LLC will serve as trustee under each of the Convertible Notes Indentures. Each Convertible Notes Indenture (including provisions of the TIA incorporated by reference therein) contains limitations on the rights of the Convertible Notes Trustee thereunder, should it become a creditor of Comstock, to obtain payment of claims in certain cases or to realize on certain property received by it in respect of any such claims, as security or otherwise. Each Convertible Notes Indenture permits the applicable Convertible Notes Trustee to engage in other transactions; *provided* that if it acquires any conflicting interest (as defined in the TIA), it must eliminate such conflict or resign. American Stock Transfer & Trust Company, LLC also serves as trustee under the Old Indentures and the Senior Secured Notes Indenture.

Notwithstanding anything to the contrary contained herein, the Convertible Notes Trustees shall have no responsibility for (i) preparing, recording, filing, re-recording, or re-filing any financing statement, perfection statement, continuation statement or other instrument in any public office or for otherwise ensuring the perfection or maintenance of any security interest granted pursuant to, or contemplated by, any document; (ii) taking any necessary steps to preserve rights against any parties with respect to the Collateral; or (iii) taking any action to protect against any diminution in value of the Collateral.

Governing Law

The Convertible Notes Indentures, the New Convertible Notes, the Junior Lien Subsidiary Guarantees related to each series of New Convertible Notes, the Junior Lien Intercreditor Agreement and the Collateral Trust Agreement are governed by, and construed and enforced in accordance with, the laws of the State of New York.

Available Information

Anyone who receives this prospectus may obtain a copy of the Convertible Notes Indentures, the form of New Convertible Notes, the Junior Lien Intercreditor Agreement, the Collateral Trust Agreement and the Junior Lien Collateral Agreements without charge by writing to Comstock Resources, Inc., 5300 Town and Country Blvd., Suite 500, Frisco, Texas 75034, Attention: Roland O. Burns.

Book Entry, Delivery and Form

The New Convertible Notes will be issued in registered, global form in denominations of integral multiples of $1.00 (the "*Global Notes*"). New Convertible Notes will be issued at the closing of this offering only against payment in immediately available funds. The Global Notes will be deposited upon issuance with the trustee as custodian for DTC, and registered in the name of DTC or its nominee, for credit to an account of a direct or indirect participant in DTC as described below.

Except as set forth below, the Global Notes may be transferred, in whole and not in part, only to another nominee of DTC, by a nominee of DTC to another nominee of DTC, or to a successor of DTC or its nominee. Beneficial interests in the Global Notes may not be exchanged for definitive New Convertible Notes in registered certificated form, or Certificated Notes, except in the limited circumstances described below. See "—Exchange of Global Notes for Certificated Notes." Except in the limited circumstances described below, owners of beneficial interests in the Global Notes will not be entitled to receive physical delivery of New Convertible Notes in certificated form. In addition, transfers of beneficial interests in the Global Notes will be subject to the applicable rules and procedures of DTC and its direct or indirect participants (including, if applicable, those of Euroclear and Clearstream), which may change from time to time.

Depository Procedures

The following description of the operations and procedures of DTC, Euroclear and Clearstream are provided solely as a matter of convenience. These operations and procedures are solely within the control of the respective settlement systems and are subject to changes by them. Comstock takes no responsibility for these operations and procedures and urges investors to contact the system or their participants directly to discuss these matters.

DTC has advised Comstock that DTC is a limited-purpose trust company created to hold securities for its participating organizations, or collectively, the "*Participants*", and to facilitate the clearance and settlement of transactions in those securities between the Participants through electronic book-entry changes in accounts of its Participants. The Participants include securities brokers and dealers (including the initial purchasers), banks, trust companies, clearing corporations and certain other organizations. Access to DTC's system is also available to other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Participant, either directly or indirectly, or collectively, the "*Indirect Participants.*" Persons who are not Participants may beneficially own securities held by or on behalf of DTC only through the Participants or the Indirect Participants. The ownership interests in, and transfers of ownership interests in, each security held by or on behalf of DTC are recorded on the records of the Participants and Indirect Participants.

DTC has also advised Comstock that, pursuant to procedures established by it:

(1) upon deposit of the Global Notes, DTC will credit the accounts of the Participants designated by the initial purchasers with portions of the principal amount of the Global Notes; and

(2) ownership of these interests in the Global Notes will be shown on, and the transfer of ownership of these interests will be effected only through, records maintained by DTC (with respect to the Participants) or by the Participants and the Indirect Participants (with respect to other owners of beneficial interest in the Global Notes).

Investors in the Global Notes who are Participants may hold their interests therein directly through DTC. Investors in the Global Notes who are not Participants may hold their interests therein indirectly through organizations (including Euroclear and Clearstream) which are Participants.

All interests in a Global Note, including those held through Euroclear or Clearstream, may be subject to the procedures and requirements of DTC. Those interests held through Euroclear or Clearstream may also be subject to the procedures and requirements of such systems. The laws of some jurisdictions require that certain Persons

take physical delivery in definitive form of securities that they own. Consequently, the ability to transfer beneficial interests in a Global Note to such Persons will be limited to that extent. Because DTC can act only on behalf of the Participants, which in turn act on behalf of the Indirect Participants, the ability of a Person having beneficial interests in a Global Note to pledge such interests to Persons that do not participate in the DTC system, or otherwise take actions in respect of such interests, may be affected by the lack of a physical certificate evidencing such interests.

Except as described below, owners of interests in the Global Notes will not have New Convertible Notes registered in their names, will not receive physical delivery of New Convertible Notes in certificated form and will not be considered the registered owners or "holders" thereof under the applicable Convertible Notes Indenture for any purpose.

Payments in respect of the principal of, and interest and premium, if any, on a Global Note registered in the name of DTC or its nominee will be payable to DTC in its capacity as the registered holder under the Convertible Notes Indenture. Under the terms of the Convertible Notes Indenture, Comstock and the Convertible Notes Trustee, registrar and paying agent will treat the Persons in whose names the New Convertible Notes, including the Global Notes, are registered as the owners of the New Convertible Notes for the purpose of receiving payments and for all other purposes. Consequently, neither Comstock, the Convertible Notes Trustee nor any Agent of Comstock or the Convertible Notes Trustee has or will have any responsibility or liability for:

(1) any aspect of DTC's records or any Participant's or Indirect Participant's records relating to, or payments made on account of, beneficial ownership interest in the Global Notes or for maintaining, supervising or reviewing any of DTC's records or any Participant's or Indirect Participant's records relating to the beneficial ownership interests in the Global Notes; or

(2) any other matter relating to the actions and practices of DTC or any of its Participants, or Indirect Participants.

DTC has advised Comstock that its current practice, at the due date of any payment in respect of securities such as the New Convertible Notes, is to credit the accounts of the relevant Participants with the payment on the payment date unless DTC has reason to believe that it will not receive payment on such payment date. Each relevant Participant is credited with an amount proportionate to its beneficial ownership of an interest in the principal amount of the New Convertible Notes as shown on the records of DTC. Payments by the Participants and the Indirect Participants to the beneficial owners of New Convertible Notes will be governed by standing instructions and customary practices and will be the responsibility of the Participants or the Indirect Participants and will not be the responsibility of DTC, the Convertible Notes Trustee, any Agent or Comstock. Neither Comstock nor the Convertible Notes Trustee or any other Agent will be liable for any delay by DTC or any of the Participants or the Indirect Participants in identifying the beneficial owners of the New Convertible Notes, and Comstock and the Convertible Notes Trustee and any other Agent may conclusively rely on and will be protected in relying on instructions from DTC or its nominee for all purposes.

Transfers between the Participants will be effected in accordance with DTC's procedures, and will be settled in same-day funds, and transfers between participants in Euroclear and Clearstream will be effected in accordance with their respective rules and operating procedures.

Subject to compliance with the transfer restrictions applicable to the New Convertible Notes described herein, cross-market transfers between the Participants, on the one hand, and Euroclear or Clearstream participants, on the other hand, will be effected through DTC in accordance with DTC's rules on behalf of Euroclear or Clearstream, as the case may be, by their respective depositaries; however, such cross-market transactions will require delivery of instructions to Euroclear or Clearstream, as the case may be, by the counterparty in such system in accordance with the rules and procedures and within the established deadlines (Brussels time) of such system. Euroclear or Clearstream, as the case may be, will, if the transaction meets its settlement requirements,

deliver instructions to its respective depositary to take action to effect final settlement on its behalf by delivering or receiving interests in the relevant Global Note in DTC, and making or receiving payment in accordance with normal procedures for same-day funds settlement applicable to DTC. Euroclear participants and Clearstream participants may not deliver instructions directly to the depositories for Euroclear or Clearstream.

DTC has advised Comstock that it will take any action permitted to be taken by a Holder of New Convertible Notes only at the direction of one or more Participants to whose account DTC has credited the interests in the Global Notes and only in respect of such portion of the aggregate principal amount of the New Convertible Notes as to which such Participant or Participants has or have given such direction. However, if there is an Event of Default under the applicable series of New Convertible Notes, DTC reserves the right to exchange the Global Notes for Certificated Notes, and to distribute such New Convertible Notes to its Participants.

Exchange of Global Notes for Certificated Notes

A Global Note is exchangeable for Certificated Notes in denominations of integral multiples of $1.00 if:

(1) DTC notifies Comstock that it is unwilling or unable to continue to act as depositary for the Global Notes or DTC is no longer a clearing agency registered under the Exchange Act and, in either case, Comstock fails to appoint a successor depositary within 90 days of such notice;

(2) Comstock, at its option, but subject to DTC's requirements, notifies the Convertible Notes Trustee in writing that it elects to cause the issuance of the Certificated Notes; or

(3) there has occurred and is continuing a Default or Event of Default with respect to the applicable series of New Convertible Notes and DTC notifies the applicable Convertible Notes Trustee of its decision to exchange such Global Notes for Certificated Notes.

In all cases, Certificated Notes delivered in exchange for any Global Note or beneficial interests in Global Notes will be registered in the names, and issued in any approved denominations, requested by or on behalf of the depositary (in accordance with its customary procedures) and will bear the applicable restrictive legend referred to in "Notice to Investors," unless that legend is not required by applicable law.

Exchange of Certificated Notes for Global Notes

Certificated Notes may not be exchanged for beneficial interests in any Global Note, except in the limited circumstances provided in the applicable Convertible Notes Indenture.

Same Day Settlement and Payment

Comstock will make payments in respect of the New Convertible Notes represented by the Global Notes (including principal, premium, if any, and Cash Interest) by wire transfer of immediately available funds to the accounts specified by DTC or its nominee. Comstock will make all payments of principal, Cash Interest and premium, if any, with respect to Certificated Notes by wire transfer of immediately available funds to the accounts specified by the Holders of the Certificated Notes or, if no such account is specified, by mailing a check to each such Holder's registered address. The New Convertible Notes represented by the Global Notes are expected to be eligible to trade in DTC's Same-Day Funds Settlement System, and any permitted secondary market trading activity in such New Convertible Notes will, therefore, be required by DTC to be settled in immediately available funds. Comstock expects that secondary trading in any Certificated Notes will also be settled in immediately available funds.

Because of time zone differences, the securities account of a Euroclear or Clearstream participant purchasing an interest in a Global Note from a participant will be credited, and any such crediting will be reported to the

relevant Euroclear or Clearstream participant, during the securities settlement processing day (which must be a business day for Euroclear and Clearstream) immediately following the settlement date of DTC. DTC has advised Comstock that cash received in Euroclear or Clearstream as a result of sales of interests in a Global Note by or through a Euroclear or Clearstream participant to a participant will be received with value on the settlement date of DTC but will be available in the relevant Euroclear or Clearstream cash account only as of the business day for Euroclear or Clearstream following DTC's settlement date.

Certain Definitions

"*Act of Junior Lien Debtholders*" means, as to any matter at any time, a direction in writing delivered to the Junior Lien Collateral Agent by or with the written consent of the holders of Convertible Note Obligations representing the Required Junior Lien Debtholders.

"*Acquired Indebtedness*" means Indebtedness of a Person (1) existing at the time such Person becomes a Restricted Subsidiary or (2) assumed in connection with acquisitions of properties or assets 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 or assets from such Person.

"*Additional Assets*" means:

(1) any assets or property (other than cash, Cash Equivalents or securities) used in the Oil and Gas Business or any business ancillary thereto;

(2) 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;

(3) the acquisition from third parties of Capital Stock of a Restricted Subsidiary; or

(4) capital expenditures by Comstock or a Restricted Subsidiary in the Oil and Gas Business.

"*Additional New Senior Secured Notes*" means the additional securities issued under the Senior Secured Notes Indenture solely in connection with the payment of interest in kind on the New Senior Secured Notes.

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

(1) the sum of:

(a) discounted future net revenues from proved oil and gas reserves of Comstock and its Restricted Subsidiaries calculated in accordance with Commission guidelines before any state, federal or foreign income taxes, as estimated by Comstock and confirmed by a nationally recognized firm of independent petroleum engineers in a reserve report prepared as of the end of Comstock'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:

(i) estimated proved oil and gas reserves acquired since such year-end, which reserves were not reflected in such year-end reserve report, and

(ii) 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:

(iii) estimated proved oil and gas reserves produced or disposed of since such year-end, and

(iv) 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 (i) through (iv), such increases and decreases shall be as estimated by Comstock'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 (1)(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 Comstock and its Restricted Subsidiaries to which no proved oil and gas reserves are attributable, based on Comstock's books and records as of a date no earlier than the date of Comstock's latest annual or quarterly financial statements;

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

(d) the greater of (i) the net book value on a date no earlier than the date of Comstock's latest annual or quarterly financial statements and (ii) the appraised value, as estimated by independent appraisers, of other tangible assets (including, without duplication, Investments in unconsolidated Restricted Subsidiaries) of Comstock and its Restricted Subsidiaries, as of the date no earlier than the date of Comstock's latest audited financial statements, minus

(2) the sum of:

(a) Minority Interests;

(b) any net gas balancing liabilities of Comstock and its Restricted Subsidiaries reflected in Comstock's latest audited financial statements;

(c) to the extent included in (1)(a) above, the discounted future net revenues, calculated in accordance with Commission guidelines (utilizing the prices utilized in Comstock's year-end reserve report), attributable to reserves which are required to be delivered to third parties to fully satisfy the obligations of Comstock 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 (1)(a) above, would be necessary to fully satisfy the payment obligations of Comstock 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 Subsidiary Guarantor at any date shall mean the amount by which the fair value of the properties and assets of such Subsidiary 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 Junior Lien Subsidiary Guarantee, of such Subsidiary 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 and the term "Affiliated" shall have the meaning correlative to the foregoing. 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.

"*Agents*" means, collectively, the Priority Collateral Agent, the Junior Lien Collateral Agent and each Convertible Notes Trustee, and "Agent" means any one of them.

"*Asset Sale*" means any sale, issuance, conveyance, transfer, lease or other disposition to any Person other than Comstock or any of its Restricted Subsidiaries (including, without limitation, by means of a Production Payment, net profits interest, overriding royalty interest, sale and leaseback transaction, 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, (ii) all or substantially all of the properties and assets of any division or line of business of Comstock or any of its Restricted Subsidiaries or (iii) any other properties or assets of Comstock 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 properties 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 or assets (including Capital Stock) that is governed by, and made in accordance with, the provisions described under "—Merger, Consolidation and Sale of Assets;" (B) any transfer of properties or assets to an Unrestricted Subsidiary, if permitted under the "Limitation on Restricted Payments" covenant; or (C) any transfer (in a single transaction or a series of related transactions) of properties or assets (including Capital Stock) having a Fair Market Value of less than $25.0 million.

"*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.

"*Authorized Representative*" means (a) in the case of the Revolving Credit Agreement Obligations or the Revolving Credit Agreement Secured Parties, the Revolving Credit Agreement Agent, (b) in the case of the Senior Secured Note Obligations or the Senior Secured Notes Trustee and the holders of the New Senior Secured Notes, the Senior Secured Notes Trustee and (c) in the case of the Convertible Note Obligations and the Holders of the applicable series of New Convertible Notes, the applicable Convertible Notes Trustee.

"*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.

"*Bankruptcy Code*" means Title 11 of the United States Code, as amended.

"*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 (whether real, personal or mixed) that is required to be classified and accounted for as a capital lease obligation under GAAP, and, for the purpose of the applicable Convertible Notes Indenture, the amount of such obligation at any date shall be the capitalized amount thereof at such date, determined in accordance with GAAP. Notwithstanding the foregoing, any lease (whether entered into before or after the date of the applicable Convertible Notes Indenture) that would have been classified as an operating lease pursuant to GAAP as in effect on the date of this Indenture will be deemed not to represent a Capitalized Lease Obligation.

"*Cash Equivalents*" means:

(1) 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);

(2) 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 million;

(3) commercial paper with a maturity of 180 days or less issued by a corporation that is not an Affiliate of Comstock and is organized under the laws of any state of the United States or the District of Columbia and rated at least A-1 by S&P or at least P-1 by Moody's;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (1) above entered into with any commercial bank meeting the specifications of clause (2) above;

(5) overnight bank deposits and bankers acceptances at any commercial bank meeting the qualifications specified in clause (2) above;

(6) deposits available for withdrawal on demand with any commercial bank not meeting the qualifications specified in clause (2) above but which is a lending bank under the Revolving Credit Agreement, provided all such deposits do not exceed $5.0 million in the aggregate at any one time;

(7) demand and time deposits and certificates of deposit with any commercial bank organized in the United States not meeting the qualifications specified in clause (2) 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

(8) investments in money market or other mutual funds substantially all of whose assets comprise securities of the types described in clauses (1) through (5) above.

"*Change of Control*" means the occurrence of any event or series of events by which:

(1) 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 Comstock;

(2) Comstock consolidates with or merges into another Person or any Person consolidates with, or merges into, Comstock, in any such event pursuant to a transaction in which the outstanding Voting Stock of Comstock is changed into or exchanged for cash, securities or other property, other than any such transaction where (a) the outstanding Voting Stock of Comstock 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 Comstock 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;

(3) Comstock, 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 and assets of Comstock 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 Comstock or a Wholly Owned Restricted Subsidiary);

(4) during any consecutive two-year period, individuals who at the beginning of such period constituted the Board of Directors of Comstock (together with any new directors whose election by such Board of Directors or whose nomination for election by the stockholders of Comstock 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 Comstock then in office; or

(5) Comstock is liquidated or dissolved.

"*Charter Amendment*" means the amendment of Comstock's restated articles of incorporation to increase the number of shares of Comstock's common stock authorized for issuance in an amount to provide a sufficient number of authorized shares of the Comstock's common stock for the issuance of shares upon conversion of all of the outstanding New Convertible Notes and, to the extent necessary, exercise of all of the New Warrants.

"*Collateral*" means all property wherever located and whether now owned or at any time acquired after the date of the applicable Convertible Notes Indenture by any Collateral Grantor as to which a Lien is granted under the Junior Lien Collateral Agreements to secure the New Convertible Notes or any Junior Lien Subsidiary Guarantee.

"*Collateral Grantors*" means Comstock and each Subsidiary Guarantor that is party to a Junior Lien Collateral Agreement.

"*Commodity Exchange Act*" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"*Common Stock*" means the common stock, par value $0.50 per share, of Comstock.

"*Consolidated Exploration Expenses*" means, for any period, exploration expenses of Comstock 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 (1) 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 Comstock 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, to (2) Consolidated Interest Expense for such period; *provided*, *however*, that (i) the Consolidated Fixed Charge Coverage Ratio shall be calculated on a pro forma basis assuming 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 the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" 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 Comstock or any Restricted Subsidiary of any properties or assets outside the ordinary course of business, or any repayment of any principal amount of any Indebtedness of Comstock 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, (ii) 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 the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" 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 Comstock, a fixed or floating rate of interest, shall be computed by applying, at the option of Comstock, either the fixed or floating rate, (iii) 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 the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" 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, (iv) notwithstanding clauses (ii) and (iii) 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, (v) in making such calculation, Consolidated Interest Expense shall exclude interest attributable to Dollar-Denominated Production Payments, and (vi) if after the first day of the period referred to in clause (1) of this definition Comstock has permanently retired any Indebtedness out of the Net Cash Proceeds of the issuance and sale of shares of Qualified Capital Stock of Comstock 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 Comstock 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 (1) the interest expense of Comstock 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, (2) to the extent any Indebtedness of any Person (other than Comstock or a Restricted Subsidiary) is guaranteed by Comstock 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, (3) 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 Comstock and its Restricted Subsidiaries during such period as determined on a consolidated basis in accordance with GAAP and (4) 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 Comstock and its Restricted Subsidiaries, to the extent such Disqualified Capital Stock is owned by Persons other than Comstock or its Restricted Subsidiaries, less, to the extent included in any of clauses (1) through (4), amortization of capitalized debt issuance costs of Comstock and its Restricted Subsidiaries during such period.

"*Consolidated Net Income*" means, for any period, the consolidated net income (or loss) of Comstock and its Restricted Subsidiaries for such period as determined in accordance with GAAP, adjusted by excluding:

(1) net after-tax extraordinary gains or losses (less all fees and expenses relating thereto);

(2) net after-tax gains or losses (less all fees and expenses relating thereto) attributable to Asset Sales;

(3) the net income (or net loss) of any Person (other than Comstock or any of its Restricted Subsidiaries), in which Comstock 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 Comstock or any of its Restricted Subsidiaries in cash by such other Person during such period (regardless of whether such cash dividends or distributions are attributable to net income (or net loss) of such Person during such period or during any prior period);

(4) 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;

(5) dividends paid in Qualified Capital Stock;

(6) income resulting from transfers of assets received by Comstock or any Restricted Subsidiary from an Unrestricted Subsidiary;

(7) Consolidated Exploration Expenses and any write-downs or impairments of non-current assets; and

(8) the cumulative effect of a change in accounting principles.

"*Consolidated Non-cash Charges*" means, for any period, the aggregate depreciation, depletion, amortization and exploration expense and other non-cash expenses of Comstock 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).

"*Convertible Note Documents*" means the 2019 Convertible Notes Indenture or the 2020 Convertible Notes Indenture, as the context may require, the Junior Lien Collateral Agreements and any agreement instrument or other document evidencing or governing any Convertible Note Obligations related to the 2019 Convertible Notes Indenture or the 2020 Convertible Notes Indenture, as the context may require.

"*Convertible Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, Comstock or any Subsidiary Guarantor arising under the Convertible Notes Indentures, the New Convertible Notes, the Additional New 2019 Convertible Notes, the Additional New 2020 Convertible Notes, the Junior Lien Subsidiary Guarantees and the Junior Lien Collateral Agreements (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), 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 and fees that accrue after the commencement by or against Comstock or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"*Convertible Notes Indentures*" means, individually or collectively, as the context may require, the 2019 Convertible Notes Indenture and the 2020 Convertible Notes Indenture.

"*Convertible Notes Trustees*" means, individually or collectively, as the context may require, the 2019 Convertible Notes Trustee and the 2020 Convertible Notes Trustee.

"*Daily VWAP*" means for any Trading Day, the per share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page "WLL<equity>VWAP" (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day, up to and including the final closing print (which is indicated by Condition Code "6" in Bloomberg) (or if such volume-weighted average price is unavailable, the market value of one share of Common Stock on such Trading Day, determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by Comstock).

"*Default*" means any event, act or condition that is, or after notice or passage of time or both would become, an Event of Default.

"*Discharge of Priority Lien Obligations*" means the occurrence of all of the following:

(1) termination or expiration of all commitments to extend credit that would constitute Priority Lien Obligations;

(2) payment in full in cash of the principal of and interest, premium (if any) and fees on all Priority Lien Obligations (other than any undrawn letters of credit);

(3) discharge or cash collateralization (at 105% of the aggregate undrawn amount) of all outstanding letters of credit constituting Priority Lien Obligations;

(4) payment in full in cash of obligations in respect of Secured Swap Obligations that are secured by Priority Liens (and, with respect to any particular Secured Swap Obligation, termination of such agreement and payment in full in cash of all obligations thereunder or such other arrangements as have been made by the counterparty thereto (and communicated to the Priority Lien Collateral Agent)); and

(5) payment in full in cash of all other Priority Lien Obligations that are outstanding and unpaid at the time the Priority Lien Obligations are paid in full in cash (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at or prior to such time);

provided that, if, at any time after the Discharge of Priority Lien Obligations has occurred, any Collateral Grantor enters into any Priority Lien Document evidencing a Priority Lien Obligation which incurrence is not prohibited by the applicable Secured Debt Documents, then such Discharge of Priority Lien Obligations shall automatically be deemed not to have occurred for all purposes of the Junior Lien Intercreditor Agreement with respect to such new Priority Lien Obligation (other than with respect to any actions taken as a result of the occurrence of such first Discharge of Priority Lien Obligations), and, from and after the date on which Comstock designates such Indebtedness as a Priority Lien Obligation in accordance with the Junior Lien Intercreditor Agreement, the obligations under such Priority Lien Document shall automatically and without any further action be treated as Priority Lien Obligations for all purposes of the Junior Lien Intercreditor Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth in the Junior Lien Intercreditor Agreement and any Convertible Note Obligations shall be deemed to have been at all times Convertible Note Obligations and at no time Priority Lien Obligations.

"*Discharge of Revolving Credit Agreement Obligations*" means, except to the extent otherwise provided in the Pari Passu Intercreditor Agreement, payment in full, in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) of all Revolving Credit Agreement Obligations and, with respect to letters of credit outstanding under the Revolving Credit Agreement Obligations, delivery of cash collateral or backstop letters of credit in respect thereof in a manner consistent with the Revolving Credit Agreement and otherwise reasonably satisfactory to the Revolving Credit Agreement Agent, and termination of and payment in full in cash of, all Secured Swap Obligations, in each case after or concurrently with the termination of all commitments to extend credit thereunder and the termination of all commitments of the Revolving Credit Agreement Secured Parties under the Revolving Credit Agreement Documents; *provided* that the Discharge of Revolving Credit Agreement Obligations shall not be deemed to have occurred if such payments are made with the proceeds of other Revolving Credit Agreement Obligations that constitute an exchange or replacement for or a refinancing of such Revolving Credit Agreement Obligations.

"*Disinterested Director*" means, with respect to any transaction or series of transactions in respect of which the Board of Directors of Comstock is required to deliver a resolution of the Board of Directors under the applicable Convertible Notes Indenture, a member of the Board of Directors of Comstock 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 Comstock) 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 applicable series of New Convertible Notes or is redeemable at the option of the Holder thereof at any time prior to such final Stated Maturity of such New Convertible Notes, or is convertible into or exchangeable for debt securities at any time prior to such final Stated Maturity of such New Convertible Notes. For purposes of the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock," 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 Comstock or a Restricted Subsidiary recorded as liabilities in accordance with GAAP, together with all undertakings and obligations in connection therewith.

"*Engineering Report*" means a reserve report as of each December 31 and June 30, as applicable, with respect to all Hydrocarbons attributable to the Oil and Gas Properties of Comstock and the Subsidiary Guarantors prepared by an independent engineering firm of recognized standing in accordance with accepted industry practice and all updates thereto.

"*Equity Interests*" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"*Event of Default*" has the meaning set forth above under the caption "Events of Default."

"*Excess Priority Lien Obligations*" means Obligations constituting Priority Lien Obligations for the principal amount of loans, letters of credit, reimbursement Obligations under the Priority Lien Documents to the extent that such Obligations are in excess of the Priority Lien Cap.

"*Exchange Offer and Consent Solicitation*" means a series of transactions in which Comstock will (i) exchange the New Senior Secured Notes and the New Warrants for the Old Senior Secured Notes, (ii) exchange the New Convertible Notes for the Old Unsecured Notes and (iii) solicit the consent of the holders of the Old Senior Secured Notes and Old Unsecured Notes for certain amendments to the Old Indentures, including amendments to eliminate or amend certain of the restrictive covenants contained in the Old Indentures and release the collateral securing the Old Senior Secured Notes.

"*Exchanged Properties*" means properties or assets used or useful in the Oil and Gas Business received by Comstock or a Restricted Subsidiary in trade or as a portion of the total consideration for other such properties or assets.

"*Excluded Collateral*" means any cash, certificate of deposit, deposit account, money market account or other such liquid assets to the extent that such cash, certificate of deposit, deposit account, money market account or other such liquid assets are on deposit or maintained with the Revolving Credit Agreement Agent or any other Revolving Credit Agreement Secured Party (other than the Priority Lien Collateral Agent, in its capacity as such) to cash collateralize letters of credit constituting Revolving Credit Agreement Obligations or Secured Swap Obligations constituting Revolving Credit Agreement Obligations.

"*Fair Market Value*" means with respect to any asset or property, the sale value that would be obtained in an arm's-length free market transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy. Fair Market Value of an asset or property equal to or in excess of $10.0 million shall be determined by the Board of Directors of Comstock acting in good faith, whose determination shall be conclusive and evidenced by a resolution of such Board of Directors delivered to the applicable Convertible Notes Trustee, and any lesser Fair Market Value may be determined by an officer of Comstock acting in good faith.

"*GAAP*" means generally accepted accounting principles in the United States of America as in effect from time to time. All ratios and computations based on GAAP contained in the applicable Convertible Notes Indenture will be computed in conformity with GAAP.

The term "guarantee" means, as applied to any obligation, (i) a guarantee (other than by endorsement of negotiable instruments 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.

"*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 similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing and any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act), 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.

"*Holder*" means a Person in whose name a New Convertible Note is registered in the Note Register.

"*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.

"*Indebtedness*" means, with respect to any Person, without duplication:

(1) 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 Issue Date 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;

(2) 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;

(3) all obligations of such Person with respect to letters of credit;

(4) 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;

(5) all Capitalized Lease Obligations of such Person;

(6) the Attributable Indebtedness (in excess of any related Capitalized Lease Obligations) related to any Sale/Leaseback Transaction of such Person;

(7) 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);

(8) 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

(9) 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.

The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Capital Stock or Preferred Stock in the form of additional shares of the same class of Disqualified Capital Stock or Preferred Stock shall be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Capital Stock or Preferred Stock for purposes of this definition. In addition, Disqualified Capital Stock shall be deemed to be Indebtedness.

Subject to clause (8) of the first sentence of this definition, neither Dollar-Denominated Production Payments nor Volumetric Production Payments shall be deemed to be Indebtedness.

"*Insolvency or Liquidation Proceeding*" means (a) any voluntary or involuntary case or proceeding under any bankruptcy law with respect to any Collateral Grantor, (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Collateral Grantor or with respect to any of its assets, (c) any liquidation, dissolution, reorganization or winding up of any Collateral Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy (other than any liquidation, dissolution, reorganization or winding up of any Subsidiary of Comstock permitted by the applicable Convertible Note Documents), (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Collateral Grantor or (e) any other proceeding of any type or nature in which substantially all claims of creditors of any Collateral Grantor are determined and any payment or distribution is or may be made on account of such claims.

"*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 by such Person to (by means of any transfer of cash or other property or assets to others or any payment for property, assets 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 Comstock in such Unrestricted Subsidiary at such time. "Investments" shall exclude (1) 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, (2) 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 the "Limitation on Indebtedness and Disqualified Capital Stock" covenant, 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 (3) endorsements of negotiable instruments and documents in the ordinary course of business. If Comstock or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of Comstock such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of Comstock, Comstock will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of Comstock's Investments in such Restricted Subsidiary that were not sold or disposed of.

"*Issue Date*" means the date of original issuance of the applicable series of New Convertible Notes.

"*Junior Lien*" means a Lien granted (or purported to be granted) by Comstock or any Subsidiary Guarantor in favor of the Junior Lien Collateral Agent, at any time, upon any assets or property of Comstock or any Subsidiary Guarantor to secure any Convertible Note Obligations.

"*Junior Lien Collateral Agent*" means the collateral agent for all holders of the Convertible Note Obligations. Bank of Montreal will initially serve as the Junior Lien Collateral Agent.

"*Junior Lien Collateral Agreements*" means, collectively, each Junior Lien Mortgage, the Junior Lien Pledge Agreement, the Junior Lien Security Agreement, the Junior Lien Intercreditor Agreement, the Collateral Trust Agreement and each other instrument, including any assignment, security agreement, mortgage, deed of trust, pledge agreement or other security instrument, creating Liens in favor of the Junior Lien Collateral Agent as required by the Convertible Note Documents, including the Junior Lien Intercreditor Agreement or the Collateral Trust Agreement, in each case, as the same may be in effect from time to time.

"*Junior Lien Intercreditor Agreement*" means (i) the Intercreditor Agreement among the Priority Lien Collateral Agent, the Junior Lien Collateral Agent, Comstock, each other Collateral Grantor and the other parties from time to time party thereto, to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Convertible Notes Indentures or the Collateral Trust Agreement, as applicable and (ii) any replacement thereof that contains terms not materially less favorable to the Holders of the New Convertible Notes than the Junior Lien Intercreditor Agreement referred to in clause (i).

"*Junior Lien Mortgage*" means all mortgages, deeds of trust and similar documents, instruments and agreements (and all amendments, modifications and supplements thereof) creating, evidencing, perfecting or otherwise establishing the Liens on Oil and Gas Properties and other related assets to secure payment of the New Convertible Notes and the Junior Lien Subsidiary Guarantees or any part thereof.

"*Junior Lien Pledge Agreement*" means each Pledge Agreement and Irrevocable Proxy to be entered into on the Issue Date in favor of the Junior Lien Collateral Agent for the benefit of the Holders of the New Convertible Notes and the other Convertible Note Obligations, the Convertible Notes Trustees and the Junior Lien Collateral Agent and each other pledge agreement in substantially the same form in favor of the Junior Lien Collateral Agent for the benefit of the Holders of the New Convertible Notes and the other Convertible Note Obligations, the Convertible Notes Trustees and the Junior Lien Collateral Agent delivered in accordance with the Convertible Notes Indentures and the Junior Lien Collateral Agreements.

"*Junior Lien Security Agreement*" means each Pledge Agreement and Irrevocable Proxy dated as of the Issue Date in favor of the Junior Lien Collateral Agent for the benefit of the Holders of the New Convertible Notes and the other Convertible Note Obligations, the Convertible Notes Trustees and the Junior Lien Collateral Agent and each other security agreement in substantially the same form in favor of the Junior Lien Collateral Agent for the benefit of the Holders of the New Convertible Notes and the other Convertible Note Obligations, the Convertible Notes Trustees and the Junior Lien Collateral Agent delivered in accordance with the Convertible Notes Indentures and the Junior Lien Collateral Agreements.

"*Junior Lien Subsidiary Guarantee*" means any guarantee of the New Convertible Notes by any Subsidiary Guarantor in accordance with the provisions described under "—Junior Lien Subsidiary Guarantees of New Convertible Notes" and "—Certain Covenants—Future Junior Lien Subsidiary Guarantees."

"*Lender Provided Hedging Agreement*" means any Hedging Agreement between Comstock or any Subsidiary Guarantor and a Secured Swap Counterparty.

"*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 (1) of an issuer that is not an Affiliate of Comstock, (2) that are publicly traded on the New York Stock Exchange, the American Stock Exchange or the Nasdaq Stock Market and (3) as to which Comstock 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 (1), (2) and (3) 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 Comstock or a Restricted Subsidiary received the securities was in compliance with the provisions of the Convertible Notes Indenture described under "—Certain Covenants—Limitation on Asset Sales," 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 Comstock and its Restricted Subsidiaries, calculated in accordance with clause (1)(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 Comstock'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 and assets during such quarter that were disposed of in compliance with the provisions of the applicable Convertible Notes Indenture described under "—Certain Covenants—Limitation on Asset Sales."

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

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

"*Mortgaged Properties*" means any property owned by a Collateral Grantor that is subject to the Liens existing and to exist under the terms of the Junior Lien Mortgages.

"*Net Available Cash*" from an Asset Sale or Sale/Leaseback Transaction means cash proceeds received therefrom (including (1) 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 (2) 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 assets or 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 (1) and (2)), in each case net of (i) 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, (ii) all payments made on any Indebtedness (but specifically excluding Indebtedness of Comstock 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, (iii) 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 (iv) 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 Comstock 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 (1) all current assets of Comstock and its Restricted Subsidiaries, less (2) all current liabilities of Comstock and its Restricted Subsidiaries, except current liabilities included in Indebtedness, in each case as set forth in consolidated financial statements of Comstock prepared in accordance with GAAP.

"*New Convertible Notes*" means, individually or collectively, as the context may require, the New 2019 Convertible Notes and the New 2020 Convertible Notes.

"*New Senior Secured Notes*" means Comstock's 10.0% Senior Secured Toggle Notes due 2020. Unless the context otherwise requires, all references to the New Senior Secured Notes shall include the Additional New Senior Secured Notes.

"*New Warrants*" means the warrants issued to the holders of the Old Senior Secured Notes in the Exchange Offer and Consent Solicitation that are exercisable for shares of the Company's common stock.

"*Non-Recourse Indebtedness*" means Indebtedness or that portion of Indebtedness of Comstock or any Restricted Subsidiary incurred in connection with the acquisition by Comstock or such Restricted Subsidiary of any property or assets and as to which (i) the holders of such Indebtedness agree that they will look solely to the property or assets so acquired and securing such Indebtedness for payment on or in respect of such Indebtedness, and neither Comstock 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 Comstock 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.

"*Note Register*" means the register maintained by or for Comstock in which Comstock shall provide for the registration of the applicable series of New Convertible Notes and the transfer of such New Convertible Notes.

"*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.

"*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.

"*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, rightsofway, easements and servitudes together with all additions, substitutions, replacements, accessions and attachments to any and all of the foregoing.

"*Old Indentures*" means (i) the Indenture, dated as of October 9, 2009 (the "*Base Indenture*"), among Comstock, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, as amended and supplemented by the Third Supplemental Indenture, dated as of March 14, 2011, among

Comstock, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to Comstock's 7 ¾% Senior Notes due 2019, (ii) the Base Indenture, as amended and supplemented by the Fourth Supplemental Indenture, dated as of June 5, 2012, among Comstock, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to Comstock's 9 ½% Senior Notes due 2020 and (iii) the Indenture, dated as of March 13, 2015, among Comstock, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to Comstock's Old Senior Secured Notes.

"*Old Senior Secured Notes*" means Comstock's 10% Senior Secured Notes due 2020.

"*Old Unsecured Notes*" means, collectively, Comstock's 7 ¾% Senior Notes due 2019 and 9 ½% Senior Notes due 2020.

"*Permitted Collateral Liens*" means Liens described in clauses (1), (2), (5), (6), (7), (8), (9), (10), (11), (13), (18), (19), (20), (21), (22), (23) and (24) of the definition of "Permitted Liens" that, by operation of law, have priority over the Liens securing the New Convertible Notes and the Junior Lien Subsidiary Guarantees.

"*Permitted Investments*" means any of the following:

(1) Investments in Cash Equivalents;

(2) Investments in property, plant and equipment used in the ordinary course of business;

(3) Investments in Comstock or any of its Restricted Subsidiaries;

(4) Investments by Comstock or any of its Restricted Subsidiaries in another Person, if (a) as a result of such Investment (i) such other Person becomes a Restricted Subsidiary or (ii) such other Person is merged or consolidated with or into, or transfers or conveys all or substantially all of its properties and assets to, Comstock or a Restricted Subsidiary and (b) such other Person is primarily engaged in the Oil and Gas Business;

(5) 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;

(6) entry into any hedging arrangements in the ordinary course of business for the purpose of protecting Comstock's or any Restricted Subsidiary's production, purchases and resales against fluctuations in oil or natural gas prices;

(7) entry into any currency exchange contract in the ordinary course of business;

(8) Investments in stock, obligations or securities received in settlement of debts owing to Comstock 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 Comstock or any Restricted Subsidiary, in each case as to debt owing to Comstock or any Restricted Subsidiary that arose in the ordinary course of business of Comstock or any such Restricted Subsidiary;

(9) guarantees of Indebtedness permitted under the "Limitation on Indebtedness and Disqualified Capital Stock" covenant;

(10) investments in Unrestricted Subsidiaries or joint ventures in an aggregate amount not to exceed at any one time outstanding $25,000,000; and

(11) other Investments, in an aggregate amount not to exceed at any one time outstanding the greater of (a) $25.0 million and (b) 5% of Adjusted Consolidated Net Tangible Assets.

"*Permitted Liens*" means the following types of Liens:

(1) Liens securing Indebtedness of Comstock and any Subsidiary Guarantor under the Revolving Credit Agreement in an aggregate principal amount not to exceed $50.0 million at any time outstanding; *provided* that such Liens are subject to the Pari Passu Intercreditor Agreement;

(2) Liens existing as of the Issue Date (excluding Liens securing Indebtedness of Comstock and any Subsidiary Guarantor under the Revolving Credit Agreement);

(3) Liens on any property or assets of Comstock and any Subsidiary Guarantor securing (a) the New 2019 Convertible Notes issued on the Issue Date in this Exchange Offer and Consent Solicitation (and any assumption of obligations guaranteed thereby), the Additional New 2019 Convertible Notes issued in connection with the payment of interest thereon, and the Junior Lien Subsidiary Guarantees in respect thereof and (b) the New 2020 Convertible Notes issued on the Issue Date in this Exchange Offer and Consent Solicitation (and any assumption of obligations guaranteed thereby), the Additional New 2020 Convertible Notes issued in connection with the payment of interest thereon, and the Junior Lien Subsidiary Guarantees in respect thereof;

(4) Liens in favor of Comstock or any Restricted Subsidiary;

(5) 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 Comstock or its Restricted Subsidiaries shall have set aside on its books such reserves as may be required pursuant to GAAP;

(6) 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;

(7) 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);

(8) 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;

(9) 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 Comstock or any of its Restricted Subsidiaries;

(10) any interest or title of a lessor under any capitalized lease or operating lease;

(11) purchase money Liens; *provided* that (a) the related purchase money Indebtedness shall not be secured by any property or assets of Comstock or any Restricted Subsidiary other than the property or assets so acquired (including, without limitation, those acquired indirectly through the acquisition of stock or other ownership interests) and any proceeds therefrom, (b) the aggregate principal amount of Indebtedness secured by such Liens it otherwise permitted to be incurred under the applicable Convertible Notes Indenture and does not exceed the cost of the property or assets so acquired and (c) the Liens securing such Indebtedness shall be created within 90 days of such acquisition;

(12) Liens securing obligations under hedging agreements that Comstock 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;

(13) 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;

(14) Liens securing reimbursement obligations with respect to commercial letters of credit which encumber documents and other property or assets relating to such letters of credit and products and proceeds thereof;

(15) Liens encumbering property or assets under construction arising from progress or partial payments by a customer of Comstock or its Restricted Subsidiaries relating to such property or assets;

(16) Liens encumbering deposits made to secure obligations arising from statutory, regulatory, contractual or warranty requirements of Comstock or any of its Restricted Subsidiaries, including rights of offset and set-off;

(17) Liens securing Interest Rate Protection Obligations which Interest Rate Protection Obligations relate to Indebtedness that is secured by Liens otherwise permitted under the applicable Convertible Notes Indenture;

(18) Liens (other than Liens securing Indebtedness) on, or related to, properties or assets to secure all or part of the costs incurred in the ordinary course of business for the exploration, drilling, development or operation thereof;

(19) Liens on pipeline or pipeline facilities which arise by operation of law;

(20) 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;

(21) Liens reserved in oil and gas mineral leases for bonus or rental payments or for compliance with the terms of such leases;

(22) 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, assets or services,

and in the aggregate do not materially adversely affect the value of properties and assets of Comstock and the Restricted Subsidiaries, taken as a whole, or materially impair the use of such properties and assets for the purposes for which such properties and assets are held by Comstock or any Restricted Subsidiaries;

(23) Liens securing Non-Recourse Indebtedness; *provided*, *however*, that the related Non-Recourse Indebtedness shall not be secured by any property or assets of Comstock or any Restricted Subsidiary other than the property and assets acquired (including, without limitation, those acquired indirectly through the acquisition of stock or other ownership interests) by Comstock or any Restricted Subsidiary with the proceeds of such Non-Recourse Indebtedness;

(24) Liens on property existing at the time of acquisition thereof by Comstock or any Subsidiary of Comstock and Liens on property or assets 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;

(25) Liens resulting from the deposit of funds or evidences of Indebtedness in trust for the purpose of defeasing Indebtedness of Comstock or any of its Restricted Subsidiaries so long as such deposit and such defeasance are permitted under the covenant described under "—Certain Covenants—Limitation on Restricted Payments;"

(26) Priority Liens to secure the New Senior Secured Notes issued on the Issue Date (and the subsidiary guarantees in respect thereof) and incurred under clause (12) of the definition of "Permitted Indebtedness";

(27) Liens to secure any Permitted Refinancing Indebtedness incurred to renew, refinance, refund, replace, amend, defease or discharge, as a whole or in part, Indebtedness that was previously so secured; *provided* that (a) the new Liens shall be limited to all or part of the same property and assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced and (b) the new Liens have no greater priority relative to the applicable series of New Convertible Notes and the Junior Lien Subsidiary Guarantees, and the holders of the Indebtedness secured by such Liens have no greater intercreditor rights relative to the applicable series of New Convertible Notes and the Junior Lien Subsidiary Guarantees and the Holders thereof, than the original Liens and the related Indebtedness; and

(28) additional Liens of Comstock or any Restricted Subsidiary of Comstock with respect to obligations that do not exceed at any one time outstanding $75,000,000; *provided* that Liens incurred under this clause (28) to secure Additional New Senior Secured Notes incurred under clause (11) of the second paragraph of "—Limitation on Indebtedness and Disqualified Capital Stock" shall be permitted to secure up to $91,875,000 in face amount of Additional New Senior Secured Notes issued under the Senior Secured Notes Indenture.

Notwithstanding anything in clauses (1) through (28) of this definition, the term "Permitted Liens" does 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 or assets that are subject thereto.

"*Permitted Refinancing Indebtedness*" means Indebtedness of Comstock 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 Comstock or any Restricted Subsidiary; *provided* that (1) if the Indebtedness (including the New Convertible Notes) being

renewed, extended, refinanced, refunded or repurchased is *pari passu* with or subordinated in right of payment to either the New Convertible Notes or the Junior Lien Subsidiary Guarantees, then such Indebtedness is *pari passu* with or subordinated in right of payment to the New Convertible Notes or the Junior Lien Subsidiary Guarantees, as the case may be, at least to the same extent as the Indebtedness being renewed, extended, refinanced, refunded or repurchased, (2) 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, (3) if the Company or a Subsidiary Guarantor is the issuer of, or otherwise an obligor in respect of the Indebtedness being renewed, refinanced, refunded or repurchased, such Permitted Refinancing Indebtedness is not Incurred by any Restricted Subsidiary that is not the Company or a Subsidiary Guarantor, (4) 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 and (5) if the Indebtedness being renewed, extended, refinanced, refunded or repurchased by its terms provides that interest is payable only in kind, then such Indebtedness may not permit the payment of scheduled interest in cash; *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 or 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 Comstock as necessary to accomplish such renewal, extension, refinancing, refunding or repurchase, plus the amount of reasonable fees and expenses incurred by Comstock 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 Issue Date, including, without limitation, all classes and series of preferred or preference stock of such Person.

"*Priority Lien*" means a Lien granted (or purported to be granted) by Comstock or any Subsidiary Guarantor in favor of the Priority Lien Collateral Agent, at any time, upon any assets or property of Comstock or any Subsidiary Guarantor to secure any Priority Lien Obligations.

"*Priority Lien Cap*" means, as of any date, (a) the principal amount of Priority Lien Obligations (including any interest paid-in-kind) that may be incurred as "Permitted Indebtedness" as of such date, plus (b) the amount of all Secured Swap Obligations, to the extent such Secured Swap Obligations are secured by the Priority Liens, plus (c) the amount of accrued and unpaid interest (excluding any interest paid-in-kind) and outstanding fees, to the extent such Obligations are secured by the Priority Liens. For purposes of this definition, all letters of credit will be valued at the face amount thereof, whether or not drawn.

"*Priority Lien Collateral Agent*" means the Revolving Credit Agreement Agent, or if the Revolving Credit Agreement ceases to exist, on the Junior Lien Intercreditor Agreement the collateral agent or other representative of the holders of the New Senior Secured Notes designated pursuant to the terms of the Priority Lien Documents and the Junior Lien Intercreditor Agreement.

"*Priority Lien Collateral Agreements*" means, collectively, each mortgage, pledge agreement, security agreement, instrument, assignment, deed of trust or other security instrument creating Priority Liens in favor of

the Priority Lien Collateral Agent as required by the Revolving Credit Agreement, the Senior Secured Notes Indenture, the Priority Lien Intercreditor Agreements, in each case, as the same may be in effect from time to time.

"*Priority Lien Documents*" means, collectively, the Revolving Credit Agreement Documents and the Senior Secured Note Documents.

"*Priority Lien Excluded Collateral*" has the meaning set forth in the Priority Lien Intercreditor Agreement.

"*Priority Lien Intercreditor Agreement*" means (i) the Amended and Restated Priority Lien Intercreditor Agreement, among the Priority Lien Collateral Agent, Senior Secured Notes Trustee, the Revolving Credit Agreement Agent, Comstock, each other Collateral Grantor, the other parties from time to time party thereto, and American Stock Transfer & Trust Company, LLC in its capacity as the successor trustee under the Old Senior Secured Notes to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Priority Lien Documents and (ii) any replacement thereof.

"*Priority Lien Obligations*" means, collectively, (a) the Revolving Credit Agreement Obligations and (b) the Senior Secured Note Obligations, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding.

"*Priority Lien Security Documents*" means, collectively, the Revolving Credit Agreement Documents and the Senior Secured Note Documents.

"*Production Payments*" means, collectively, Dollar-Denominated Production Payments and Volumetric Production Payments.

"*Proved and Probable Drilling Locations*" means all drilling locations of the Collateral Grantors located in the Haynesville and Bossier shale acreage in the States of Louisiana and Texas that are Proved Reserves or classified, in accordance with the Petroleum Industry Standards, as "Probable Reserves."

"*Proved Reserves*" means those Hydrocarbons that have been estimated with reasonable certainty, as demonstrated by geological and engineering data, to be economically recoverable from the Oil and Gas Properties by existing producing methods under existing economic conditions.

"*Qualified Capital Stock*" of any Person means any and all Capital Stock of such Person other than Disqualified Capital Stock.

"*Registration Rights Agreement*" means the Registration Rights Agreement substantially in the form attached to each of the Convertible Notes Indentures.

"*Relevant Stock Exchange*" means The New York Stock Exchange or, if the Common Stock (or other security for which a Daily VWAP must be determined) is not then listed on The New York Stock Exchange, the principal other U.S. national or regional securities exchange on which the Common Stock (or such other security) is then listed.

"*Required Junior Lien Debtholders*" means, at any time, the holders of a majority in aggregate principal amount of all Convertible Note Obligations then outstanding, calculated in accordance with the provisions described above under the caption "—Collateral Trust Agreement—Voting". For purposes of this definition, Convertible Note Obligations registered in the name of, or beneficially owned by, Comstock or any Affiliate of Comstock will be deemed not to be outstanding.

"*Required Stockholder Approval*" means the approval by (1) a majority of the issued and outstanding shares of common stock of the amendment to Comstock's restated articles of incorporation to increase the number of shares of Common Stock authorized for issuance in an amount to provide a sufficient number of authorized shares of Common Stock for the issuance of shares upon conversion of the New Convertible Notes and, to the extent necessary, exercise of the New Warrants and (2) a majority of the shares of Common Stock represented at the special meeting and entitled to vote on the issuance of the maximum number of shares of Common Stock that would be issued upon conversion of all of the outstanding New Convertible Notes and, to the extent necessary, exercise of all of the New Warrants.

"*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 Comstock, whether existing on or after the Issue Date, unless such Subsidiary of Comstock is an Unrestricted Subsidiary or is designated as an Unrestricted Subsidiary pursuant to the terms of the Convertible Notes Indenture.

"*Revolving Credit Agreement*" means that certain Credit Agreement, dated as of March 4, 2015, among Comstock, the lenders from time to time party thereto and the Revolving Credit Agreement Agent, as amended, restated, modified, renewed, refunded, replaced or refinanced, from time to time.

"*Revolving Credit Agreement Agent*" means Bank of Montreal (or other agent designated in the Revolving Credit Agreement), together with its successors and permitted assigns in such capacity.

"*Revolving Credit Agreement Documents*" means the Revolving Credit Agreement and any other Loan Documents (as defined in the Revolving Credit Agreement).

"*Revolving Credit Agreement Obligations*" means, collectively, (a) the Obligations (as defined in the Revolving Credit Agreement) of Comstock and the Subsidiary Guarantors under the Revolving Credit Agreement Documents, in an aggregate principal amount for all such Obligations not to exceed $50,000,000, plus interest and all fees, costs, charges, penalties and expenses, including legal fees and expenses to the extent authorized under the Revolving Credit Agreement Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding, and (b) the Secured Swap Obligations.

"*Revolving Credit Agreement Secured Parties*" means, collectively, the Lenders (as defined in the Revolving Credit Agreement), the Secured Swap Counterparties and the Revolving Credit Agreement Agent.

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

"*Sale/Leaseback Transaction*" means, with respect to Comstock or any of its Restricted Subsidiaries, any arrangement with any Person providing for the leasing by Comstock or any of its Restricted Subsidiaries of any principal property, whereby such property has been or is to be sold or transferred by Comstock or any of its Restricted Subsidiaries to such Person.

"*Secured Debt*" means, collectively, the Priority Lien Obligations and the Convertible Note Obligations.

"*Secured Debt Documents*" means, collectively, the Priority Lien Documents and the Convertible Note Documents.

"*Secured Swap Counterparty*" means, with respect to a Lender Provided Hedging Agreement, a counterparty that at the time such Hedging Agreement is entered into is a Lender (as defined in the Revolving Credit Agreement)

or an Affiliate of a Lender (including a Hedging Agreement in existence prior to the date hereof or prior to such Person or its Affiliate becoming a Lender); *provided* that, for the avoidance of doubt, the term "Lender Provided Hedging Agreement" shall not include any Hedging Agreement or transactions under any Hedging Agreement entered into after the time that such counterparty ceases to be a Lender or an Affiliate of a Lender.

"*Secured Swap Obligations*" means all obligations of Comstock or any Subsidiary Guarantor under any Lender Provided Hedging Agreement.

"*Security Documents*" means, collectively the Priority Lien Collateral Agreements and the Junior Lien Collateral Agreements.

"*Senior Indebtedness*" means any Indebtedness of Comstock or a Restricted Subsidiary (whether outstanding on the date hereof or hereinafter incurred), unless such Indebtedness is Subordinated Indebtedness.

"Senior Secured Note Documents" means the Senior Secured Note Indenture, the Priority Lien Collateral Agreements and any agreement, instrument or other document evidencing or governing the Senior Secured Note Obligations.

"*Senior Secured Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, Comstock or any Subsidiary Guarantor arising under the Senior Secured Notes Indenture, the New Senior Secured Notes, the Additional New Senior Secured Notes, the subsidiary guarantees thereof and the other Senior Secured Note Documents (as defined in the Senior Secured Notes Indenture) (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), 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 and fees that accrue after the commencement by or against Comstock or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"*Senior Secured Notes Indenture*" means the Indenture, dated as of , 2016, by and among Comstock, as issuer, the Subsidiary Guarantors and American Stock Transfer & Trust Company, LLC, as successor trustee, relating to the New Senior Secured Notes.

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

"*Subordinated Indebtedness*" means Indebtedness of Comstock or a Subsidiary Guarantor which is expressly subordinated in right of payment to the New Junior Secured Notes or the Junior Lien Subsidiary Guarantees, as the case may be.

"*Subsidiary*" means, with respect to any Person, (1) a corporation a majority of whose Voting Stock is at the time owned, directly or indirectly, by such Person, by one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person, or (2) any other Person (other than a corporation), including, without limitation, a joint venture, in which such Person, one or more Subsidiaries of such Person or such Person and one or more Subsidiaries of such Person have, directly or indirectly, at the date of determination thereof, at least majority ownership interest entitled to vote in the election of directors, managers or trustees thereof (or other Person performing similar functions).

"*Subsidiary Guarantor*" means (1) Comstock Oil & Gas, LP, (2) Comstock Oil & Gas—Louisiana, LLC, (3) Comstock Oil & Gas GP, LLC, (4) Comstock Oil & Gas Investments, LLC, (5) Comstock Oil & Gas Holdings, Inc., (6) each of Comstock's other Restricted Subsidiaries, if any, executing a supplemental indenture in which such Subsidiary agrees to be bound by the terms of the applicable Convertible Notes Indenture and

(7) any Person that becomes a successor guarantor of the applicable series of New Convertible Notes in compliance with the provisions described under "—Junior Lien Subsidiary Guarantees of New Convertible Notes" and "Certain Covenants—Future Junior Lien Subsidiary Guarantees."

"*Swap Obligation*" means, with respect to any Subsidiary Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1(a)(47) of the Commodity Exchange Act.

"*Threshold Price*" means, initially, $12.32. The Threshold Price is subject to adjustment in inverse proportion to the adjustments to the Conversion Rate pursuant to the terms of the applicable Convertible Notes Indenture.

"*Trading Day*" means a day on which:

(i) trading in the Common Stock (or other security for which a Daily VWAP must be determined) generally occurs on the Relevant Stock Exchange or, if the Common Stock (or such other security) is not then listed on the Relevant Stock Exchange, on the principal other market on which the Common Stock (or such other security) is then traded; and

(ii) a Daily VWAP for the Common Stock (or other security for which a Daily VWAP must be determined) is available on such securities exchange or market;

provided that if the Common Stock (or other security for which a Daily VWAP must be determined) is not so listed or traded, "Trading Day" means a business day.

"*Unrestricted Subsidiary*" means (1) any Subsidiary of Comstock that at the time of determination will be designated an Unrestricted Subsidiary by the Board of Directors of Comstock as provided below and (2) any Subsidiary of an Unrestricted Subsidiary. The Board of Directors of Comstock may designate any Subsidiary of Comstock as an Unrestricted Subsidiary so long as (a) neither Comstock 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 Comstock 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 the "Limitation on Restricted Payments" covenant; and (d) such designation shall not result in the creation or imposition of any Lien on any of the properties or assets of Comstock or any Restricted Subsidiary (other than any Permitted Lien or any Lien the creation or imposition of which shall have been in compliance with the "Limitation on Liens" covenant); *provided*, *however*, that with respect to clause (a), Comstock or a Restricted Subsidiary may be liable for Indebtedness of an Unrestricted Subsidiary if (i) such liability constituted a Permitted Investment or a Restricted Payment permitted by the "Limitation on Restricted Payments" covenant, in each case at the time of incurrence, or (ii) 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 Comstock shall be evidenced to the applicable Convertible Notes Trustee by filing a board resolution with such trustee giving effect to such designation. If, at any time any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of the Indenture and any Indebtedness of such Subsidiary shall be deemed to be Incurred as of such date. The Board of Directors of Comstock 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) Comstock could incur $1.00 of additional Indebtedness under the first paragraph of the "Limitation on Indebtedness and Disqualified Capital Stock" covenant and (iii) if any of the properties and assets of Comstock 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 the "Limitation on Liens" covenant.

"*Volumetric Production Payments*" means production payment obligations of Comstock 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 Comstock to the extent (1) all of the Capital Stock or other ownership interests in such Restricted Subsidiary, other than directors' qualifying shares mandated by applicable law, is owned directly or indirectly by Comstock or (2) 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 Comstock, 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.

PROPOSED AMENDMENTS TO EXISTING INDENTURES AND OLD NOTES

The description of the terms of the Existing Indentures and the Proposed Amendments set forth below is only a summary and is qualified in its entirety by reference to (i) the terms and conditions of the Existing Indentures and the old notes as currently in effect and (ii) the relevant terms of the Existing Indentures and the old notes as proposed to be modified by the Proposed Amendments, which will be substantially in the form of the Supplemental Indentures included as exhibits to the registration statement to which this prospectus relates, which you may examine and copy as set forth under "Where You Can Find Additional Information." Each holder should carefully review this entire prospectus, the form of the Supplemental Indentures and the Existing Indentures before granting a consent. We are seeking consents to all the Proposed Amendments with respect to each series of old notes as a single proposal. Accordingly, a consent purporting to consent to only a portion of the Proposed Amendments with respect to any series of the old notes will not be valid. Each holder shall only be entitled to deliver a consent on the Proposed Amendments applicable to the series of old notes it holds.

Concurrently with the Exchange Offer and subject to the terms and conditions contained in this prospectus, we are conducting the Consent Solicitation for the Proposed Amendments to the Existing Indentures and old notes to eliminate or amend certain of the restrictive covenants contained in the Existing Indentures, release the collateral securing the Old Senior Secured Notes in accordance with Section 9.02(b) of the Existing Secured Notes Indenture and modify various other provisions contained in the Existing Indentures.

The Proposed Amendments, if adopted and effected, will eliminate certain of the covenants in each of the Existing Indentures governing our actions and will release the collateral securing the Old Senior Secured Notes. For more complete information regarding the effects of the Proposed Amendments, reference is made to the Existing Indentures, which are incorporated herein by reference and a copy of each of which may be obtained from the SEC's website (http://www.sec.gov). See "Where You Can Find Additional Information."

The Proposed Amendments will be effected by a supplemental indenture to each Existing Indenture, which are collectively referred to herein as the "Supplemental Indentures," and will be substantially in the forms filed as exhibits to the registration statement relating to this prospectus, each of which will be executed by the Company, the guarantors thereof, and American Stock Transfer & Trust Company, LLC, as successor trustee, promptly following the receipt of the Required Consents (as defined below) from the applicable holders of old notes and which will become effective and binding on the applicable non-tendering holders upon the consummation of the Exchange Offer. If the Exchange Offer is terminated or withdrawn, the old notes are not accepted for exchange hereunder, or the Required Consents are not obtained with respect to the Proposed Amendments, the Proposed Amendments will not become effective.

The following is a summary of the Proposed Amendments. Additionally, Appendix 3: Terms of the Existing Indentures to be Modified by the Proposed Amendments hereto sets forth the language in each of the Existing Indentures that will be deleted or modified by the Proposed Amendments. Appendix 3 and the following summary do not purport to be comprehensive or definitive, and are both qualified in their entirety by reference to the forms of the Supplemental Indentures included as exhibits to the registration statement relating to this prospectus.

With respect to each exchanging holder, the Proposed Amendments relating to such holder's old notes constitute a single proposal and an exchanging holder must consent to the Proposed Amendments relating to such holder's old notes as an entirety and may not consent selectively with respect to such Proposed Amendments. A holder of old notes may not tender such old notes in the Exchange Offer without consenting to the Proposed Amendments applicable to such holder's old notes, and the tender of old notes by a holder pursuant to the Exchange Offer will constitute the giving of consents by such holder to the Proposed Amendments relating to such holder's old notes. Pursuant to the terms of each Existing Indenture, the consent of the holders of at least a majority in principal amount of the applicable series of old notes then outstanding is required to approve the Proposed Amendments to

the corresponding Existing Indenture (other than with respect to the release of the collateral securing the Old Senior Secured Notes, which requires the consent of the holders of at least 66 ⅔% of the aggregate principal amount of the Old Senior Secured Notes) (collectively, the "Required Consents"). Since the Minimum Condition threshold is greater than the threshold required to approve the Proposed Amendments and because consents to the Proposed Amendments are required if holders tender their old notes, the minimum threshold for the consents will automatically be achieved if the Minimum Condition is satisfied.

As of the date of this prospectus, the outstanding principal amount of the old notes is approximately $1.2 billion in the aggregate. If the Required Consents are received and the Proposed Amendments become effective with respect to each of the Existing Indentures, the Proposed Amendments will be binding on all non-exchanging holders of old notes (as applicable).

Release of Collateral Securing Old Senior Secured Notes. The Proposed Amendments with respect to the Existing Secured Notes Indenture would release the collateral securing the Old Senior Secured Notes in accordance with Section 9.02(b) of the Existing Secured Notes Indenture. Additionally, the effectiveness of all provisions of the Existing Secured Notes Indenture requiring the Company and the Subsidiary Guarantors to grant security interests and mortgages on their respective assets is terminated by the Proposed Amendments.

Deletion/Amendments of Covenants and Other Provisions. The Supplemental Indentures would, in substance, eliminate the following covenants and provisions from the respective Existing Indentures, which are identified below by their respective section references in the Existing Indentures (all capitalized terms not otherwise defined have the meanings assigned under the applicable Existing Indentures):

- Existing Secured Notes Indenture
  - Section 4.04 Certificates and Other Information (subsection 4.04(b)), which requires the Company to deliver certain schedules, certificates, reports, opinions, and other documents to the Trustee and the Collateral Agent.
  - Section 4.07 Limitation on Restricted Payments, which limits the ability of the Company and the Restricted Subsidiaries to declare and pay dividends, purchase or otherwise acquire or retire the Capital Stock, options, warrants or other similar rights of the Company or certain Affiliates, make principal payments on or repurchase, redeem or otherwise acquire and retire Subordinated Indebtedness, or make Restricted Investments, subject to certain exceptions.
  - Section 4.08 Limitation on Dividend and Other Payment Restrictions Affecting Subsidiaries, under which the Company agrees that it will not, and will not allow its Restricted Subsidiaries to, agree to any consensual encumbrance or restriction on the ability of a Restricted Subsidiary to pay dividends, make loans or other distributions, or transfer property or assets to the Company or any other Restricted Subsidiary, with certain exceptions.
  - Section 4.09 Limitation on Indebtedness and Disqualified Capital Stock, limits the ability of the Company and its Restricted Subsidiaries to incur liabilities for certain Indebtedness or issue Disqualified Capital Stock, with certain exceptions.
  - Section 4.10 Limitation on Asset Sales (subsection 4.10(a)), which limits the ability of the Company and its Restricted Subsidiaries to consummate any Asset Sale, with certain exceptions.
  - Section 4.11 Limitation on Transactions with Affiliates, which limits the ability of the Company and its Restricted Subsidiaries to enter into certain transactions with, or for the benefit of, an Affiliate of the Company (other than the Company or a Wholly Owned Restricted Subsidiary), unless certain conditions are met.

- Section 4.12 Limitation on Liens, which limits the ability of the Company and its Restricted Subsidiaries to create, incur, assume or suffer to exist any Lien securing Indebtedness on any of its property or assets, except for Permitted Liens.

- Section 4.16 Future Designation of Restricted and Unrestricted Subsidiaries, which permits the Board of Directors of the Company to designate Restricted Subsidiaries as Unrestricted Subsidiaries, and Unrestricted Subsidiaries as Restricted Subsidiaries, each subject to certain conditions. This provision will be amended to provide that the Company cannot designate any Restricted Subsidiary as an Unrestricted Subsidiary after the closing of the Exchange Offer.

- Section 4.17 Suspended Covenants, which provides that the Company and its Restricted Subsidiaries need not comply with Sections 4.07 (Limitation on Restricted Payments), 4.08 (Limitation on Dividend and Other Payment Restrictions Affecting Subsidiaries), 4.09 (Limitation on Indebtedness and Disqualified Capital Stock), 4.10 (Limitation on Asset Sales), 4.11 (Limitation on Transactions with Affiliates), and 5.01(a)(2) of the Indenture so long as the Old Senior Secured Notes have Investment Grade Ratings or better, and no Default or Event of Default has occurred and is continuing.

- Section 4.19 Limitation on Certain Agreements, whereby the Company agrees that it will not permit any Collateral Grantor to enter into any agreement that requires the proceeds received from any sale of Collateral to be applied to repay or otherwise acquire or retire any Indebtedness of any person, with certain exceptions.

- Section 4.20 Limitation on Sale and Leaseback Transactions, whereby the Company agrees that it will not, and it will not permit any of its Restricted Subsidiaries, to enter into any Sale/Leaseback Transaction, subject to certain exceptions.

- Section 5.01 Merger, Consolidation or Sale of Assets (subsection 5.01(a)(3)), which requires that immediately after giving effect to a consolidation or merger of the Company with or into another person, or the sale, assignment, conveyance, transfer, lease, or disposal of all of substantially all of its assets to another person either (i) the Company (or the Surviving Entity) could Incur $1.00 of additional Indebtedness under the conditions set forth under Section 4.09(a) of the Indenture or (ii) the Fixed Charge Coverage Ratio of the Company will be equal to or greater than such ratio immediately before such transaction or transactions, on a pro forma basis.

- Section 6.01 Events of Default (clauses (c), (e), (f) and (g)), which classify the following as Events of Default: (i) (a portion of clause (c)) - failure by the Company to comply with the provisions described under Section 4.10 (Limitation on Asset Sales); (ii) (clause (e)) - certain defaults under the Revolving Credit Agreement; (iii) (clause (f)) - default under certain other mortgages, indentures or instruments and judgments; and (iv) (clause (g)) - certain defaults under the Collateral Agreements.

- Section 11.01 Collateral Agreements; Additional Collateral, which generally provides that the Old Senior Secured Note obligations will be secured by Collateral, and specifically provides the manner and process thereby.

- Section 11.04 No Impairment of Security Interests, whereby the Company agrees that it and the Collateral Grantors will not take any action or knowingly omit to take any action that would materially impair the security interests in the Collateral granted under the Collateral Agreements.

- Existing 2020 Notes Indenture

  - Section 5.1 Events of Default (clauses (f), and (h)), which classify the following as Events of Default: (i) (clause (f)) - the occurrence and continuation of any default in the payment of any

Indebtedness of the Company (other than the Old 2020 Notes) or any Subsidiary 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 Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed, provided that the aggregate principal amount of such Indebtedness, together with the aggregate principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, shall exceed $50,000,000; and (ii) (clause (h)) - failure by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary to pay final judgments or orders rendered against the Company or any Subsidiary Guarantor or any other Restricted Subsidiary aggregating in excess of $50,000,000, subject to certain conditions.

- Section 7.1 Company May Consolidate, Etc., Only on Certain Terms (subsection 7.1(c)), which requires that immediately after giving effect to a consolidation or merger of the Company with or into another person, or the sale, assignment, conveyance, transfer, lease, or disposal of all of substantially all of its assets to another person either (i) the Company (or the Surviving Entity) could Incur $1.00 of additional Indebtedness under the conditions set forth under Section 4.09(a) of the Indenture or (ii) the Fixed Charge Coverage Ratio of the Company will be equal to or greater than such ratio immediately before such transaction or transactions, on a pro forma basis.

- Section 9.10 Limitation on Restricted Payments, which limits the ability of the Company and the Restricted Subsidiaries to declare and pay dividends, purchase or otherwise acquire or retire the Capital Stock, options, warrants or other similar rights of the Company or certain Affiliates, make principal payments on or repurchase, redeem or otherwise acquire and retire Subordinated Indebtedness, or make Restricted Investments, subject to certain conditions.

- Section 9.12 Limitation on Indebtedness and Disqualified Capital Stock, limits the ability of the Company and its Restricted Subsidiaries to incur liabilities for certain Indebtedness or issue Disqualified Capital Stock, with certain exceptions.

- Section 9.14 Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries, whereby the Company agrees that it will 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 will 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, subject to certain exceptions.

- Section 9.15 Limitation on Liens, whereby the Company agrees that it will not, and will not permit any Restricted Subsidiary to incur any Lien of any kind, except for Permitted Liens, upon any of their respective Properties, subject to certain exceptions.

- Section 9.18 Limitation on Transactions with Affiliates, which limits the ability of the Company and its Restricted Subsidiaries to enter into certain transactions, with or for the benefit of, an Affiliate of the Company (other than the Company or a Wholly Owned Restricted Subsidiary) unless certain conditions are met.

- Section 9.19 Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries, under which the Company agrees that it will not, and will not allow its Restricted Subsidiaries to, to agree to any consensual encumbrance or restriction on the ability of a Restricted Subsidiary to pay dividends, make loans or other distributions, or transfer property or assets to the Company or any other Restricted Subsidiary, with certain exceptions.

- Section 9.20 Limitation on Sale and Leaseback Transactions, whereby the Company agrees that it will not, and it will not permit any of its Restricted Subsidiaries, to enter into any Sale/Leaseback Transaction, subject to certain exceptions.

- Section 9.21 Covenant Suspension, which provides that the Company and its Restricted Subsidiaries need not comply with Sections 7.1(c), 9.10 (Limitation on Restricted Payments), 9.12 (Limitation on Indebtedness and Disqualified Capital Stock), 9.14 (Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries), 9.18 (Limitation on Transactions with Affiliates), and 9.19 (Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries) of the Indenture so long as the Old 2020 Notes have Investment Grade Ratings or better, and no Default or Event of Default has occurred and is continuing. The portion of Section 9.21 that permits the suspension of Section 9.17 (Limitation on Asset Sales) will not be deleted.

- Existing 2019 Notes Indenture

  - Section 5.1 Events of Default (clauses (f), and (h)), which classify the following as Events of Default: (i) (clause (f)) - the occurrence and continuation of any default in the payment of any Indebtedness of the Company (other than the Old 2019 Notes) or any Subsidiary 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 Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed, provided that the aggregate principal amount of such Indebtedness, together with the aggregate principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, shall exceed $50,000,000; and (ii) (clause (h)) - failure by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary to pay final judgments or orders rendered against the Company or any Subsidiary Guarantor or any other Restricted Subsidiary aggregating in excess of $50,000,000, subject to certain conditions.

  - Section 7.1 Company May Consolidate, Etc., Only on Certain Terms (subsection 7.1(c)), which requires that immediately after giving effect to a consolidation or merger of the Company with or into another person, or the sale, assignment, conveyance, transfer, lease, or disposal of all of substantially all of its assets to another person either (i) the Company (or the Surviving Entity) could Incur $1.00 of additional Indebtedness under the conditions set forth under Section 4.09(a) of the Indenture or (ii) the Fixed Charge Coverage Ratio of the Company will be equal to or greater than such ratio immediately before such transaction or transactions, on a pro forma basis.

  - Section 9.10 Limitation on Restricted Payments, which limits the ability of the Company and the Restricted Subsidiaries to declare and pay dividends, purchase or otherwise acquire or retire the Capital Stock, options, warrants or other similar rights of the Company or certain Affiliates, make principal payments on or repurchase, redeem or otherwise acquire and retire Subordinated Indebtedness, or make Restricted Investments, subject to certain conditions.

  - Section 9.12 Limitation on Indebtedness and Disqualified Capital Stock, limits the ability of the Company and its Restricted Subsidiaries to incur liabilities for certain Indebtedness or issue Disqualified Capital Stock, with certain exceptions.

  - Section 9.14 Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries, whereby the Company agrees that it will 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 will 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, subject to certain exceptions.

  - Section 9.15 Limitation on Liens, whereby the Company agrees that it will not, and will not permit any Restricted Subsidiary to incur any Lien of any kind, except for Permitted Liens, upon any of their respective Properties, subject to certain exceptions.

- Section 9.18 Limitation on Transactions with Affiliates, which limits the ability of the Company and its Restricted Subsidiaries to enter into certain transactions with, or for the benefit of, an Affiliate of the Company (other than the Company or a Wholly Owned Restricted Subsidiary) unless certain conditions are met.

- Section 9.19 Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries, under which the Company agrees that it will not, and will not allow its Restricted Subsidiaries to, to agree to any consensual encumbrance or restriction on the ability of a Restricted Subsidiary to pay dividends, make loans or other distributions, or transfer property or assets to the Company or any other Restricted Subsidiary, with certain exceptions.

- Section 9.20 Limitation on Sale and Leaseback Transactions, whereby the Company agrees that it will not, and it will not permit any of its Restricted Subsidiaries, to enter into any Sale/Leaseback Transaction, subject to certain exceptions.

- Section 9.21 Covenant Suspension, which provides that the Company and its Restricted Subsidiaries need not comply with Sections 7.1(c), 9.10 (Limitation on Restricted Payments), 9.12 (Limitation on Indebtedness and Disqualified Capital Stock), 9.14 (Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries), 9.18 (Limitation on Transactions with Affiliates), and 9.19 (Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries) of the Indenture so long as the Old 2019 Notes have Investment Grade Ratings or better, and no Default or Event of Default has occurred and is continuing. The portion of Section 9.21 that permits the suspension of Section 9.17 (Limitation on Asset Sales) will not be deleted.

Effect of Deleted Sections. Each of the Supplemental Indentures will provide that failure to comply with the terms of any of the foregoing deleted sections or subsections of the Existing Indentures shall no longer constitute a Default or an Event of Default under such Existing Indenture, and shall no longer have any other consequence under such Existing Indenture. Each of the Supplemental Indentures will also amend the Existing Indentures to provide that provisions in such Existing Indenture that authorize action by the Company or any Subsidiary Guarantor when permitted by a deleted section or which is to be done in accordance with a deleted section, shall be deemed to permit such action (unless prohibited by such deleted section or performed in a way consistent with such section), and, otherwise, references in the Existing Indentures to deleted provisions shall also no longer have any effect or consequence under such Existing Indenture.

Deletion and Modification of Definitions. The Proposed Amendments would also delete or modify certain definitions from each of the Existing Indentures and old notes when necessary as a result of the foregoing.

CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES

The following is a summary of certain United States federal income tax consequences of the exchange of old notes for new notes and warrants as well as the ownership of the new notes, warrants and shares of common stock of the Company (the "Shares"). This summary is based on the United States Internal Revenue Code of 1986, as amended (the "Code"), Treasury regulations thereunder ("Treasury Regulations") and administrative interpretations and judicial decisions, all as in effect on the date of this prospectus and all of which are subject to change, with possible retroactive effect. Due to the lack of definitive judicial and administrative authority in a number of areas, substantial uncertainty may exist with respect to some of the tax consequences described below. No opinion of counsel has been obtained, and we do not intend to seek a ruling from the United States Internal Revenue Service (the "IRS"), as to any of the tax consequences discussed below. There can be no assurance that the IRS will not challenge one or more of the tax consequences described below.

This summary only addresses beneficial owners of old notes ("Holders") and does not apply to persons subject to special treatment under United States federal income tax law (including, without limitation, a bank, governmental authority or agency, financial institution, insurance company, pass-through entity, tax-exempt organization, broker or dealer in securities, mutual fund, small business investment company, employee, a person holding old notes, new notes, warrants or Shares that are a hedge against, or that are hedged against, currency risk or that are part of a straddle, constructive sale, or conversion transaction, a person that owns more than 10% of the Shares (actually or constructively), a person that is in bankruptcy or a regulated investment company or real estate investment trust). This summary assumes that the Holders hold old notes, and will hold the new notes, warrants, if any, and Shares, as "capital assets" within the meaning of Section 1221 of the Code (generally property held for investment). This summary does not purport to cover all aspects of United States federal income taxation that may apply to a Holder based on the Holder's particular circumstances. Additionally, this summary does not discuss any tax consequences that may arise under any laws other than United States federal income tax law, including under federal estate and gift tax laws or state, local or foreign tax law.

The United States federal income tax consequences to a partner in an entity or arrangement treated as a partnership for United States federal income tax purposes that holds an old note, new note, warrant or Share generally will depend on the status of the partner and the activities of the partner and the partnership. If a Holder is a partnership, or a partner in a partnership holding old notes, new notes, warrants or Shares, such Holder should consult its own tax advisor.

THIS SUMMARY IS NOT INTENDED TO CONSTITUTE A COMPLETE ANALYSIS OF ALL TAX CONSIDERATIONS RELEVANT TO A PARTICULAR HOLDER. ACCORDINGLY, THE FOLLOWING SUMMARY OF CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO A HOLDER. YOU ARE URGED TO CONSULT YOUR OWN TAX ADVISOR FOR THE FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES APPLICABLE TO THE TRANSACTIONS DESCRIBED IN THIS REGISTRATION STATEMENT.

Characterization of the New Notes

The proper characterization of the new notes as debt or equity for United States federal income tax purposes is uncertain. The determination of whether an instrument is properly characterized as debt or equity for United States federal income tax purposes is a facts and circumstances analysis and depends on many factors, including, among others: (i) the intention of the parties, (ii) the seniority and security of the instrument in the issuer's capital structure, (iii) the projected ability of the issuer to make scheduled payments of interest and principal on the instrument, (iv) the overlap in ownership of debt and equity holders, (v) the debt to equity ratio of the issuer and (vi) in the case of a convertible instrument like the New Convertible Notes, the likelihood of conversion of the instrument (judged in part by whether, and, if so, by how much, the conversion price of the instrument is less

than the fair market value of the underlying stock at the time of issuance–that is, by whether, and the extent to which, the conversion feature is "in the money" at issuance). The new notes have some features that are equity-like (*e.g.*, the conversion feature on the New Convertible Notes), and other features that are debt-like, including the fact that the new notes are senior secured obligations of the Company. We intend to characterize all of the new notes as debt for applicable tax purposes and the remainder of the discussion below assumes that the new notes are so treated. However, there can be no assurance that the IRS will not assert, and that a court will not determine, that certain of the new notes instead should be treated as equity. Each Holder should consult its own tax advisor regarding the proper characterization of the new notes for United States federal, state and local, and non-United States, tax purposes, and the consequences to it of such treatment given its individual circumstances.

Additional Payments

In certain circumstances, we may be required to pay amounts in redemption of the new notes (for example, in the case of an optional redemption or a change in control, as described in "Description of New Senior Secured Notes" under the headings "—Redemption—Optional Redemption" and "—Redemption—Offers to Purchase"; and as described in "Description of New Convertible Notes—Redemption" under the headings "—Optional Redemption of the New 2019 Convertible Notes," "—Offers to Purchase the New 2019 Convertible Notes," "—Optional Redemption of the New 2020 Convertible Notes," and "—Offers to Purchase the New 2020 Convertible Notes"), that are in excess of the stated principal amount and interest on the new notes. Although the issue is not free from doubt, we intend to take the position that the possibility of payment of such additional amounts does not result in the new notes being treated as contingent payment debt instruments under applicable Treasury Regulations. If we become obligated to pay additional amounts in redemption, then we intend to take the position that such amounts will be treated as additional proceeds and taxed as described below under the heading "—Consequences to United States Holders—Consequences of Disposing of New Notes—Sale or Other Taxable Disposition" and "—Consequences to Non-United States Holders—Sale or Other Taxable Disposition of New Notes," as applicable. These positions will be based on our determination that, as of the date of the issuance of the new notes, the possibility that additional amounts in redemption of the new notes will have to be paid is a remote or incidental contingency within the meaning of applicable Treasury Regulations.

Our determination that these contingencies are remote or incidental is binding on a Holder, unless the Holder explicitly discloses to the IRS that it is taking a different position in the manner required by applicable Treasury Regulations. However, our position is not binding on the IRS. If the IRS takes a contrary position to that described above, a Holder may be required to accrue interest income on the new notes based upon a comparable yield, regardless of its method of accounting. The "comparable yield" is the yield at which we would issue a fixed rate debt instrument with no contingent payments and no conversion feature, but with terms and conditions otherwise similar to those of the new notes; that yield would be higher than the stated yield on the new notes. In addition, any gain on the sale, exchange, retirement or other taxable disposition of the new notes would be recharacterized as ordinary income. Each Holder should consult its own tax advisor regarding the tax consequences of the new notes being treated as contingent payment debt instruments. The remainder of this discussion assumes that the new notes will not be treated as contingent payment debt instruments.

Consequences to United States Holders

This section applies only to United States Holders. For purposes of this summary, a Holder is a "United States Holder" if the Holder is a beneficial owner of old notes, new notes, warrants or Shares that is, for United States federal income tax purposes, (i) an individual citizen or resident of the United States, (ii) a corporation, or entity treated as a corporation, organized in or under the laws of the United States or any state thereof or the District of Columbia, (iii) a trust if (a) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust or (b) such trust has made a valid election to be treated as a United States person for United States federal income tax purposes or (iv) an estate, the income of which is includible in gross income for United States federal income tax purposes regardless of its source.

Receipt of Warrants

The U.S. federal income tax treatment of the receipt of any warrants in the Exchange Offer is uncertain. The receipt of warrants may be characterized as either (a) additional consideration received for the old notes in the Exchange Offer or (b) separate consideration for consenting to the Proposed Amendments. Although not free from doubt, we intend to treat the receipt of warrants as consideration received by a Holder for old notes surrendered in the Exchange Offer. Unless otherwise stated, the remainder of the discussion below assumes that the warrants are so treated. However, the IRS or a court could take a different position with respect to warrants.

In the event that the warrants are not treated as additional consideration received for the old notes in the Exchange Offer, such warrants likely would be treated as a separate payment in the nature of a fee paid for such Holder consenting to the Proposed Amendments, and the fair market value of the warrants would be treated as ordinary income that must be included in the Holder's gross income when received or accrued in accordance with that Holders' method of accounting. Each Holder should consult its own tax advisor with respect to the proper treatment of warrants received by such Holder as part of the Exchange Offer.

Exchange of Old Notes for New Notes and Warrants

The United States federal income tax consequences to a United States Holder of exchanging old notes for new notes and, if applicable, warrants in the Exchange Offer will depend in part on whether the old notes and the new notes exchanged therefor are treated as "securities" for purposes of the reorganization provisions of the Code. Whether an instrument constitutes a "security" is determined based on all the facts and circumstances, but most authorities have held that the term of a debt instrument at issuance is an important factor in determining whether the instrument is a security for United States federal income tax purposes. These authorities have indicated that a term of less than five years is evidence that the instrument is not a security, whereas a term of ten years or more is evidence that such debt instrument is a security. There are numerous other factors that could be taken into account in determining whether a debt instrument is a security, including, without limitation: (a) the security for payment; (b) the creditworthiness of the obligor; (c) the subordination or lack thereof to other creditors; (d) the right to vote or otherwise participate in the management of the obligor; (e) convertibility of the instrument into stock of the obligor; (f) whether payments of interest are fixed, variable or contingent; and (g) whether such payments are made on a current basis or accrued. We intend to take the position, and the remainder of this discussion below assumes, that the old notes will be treated as securities for purposes of the reorganization provisions of the Code. While not free from doubt, we intend to take the position that the new notes should be treated as securities for purposes of the reorganization provisions of the Code. The discussion below summarizes each alternative with respect to the treatment of the new notes.

Treatment if the New Notes are Securities

If the new notes are treated as securities of the Company, then the exchange of the old notes for new notes and, if applicable, warrants pursuant to the Exchange Offer should be treated as a recapitalization within the meaning of Section 368(a)(1)(E) of the Code and a United States Holder should not recognize any gain or loss on the exchange. As a result, the recognition of gain or loss, if any, with respect to the old notes will be deferred until the sale or other taxable disposition of the new notes or, if the New Convertible Notes are converted into Shares, upon the later sale or other taxable disposition of Shares. See "—Consequences of Disposing of New Notes—Sale or Other Taxable Disposition" and "—Consequences of Holding and Disposing of Shares—Sale or Other Taxable Disposition" below. The aggregate adjusted tax basis of the new notes and warrants, if any, received should be equal to the aggregate tax basis of the old notes surrendered and should be allocated among such new notes and warrants based on their relative fair market values. The holding period for the new notes and warrants, if any, received should include the holding period for the old notes exchanged therefor.

Treatment if Some New Notes are Securities or Warrants are Received

If either (1) some, but not all, of the new notes received are treated as securities of the Company or (2) none of the new notes received are treated as securities of the Company, but some warrants are received, then the

exchange of the old notes for new notes and, if applicable, warrants should be treated as a recapitalization within the meaning of Section 368(a)(1)(E) of the Code, with any new notes not treated as securities of the Company treated as boot. In such case, each United States Holder should recognize gain on the exchange in an amount equal to the lesser of (A) the sum of the issue price (as described below) of the new notes received and the fair market value of the warrants, if any, received, minus the Holder's adjusted basis in the old notes surrendered, and (B) the issue price (as described below) of the new notes not treated as securities received in the exchange. Such gain should be (subject to the "market discount" rules described below) long-term capital gain if the Holder has a holding period for old notes of more than one year. Generally, no loss should be recognized on the exchange. The recognition of loss, if any, with respect to the old notes will be deferred until the sale or other taxable disposition of the new notes or, if the New Convertible Notes are converted into Shares, upon the later sale or other taxable disposition of Shares. See "—Consequences of Disposing of New Notes—Sale or Other Taxable Disposition" and "—Consequences of Holding and Disposing of Shares—Sale or Other Taxable Disposition" below. The aggregate adjusted tax basis of the new notes treated as securities and warrants, if any, received should be equal to the United States Holder's aggregate adjusted tax basis for the old notes exchanged therefor, plus the aggregate amount of any gain recognized on the exchange and minus the issue price of the new notes not treated as securities received. Such tax basis should be allocated between the new notes treated as securities and warrants, if any, based on their relative fair market values. The tax basis of each new note not treated as a security of the Company should be its issue price. The holding period of the new notes treated as securities and warrants, if any, should include the United States Holder's holding period in the old notes exchanged therefor. The holding period for each new note not treated as a security of the Company should begin on the day following the Closing Date.

Treatment if Only New Notes Not Treated as Securities are Received

If only new notes that are not treated as securities are received in the Exchange Offer, then each United States Holder will be treated as exchanging its old notes for new notes and, if applicable, warrants in a taxable exchange under Section 1001 of the Code. Accordingly, in such case, each United States Holder should recognize capital gain or loss equal to: (1) the sum of the fair market value of the warrants, if any, and the issue price (as described below) of the new notes received, minus (2) the United States Holder's adjusted basis, if any, in the old notes surrendered in exchange therefor. Such gain or loss should be (subject to the "market discount" rules described below) long-term capital gain or loss if the Holder has a holding period for old notes of more than one year. The deductibility of capital losses is subject to limitations. A United States Holder's tax basis in any warrants received should equal their fair market value. A United States Holder's tax basis in the new notes should be the issue price thereof (as described below under the heading "—Consequences of Holding New Notes—Issue Price"). A Holder's holding period for new notes and warrants, if any, should begin on the day following the Closing Date.

Accrued but Unpaid Interest

Holders will receive cash on the Closing Date in an amount equal to the accrued but unpaid interest on their old notes as of such date. Such amount should be taxable to a United States Holder as interest income if such accrued interest has not been previously included in its gross income for United States federal income tax purposes.

Market Discount

A United States Holder may be affected by the "market discount" provisions of Sections 1276 through 1278 of the Code. Under these provisions, some or all of the gain realized by a United States Holder may be treated as ordinary income (instead of capital gain), to the extent of the amount of accrued "market discount" on the surrendered old notes.

In general, a debt obligation with a fixed maturity of more than one year that is acquired by a holder on the secondary market (or, in certain circumstances, upon original issuance) is considered to be acquired with "market

discount" as to that holder if the debt obligation's stated redemption price at maturity (or revised issue price as defined in Section 1278 of the Code, in the case of a debt obligation that is issued with original issue discount) exceeds the tax basis of the debt obligation in the holder's hands immediately after its acquisition. However, a debt obligation does not have "market discount" if the excess is less than a statutory *de minimis* amount (equal to 0.25% of the debt obligation's stated redemption price at maturity or revised issue price, in the case of a debt obligation that is issued with original issue discount, multiplied by the number of complete years remaining until maturity at the time of the acquisition).

Any gain recognized by a United States Holder on the taxable disposition of old notes (determined as described above) that were acquired with market discount should be treated as ordinary income to the extent of the market discount that accrued thereon while the old notes were considered to be held by the United States Holder (unless the United States Holder elected to include market discount in income as it accrued). To the extent that the old notes that were acquired with market discount are exchanged and the transaction is treated as a tax-free recapitalization within the meaning of Section 368(a)(1)(E) of the Code as described above, any market discount that has accrued on the old notes to the time of the exchange but that is not recognized by the United States Holder on the exchange will be carried over to the new notes and, if applicable, warrants received in the exchange, and any gain recognized on the subsequent sale, exchange, redemption or other disposition of the new notes and, if applicable, warrants will be treated as ordinary income to the extent of such accrued but unrecognized market discount.

Consequences of Holding New Notes

Issue Price

The issue price of the new notes will depend on whether either the new notes or the old notes are traded on an "established securities market" at any time during the 31 day period ending 15 days after the Closing Date. In general, a debt instrument (or property exchanged therefor) will be treated as traded on an established market if there is (i) a sales price for the property, (ii) one or more firm quotes for the property, or (iii) one or more indicative quotes for the property. A sales price exists if the price for an executed purchase or sale of the property is reasonably available to issuers of debt instruments, dealers, brokers, and traders. A firm quote exists if a price quote is available from at least one broker, dealer or pricing service and the quoted price is substantially the same as the price for which the person receiving the quote could purchase or sell the property. An indicative quote is considered to exist when a price quote is available from at least one broker, dealer, or pricing service and the price quote is not a firm quote described in the preceding sentence. The issue price of a debt instrument that is traded on an established securities market would be the fair market value of such debt instrument on the issue date as determined by such trading. If the debt instrument is not traded on an established securities market, but the property exchanged therefor is traded on an established securities market, then the issue price of the debt instrument would be the fair market value of the traded property on the issue date as determined by such trading. The issue price of a debt instrument that is neither traded on an established securities market nor issued for property so traded would be its stated principal amount (provided that the interest rate on the debt instrument exceeds the so-called applicable federal rate).

Stated Interest; Original Issue Discount

Generally

The new notes will be considered to be issued with "original issue discount" ("OID"). Under the rules governing OID, regardless of a United States Holder's method of accounting, a United States Holder will be required to accrue its pro rata share of OID on the new notes on a constant yield basis and include such accruals in gross income, whether or not such United States Holder receives a cash payment of interest on the notes on the scheduled interest payment dates. The amount of OID on the new notes is the difference between their "stated redemption price at maturity" (the sum of all payments to be made on the new notes other than "qualified stated

interest") and their "issue price" (determined as described above under the heading "—Issue Price"). The term "qualified stated interest" means stated interest that is unconditionally payable in cash or other property (other than the issuer's debt instruments) or will be constructively received at least annually at a single fixed rate. Because we will make interest payments on the New Convertible Notes, and have the option to make interest payments on the New Senior Secured Notes, in PIK interest instead of paying cash, none of the stated interest payments on the new notes will constitute qualified stated interest.

The amount of OID that a United States Holder generally is required to include in income is the sum of the "daily portions" of OID with respect to the new notes for each day during the taxable year in which the United States Holder is the beneficial owner of the new notes (reduced as described in "—Acquisition Premium" below in the case of a United States Holder whose tax basis in the new note exceeds its adjusted issue price). The "daily portions" of OID in respect of the new notes are determined by allocating to each day in an "accrual period" the ratable portion of interest on the new notes that accrues in the "accrual period." The "accrual period" for the new notes may be of any length and may vary in length over the term of the new notes, provided that each "accrual period" is no longer than one year and that each scheduled payment of interest or principal occurs on the first or final day of an "accrual period."

The amount of OID on the new notes that accrues in an "accrual period" is the product of the "yield to maturity" on the new notes (adjusted to reflect the length of the "accrual period") and the "adjusted issue price" of the new notes at the beginning of the accrual period. The "yield to maturity" on the new notes is the discount rate that, when used in computing the present value of all payments to be made under the new notes, produces an amount equal to their issue price. The "adjusted issue price" of the new notes at the beginning of the first "accrual period" will equal its "issue price" (as described above under the heading "—Issue Price") and for any "accrual periods" thereafter will be (x) the sum of the "issue price" of the new notes and any OID previously accrued thereon (determined without regard to the amortization of any acquisition premium or bond premium) minus (y) the amount of any payments (including payments of stated interest) previously made on the new notes.

New Senior Secured Notes

For purposes of determining the "yield to maturity" with respect to the New Senior Secured Notes, a United States Holder may assume that we will not exercise the option to pay PIK interest, except in respect of periods in which the Company actually elects to pay PIK interest. If we in fact pay interest in cash on the New Senior Secured Notes, a United States Holder will not be required to adjust its OID inclusions. Each payment made in cash under a New Senior Secured Note will be treated first as a payment of any accrued OID that has not been allocated to prior payments and second as a payment of principal. A United States Holder generally will not be required to include separately in income cash payments received on the new notes to the extent such payments constitute payments of previously accrued OID. If for any interest payment period we exercise our option to pay interest in the form of PIK interest, OID calculations for future periods will be adjusted by treating the New Senior Secured Note as if it had been retired and then reissued for an amount equal to its adjusted issue price on the date preceding the first date of such future interest payment period, and the "yield to maturity" of the reissued note will be recomputed by treating the current and all prior PIK interest payments made as a single payment that will be made on the maturity date of such reissued note.

Acquisition Premium

A United States Holder will be considered to have "acquisition premium" to the extent the United States Holder's adjusted tax basis in the new note immediately following the consummation of the Exchange Offer is (1) less than or equal to the principal amount of the new note but (2) greater than the new note's adjusted issue price. If a United States Holder has "acquisition premium" with respect to a new note, the Holder would reduce the amount of OID that it is required to include in taxable income by a fraction (i) whose numerator equals the excess of (w) the adjusted tax basis in the new note immediately following the consummation of the Exchange Offer *over*

(x) the new note's adjusted issue price and (ii) whose denominator equals the excess of (y) the sum of all amounts payable on the new note following the consummation of the Exchange Offer (including stated interest) *over* (z) the new note's adjusted issue price.

Subject to certain limitations, a United States Holder may elect to include in gross income all interest that accrues on its new notes using a constant-yield method. For this purpose, "interest" includes OID, market discount and *de minimis* market discount as adjusted by any acquisition premium. Generally, this election will apply only to the new notes for which the United States Holder makes it; however, this election can have implications for other notes. Any such election may be terminated only with the consent of the IRS. Each Holder should consult its own tax advisor regarding the advisability and additional consequences of making the election.

The rules regarding OID are complex and the rules described above may not apply in all cases. Accordingly, each Holder should consult its own tax advisor regarding their application.

Constructive Distributions with Respect to New Convertible Notes

A United States Holder may, in certain circumstances, be deemed to have received distributions on the Shares for which the New Convertible Notes are convertible if the conversion price of the instruments is adjusted. Adjustments to the conversion price made pursuant to a *bona fide* reasonable adjustment formula that has the effect of preventing the dilution of the interest of the holders of the instruments generally will not be deemed to result in a constructive distribution of stock. Certain possible adjustments provided in the instruments do not qualify as being made pursuant to a bona fide reasonable adjustment formula. If such adjustments are made, then a United States Holder may be deemed to have received constructive distributions from the Company, even though the United States Holder has not received any cash or property as a result of such adjustments. In certain circumstances, the failure to provide for such an adjustment also may result in a constructive distribution to a United States Holder. If there is a deemed distribution, such distribution will be taxable as a dividend to the extent paid out of our current or accumulated earnings and profits, and thereafter as a return of capital or capital gain in accordance with tax rules applicable to corporate distributions, but may not be eligible for the reduced rates of tax applicable to certain dividends paid to individual holders or the dividends-received deduction applicable to certain dividends paid to corporate holders. Each United States Holder should consult its own tax advisor regarding the possibility and tax consequences of constructive distributions.

Consequences of Disposing of New Notes

Sale or Other Taxable Disposition

Upon the sale or other taxable disposition of new notes, a United States Holder will recognize capital gain or loss equal to the difference between the amount realized on such sale or taxable disposition and the United States Holder's tax basis in the new notes sold. Other than with respect to any "market discount" carried over from the old notes (as described above), such gain or loss generally will be long-term capital gain or loss if the United States Holder's holding period in such instrument is more than one year at the time of disposition. The deductibility of capital losses is subject to limitations.

Conversion of New Convertible Notes

If a New Convertible Note is converted and a United States Holder receives Shares from the Company and cash in lieu of a fractional Share, then such Holder should not recognize any gain or loss in respect of the conversion, except that the receipt of cash in lieu of a fractional Share will result in capital gain or loss (measured by the difference between the amount of cash received in lieu of the fractional Share and the United States Holder's tax basis in the fractional Share). Accordingly, any gain or loss with respect to the New Convertible Notes will not be recognized until the sale or other taxable disposition of the Shares received upon a conversion of the New Convertible Note. See "—Consequences of Holding and Disposing of Shares—Sale or Other Taxable Disposition" below.

The United States Holder's tax basis in the Shares received upon a conversion of a New Convertible Note will equal the tax basis of the New Convertible Note that was converted, less any basis allocable to a fractional Share. A United States Holder's holding period for the Shares received will include the United States Holder's holding period for the New Convertible Note converted.

A portion of the Shares received upon a conversion of a New Convertible Note may be attributable to accrued but unpaid interest on the New Convertible Note. The treatment of portion of the Shares attributable to accrued but unpaid interest will be subject to the same treatment described under the heading "—Exchange of Old Notes for New Notes and Warrants—Accrued but Unpaid Interest" above.

Consequences of Holding and Disposing of Shares

Upon the exercise of a warrant or the conversion of a New Convertible Note, a Holder will receive Shares.

Distributions

Distributions, if any, made on Shares (other than certain pro rata distributions of Shares) that are paid out of the Company's current or accumulated earnings and profits (as determined for United States federal income tax purposes) will be treated as dividends for United States federal income tax purposes. Under current law, dividends received by individual United States holders with respect to Shares generally should qualify for a 20% tax rate on "qualified dividend income", so long as certain holding period requirements are met. Dividends paid with respect to Shares will be eligible for the dividends received deduction if the United States Holder is an otherwise qualifying corporate holder that meets the holding period and other requirements for the dividends received deduction. If a distribution exceeds the Company's current and accumulated earnings and profits, the excess will be treated as a tax-free return of the United States Holder's investment up to the United States Holder's adjusted tax basis in the United States Holder's Shares, and thereafter as capital gain. Such capital gain generally will be long-term capital gain if the United States Holder's holding period in such Shares exceeds one year immediately prior to such distribution.

Sale or Other Taxable Disposition

Upon the sale or other taxable disposition of Shares, a United States Holder will recognize capital gain or loss equal to the difference between the amount realized on such sale, exchange or taxable disposition and the United States Holder's tax basis in the instrument sold. Other than with respect to any market discount carried over from the old notes (as described above), such gain or loss generally will be capital gain or loss, and will be long-term capital gain or loss if the United States Holder's holding period in such instrument is more than one year at the time of disposition. The deductibility of capital losses is subject to limitations.

Consequences of Holding and Disposing of Warrants

Characterization of Warrants

Because the exercise price of the warrants constitutes a nominal amount, we intend to treat the warrants as equity for all U.S. federal income tax purposes. The remainder of this discussion assumes that the warrants will be so treated. Each Holder should consult its own tax advisor regarding the proper characterization of the warrants for United States federal, state and local, and non-United States, tax purposes, and the consequences to it of such treatment given its individual circumstances.

Exercise of the Warrants

Upon the exercise or deemed exercise of a warrant, (1) a United States Holder will recognize no gain or loss upon either such exercise or deemed exercise of the warrant; (2) the adjusted tax basis of the Shares underlying

the warrants deemed received will be equal to the adjusted tax basis of the warrant until the warrant is actually exercised at which time the adjusted tax basis of Shares underlying the warrants would be increased by the exercise price paid; and (3) the holding period of the Shares underlying the warrants deemed received will begin on the day such warrants are received.

Sale or Other Taxable Disposition of the Warrants

In general, a United States Holder will recognize gain or loss upon the sale or other taxable disposition of a warrant in an amount equal to the difference, if any, between the amount realized and the United States Holder's adjusted tax basis in the warrant at the time of the sale or other taxable disposition. Assuming such warrant is held as a capital asset, any such gain or loss will be long-term capital gain or loss if the holding period for the warrant disposed of is more than one year at that time. The deductibility of capital losses is subject to limitation.

Lapse of the Warrants

If a warrant lapses unexercised, a United States Holder generally would recognize capital loss equal to such United States Holder's basis in the warrant. Adjustments to the warrants, including adjustments to the number of Shares for which the warrant may be exercised or the exercise price of the warrant, may under certain circumstances result in a constructive distribution that could be taxable as a dividend to the United States Holder to the extent of the current and accumulated earnings and profits of the Company, if any. Unless a warrant is treated as constructively exercised as described above under "—Characterization of Warrants," it is possible a constructive distribution would not be eligible for the dividends received deduction or reduced rates of taxation on dividends described above under "—Consequences of Holding and Disposing of Shares—Distributions."

Consequences of Not Participating in the Exchange Offer

A United States Holder of old notes that does not tender its old notes in the Exchange Offer will continue to hold old notes, as amended pursuant to the Proposed Amendments (assuming the Exchange Offer is consummated). Whether the amendment of the old notes will constitute a realization event for United States federal income tax purposes depends on whether the amendment is considered to result in a "significant modification" (within of the meaning of Section 1.1001-3 of the Treasury Regulations) of the old notes. If the amendment of the old notes results in a "significant modification," then the amendment should be treated as a deemed exchange of old notes for newly issued amended notes.

Old Senior Secured Notes

Although it is uncertain, we intend to take the position that the amendment of the Old Senior Secured Notes will result in a significant modification and a deemed exchange of the Old Senior Secured Notes. If the amended Old Senior Secured Notes are treated as "securities" of the Company, then a United States Holder that does not tender its Old Senior Secured Notes will be subject to the same treatment with respect to such amended Old Senior Secured Notes as is described in "—Exchange of Old Notes for New Notes and Warrants—Treatment if the New Notes are Securities" above. If the amended Old Senior Secured Notes are not treated as "securities" of the Company, then a United States Holder that does not tender its Old Senior Secured Notes will be subject to the same treatment with respect to such amended Old Senior Secured Notes as is described in "—Exchange of Old Notes for New Notes and Warrants—Treatment if Only New Notes Not Treated as Securities are Received" above.

Old 2019 Notes and Old 2020 Notes

While not free from doubt, we intend to take the position that the amendment of the Old 2019 Notes and Old 2020 Notes will not result in a significant modification and will not constitute a realization event for United States federal income tax purposes. As a result, a United States Holder should not recognize any gain or loss with respect to the amendment of the Old 2019 Notes and the Old 2020 Notes.

Medicare Tax

An additional 3.8% tax is imposed on the "net investment income" of certain U.S. citizens and resident aliens, and on the undistributed "net investment income" of certain estates and trusts. Among other things, "net investment income" generally will include interest, OID accruals, and dividend income, and certain net gains from the sale, redemption, exchange, retirement or other taxable disposition of property, such as the new notes, warrants or Shares, less certain deductions. Each United States Holder that is an individual, estate or trust is urged to consult its own tax advisor regarding the applicability of the Medicare tax to its income and gains in respect of its investment in the new notes and/or warrants.

Information Reporting and Backup Withholding

In general, payments of interest on the old notes and new notes, payments of dividends on equity interests in the Company and payments of the proceeds of a disposition (including a disposition pursuant to the Exchange Offer, a retirement or a redemption) of the old notes, new notes, warrants or Shares generally will be reported to the IRS, and such payments may be subject to backup withholding tax (currently at a rate of 28%) unless the United States Holder: (a) comes within certain exempt categories (which generally include corporations) and, when required, demonstrates that fact; or (b) timely provides (usually on IRS Form W-9) a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the Holder is not subject to backup withholding tax because of a failure to report all dividend and interest income. Backup withholding tax is not an additional tax but is, instead, an advance payment of tax that may be refunded to the extent it results in an overpayment of tax provided that the required information related to such refund is timely provided to the IRS. We will comply with all applicable reporting and withholding requirements of the IRS.

Consequences to Non-United States Holders

The following is a summary of certain United States federal income tax considerations to a Non-United States Holder. For purposes of this summary, the term "Non-United States Holder" means a beneficial owner of an old note, new note, warrant or Share that is, for United States federal income tax purposes:

- a nonresident alien individual;
- a foreign corporation; or
- a foreign estate or trust.

The following discussion applies only to Non-United States Holders and assumes that no item of income, gain, deduction or loss derived by a Non-United States Holder in respect of the old notes, new notes, warrants or Shares at any time is effectively connected with the conduct of a United States trade or business. Special rules, not discussed herein, may apply to certain Non-United States Holders, such as:

- certain former citizens or residents of the United States;
- controlled foreign corporations;
- passive foreign investment companies;
- corporations that accumulate earnings to avoid United States federal income tax;
- investors in pass-through entities that are subject to special treatment under the Code;
- a Non-United States Holder that is a "qualified foreign pension fund" (or is wholly-owned by one or more qualified foreign pension funds) or a "qualified collective investment vehicle," each as defined in the Code; and
- Non-United States Holders that are engaged in the conduct of a United States trade or business.

Exchange of Old Notes for New Notes and Warrants

Subject to the discussion under the headings "—Constructive Distributions with Respect to New Convertible Notes," "—Information Reporting and Backup Withholding," "—Withholding on Dividend Equivalents" and "—Additional Withholding Requirements" below, a Non-United States Holder generally will not be subject to United States federal income or withholding taxes with respect to gain, if any, recognized on the exchange of old notes for new notes and, if applicable, warrants in the Exchange Offer, unless the Non-United States Holder is an individual present in the United States for 183 days or more during the taxable year of the exchange and certain other conditions are met, in which case the gain generally will be subject to tax at a rate of 30%. See "Consequences to United States Holders—Exchange of Old Notes for New Notes and Warrants" for a discussion of the extent, if any, to which gain would be recognized by a Non-United States Holder on the exchange of old notes for new notes.

Accrued but Unpaid Interest

A Non-United States Holder will receive cash on the Closing Date in an amount equal to the accrued but unpaid interest on its old notes as of such date. The extent to which such amount is taxable to a Non-United States Holder will be determined in a manner consistent with that described below under the heading "—Stated Interest; Original Issue Discount."

Receipt of Warrants

As discussed above under "Consequences to United States Holders—Receipt of Warrants," we intend to treat the warrants as received in connection with the Exchange Offer as part of the consideration for the old notes, and this disclosure assumes such treatment. The warrants, however, could be treated as a separate payment or fee that could be subject to the 30% U.S. federal withholding tax and the applicable withholding agent may take such a position.

Stated Interest; Original Issue Discount

The new notes will be treated as issued with OID for U.S. federal income tax purposes. In general, a Non-United States Holder will be subject to a 30% U.S. federal withholding tax on interest, including payments of accrued OID, subject to certain exemptions described more fully below.

Subject to the discussion under the headings "—Information Reporting and Backup Withholding" and "—Additional Withholding Requirements" below, interest and accrued OID paid to a Non-United States Holder will be exempt from United States income and withholding tax under the "portfolio interest exemption," provided that:

- the Non-United States Holder does not, actually or constructively, own 10% or more of the combined voting power of all classes of voting stock of the Company and is not a controlled foreign corporation related to the Company, actually or constructively;
- the Non-United States Holder is not a bank that acquired the new notes in consideration for an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business; and
- either (a) the Non-United States Holder provides to us or the paying agent an IRS Form W-8BEN or W-8BEN-E (or a suitable substitute form), signed under penalties of perjury, that includes its name and address and that certifies its non-United States status in compliance with applicable law and regulations, (b) a securities clearing organization, bank or other financial institution that holds customers' securities in the ordinary course of its trade or business on behalf of the Non-United States Holder provides a statement to us or our agent under penalties of perjury in which it certifies that an IRS Form W-8BEN or

W-8BEN-E (or a suitable substitute form) has been received by it from the Non-United States Holder or (c) the Non-United States Holder holds its new notes through a "qualified intermediary" and the qualified intermediary provides us or the paying agent a properly executed IRS Form W-8IMY (or other applicable form) on behalf of itself together with any applicable underlying IRS forms sufficient to establish that the Non-United States Holder is not a United States person. This certification requirement may be satisfied with other documentary evidence in the case of a new note held in an offshore account or through certain foreign intermediaries.

If a Non-United States Holder cannot satisfy the requirements of the portfolio interest exemption described above, payments of interest and accrued OID made to such Non-United States Holder generally will be subject to United States withholding tax at the rate of 30%, unless the holder provides us or the paying agent with a properly executed IRS Form W-8BEN or W-8BEN-E (or suitable substitute form) establishing an exemption from or reduction in the withholding tax under the benefit of an applicable tax treaty.

Sale or Other Taxable Disposition of New Notes

A Non-United States Holder generally will not be subject to United States federal income or withholding taxes with respect to gain, if any, recognized on the sale or other taxable disposition of new notes, unless the Non-United States Holder is an individual present in the United States for 183 days or more during the taxable year of the sale or taxable disposition and certain other conditions are met, in which case the gain generally will be subject to tax at a rate of 30%.

Conversion of New Convertible Notes

If a Non-United States Holder converts a New Convertible Note and receives Shares from the Company and cash in lieu of a fractional Share, then such Holder should not recognize any gain or loss in respect of the conversion, except that the receipt of cash in lieu of a fractional Share will result in capital gain or loss (measured by the difference between the amount of cash received in lieu of a fractional Share and the Non-United States Holder's tax basis in the fractional Share). Gain, if any, recognized on the conversion of a New Convertible Note will be subject to the same treatment described under the heading "— Sale or Other Taxable Disposition of Warrants or Shares."

The Non-United States Holder's tax basis in the Shares received upon a conversion of a New Convertible Note will equal the tax basis of the New Convertible Note that was converted, less any basis allocable to a fractional Share. A United States Holder's holding period for the Shares received will include the Non-United States Holder's holding period for the New Convertible Note converted.

A portion of the Shares received upon a conversion of a New Convertible Note may be attributable to accrued but unpaid interest on the New Convertible Note. The treatment of portion of the Shares attributable to accrued but unpaid interest will be subject to the same treatment described under the heading "— Stated Interest; Original Issue Discount" above.

Distributions on Shares

Distributions on Shares (including, for this purpose, constructive distributions as described below) that are paid out of the Company's current or accumulated earnings and profits (as determined for United States federal income tax purposes) will be treated as dividends for United States federal income tax purposes. Dividends paid (or deemed paid) to a Non-United States Holder generally will be subject to withholding of United States federal income tax at a 30% rate unless an applicable income tax treaty reduces or eliminates such tax, and the Non-United States Holder claiming the benefit of such treaty timely provides to us or the paying agent proper IRS documentation. If a Non-United States Holder is eligible for a reduced rate of United States federal withholding tax pursuant to an income tax treaty, such Non-United States Holder may obtain a refund of any excess amount withheld by timely filing an appropriate claim for refund with the IRS.

To the extent that the amount of any distribution paid with respect to any equity interest exceeds the Company's current and accumulated earnings and profits, such excess will be treated first as a tax-free return of capital, which will be applied against and reduce (but not below zero) such Non-United States Holder's adjusted tax basis in such interest and thereafter as capital gain from a sale or other disposition of such interest that is taxed to the Holder as described above under the heading "—Exchange of Old Notes for New Notes and Warrants."

Constructive Distributions with Respect to New Convertible Notes

As described above under the heading "—Constructive Distributions with Respect to New Convertible Notes" with respect to United States Holders, certain possible adjustments provided in the New Convertible Notes may result in a constructive distribution with respect to their New Convertible Notes. Any such constructive distribution would be taxed to Non-United States Holders as described above under the heading "—Distributions on Shares."

Sale or Other Taxable Disposition of Warrants or Shares

A Non-United States Holder generally will be subject to United States federal income or withholding taxes with respect to gain, if any, recognized on the sale or other taxable disposition of the warrants or Shares, if:

- the Non-United States Holder is an individual present in the United States for 183 days or more during the taxable year of the exchange and certain other conditions are met, in which case the gain generally will be subject to tax at a rate of 30%; or
- the Company is or has been a United States real property holding corporation for United States federal income tax purposes at any time during the shorter of (a) the five-year period ending on the date of the disposition and (b) the period during which the Non-United States Holder held the old notes.

We believe that we currently are, and expect to be for the foreseeable future, a United States real property holding corporation. However, as long as our Shares continues to be regularly traded on an established securities market (or, in cases where the Non-United States Holder is selling warrants, if our warrants are regularly traded on an established securities market), only a Non-United States Holder that actually or constructively owns, or owned at any time during the shorter of the five-year period ending on the date of the disposition or the Non-United States Holder's holding period for Shares or warrants, as the case may be, more than 5% of our outstanding Shares will be taxable on gain realized on the disposition of Shares or warrants, as the case may be, as a result of our status as a United States real property holding corporation. If our Shares or warrants, as the case may be, were not considered to be so regularly traded during the calendar year in which the relevant disposition by a Non-United States Holder occurs (regardless of the percentage of our Shares owned), or Non-United States Holder does not meet the 5% test described in the preceding sentence, such Holder would be subject to U.S. federal income tax on a taxable disposition of Shares or warrants, as the case may be, and a 15% withholding tax would apply to the gross proceeds from such disposition.

Non-United States Holders should consult their tax advisors with respect to the application of the foregoing rules to their ownership and disposition of warrants or Shares.

Information Reporting and Backup Withholding

The amount of interest and dividends paid to a Non-United States Holder and the amount of tax, if any, withheld from such payment generally must be reported annually to the Non-United States Holder and to the IRS. The IRS may make this information available under the provisions of an applicable income tax treaty to the tax authorities in the country in which the Non-United States Holder is resident.

Provided that a Non-United States Holder has complied with certain reporting procedures (usually satisfied by providing an IRS Form W-8BEN or W-8BEN-E, as applicable) or otherwise establishes an exemption, the Non-

United States Holder generally will not be subject to backup withholding tax with respect to interest and dividend payments on, and the proceeds from the disposition of, a new note, warrant or Share, unless we or our paying agent know or have reason to know that the holder is a United States person. Additional rules relating to information reporting requirements and backup withholding tax with respect to the payment of proceeds from the disposition (including a redemption or retirement) of a new note, warrant or Share are as follows:

- If the proceeds are paid to or through the United States office of a broker, a Non-United States Holder generally will be subject to backup withholding tax and information reporting unless the Non-United States Holder certifies under penalties of perjury that it is not a United States person (usually on an IRS Form W-8BEN or W-8BEN-E, as applicable) or otherwise establishes an exemption.
- If the proceeds are paid to or through a non-United States office of a broker that is a United States person or that has certain specified United States connections, a Non-United States Holder generally will be subject to information reporting (but generally not backup withholding tax) unless the Non United States Holder certifies under penalties of perjury that it is not a United States person (usually on an IRS Form W-8BEN or W-8BEN-E, as applicable) or otherwise establishes an exemption.
- If the proceeds are paid to or through a non-United States office of a broker that is not a United States person and does not have any of the specified United States connections, a Non-United States Holder generally will not be subject to backup withholding tax or information reporting.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding tax rules from a payment to a Non-United States Holder will be allowed as a credit against the Non-United States Holder's United States federal income tax liability and may entitle the holder to a refund, provided that the required information is timely furnished to the IRS.

Withholding on Dividend Equivalents

Section 871(m) of the Code imposes a 30% withholding tax on certain "dividend equivalents" paid or deemed paid with respect to U.S. equities or equity indices under certain circumstances. Proposed Treasury regulations under Section 871(m) of the Code, when finalized, may require withholding with respect to the New Convertible Notes to the extent the conversion price of the New Convertible Notes is adjusted as a result of a distribution paid with respect to the Shares, or potentially in the absence of an adjustment. It is possible that the final regulations will be retroactively applied to dividend equivalents previously deemed paid. The amount and timing of any withholding tax imposed under Section 871(m) of the Code may differ from the general withholding required on dividends and constructive dividends, as described above under the headings "—Distributions on Shares" and "—Constructive Distributions with Respect to New Convertible Notes." It is possible that the applicable tax imposed under Section 871(m) of the Code would be withheld from cash payments of interest or from cash received upon conversion.

Additional Withholding Requirements

Under Sections 1471 through 1474 of the Code and administrative guidance issued thereunder (referred to as "FATCA") a 30% withholding tax is imposed on interest and dividend income on a debt obligation or stock paid to a "foreign financial institution" or a "non-financial foreign entity" (each as defined in the Code), unless (i) in the case of a foreign financial institution, such institution enters into an agreement with the United States government to withhold on certain payments and to collect and provide to the United States tax authorities substantial information regarding United States account holders of such institution (which would include certain equity and debt holders of such institution, as well as certain account holders that are foreign entities with United States owners), (ii) in the case of a non-financial foreign entity, such entity certifies that it does not have any "substantial United States owners" (as defined in the Code) or provides the withholding agent with a certification identifying its direct or indirect substantial United States owners, or (iii) the foreign financial institution or non-financial foreign entity otherwise qualifies for an exemption from these rules and provides appropriate

documentation (such as an IRS Form W-8BEN-E). The 30% withholding tax will also be imposed on payments of gross proceeds from a sale or other taxable disposition of new notes, warrants or Shares occurring after December 31, 2018. This legislation generally does not apply to a debt obligation outstanding on July 1, 2014, unless such debt obligation undergoes a "significant modification" (within the meaning of Section 1.1001-3 of the Treasury Regulations promulgated under the Code) after such date. Investors are encouraged to consult with their own tax advisors regarding the implications of this legislation on their investment in the new notes and, if applicable, warrants.

Consequences to the Company

Cancellation of Indebtedness Income

The exchange of old notes for new notes and, if applicable, warrants pursuant to the Exchange Offer may result in cancellation of indebtedness ("COD") income to the Company for United States federal income tax purposes, in an amount equal to the excess, if any, of the "adjusted issue price" of the exchanged old notes over the sum of (i) the fair market value of the warrants, if any, exchanged therefor, (ii) the issue price of the New Senior Secured Notes and (iii) the issue price of the New Convertible Notes exchanged therefor. Certain statutory or judicial exceptions may apply to limit the amount of COD income realized by a taxpayer in certain circumstances. In particular, COD income is excluded from income if the taxpayer is insolvent immediately before the discharge (but only to the extent of the taxpayer's insolvency) or if the COD income is realized pursuant to a confirmed plan of reorganization or court order in a Chapter 11 bankruptcy case. A taxpayer is generally considered "insolvent" for U.S. federal income tax purposes to the extent that the amount of its liabilities exceeds the gross fair market value of its assets. Whether the Company will be treated as "insolvent" immediately before the closing of the Exchange Offer is highly uncertain and will generally depend on the fair market value of our assets and the amount of our liabilities. IN addition, the trading price of our Shares may be another factor that the IRS considers relevant in determining whether the Company is insolvent.

If COD income is excluded from a taxpayer's income under either the insolvency or bankruptcy exception, the Code generally requires the taxpayer to reduce certain of its tax attributes (such as net operating loss ("NOL") carryforwards and current year NOLs, capital loss carryforwards, certain tax credits, and the taxpayer's tax basis in its assets) by the amount of the excluded COD income. Any reduction in the taxpayer's tax attributes resulting from COD income excluded under either of these exceptions is generally made only after the determination of the taxpayer's U.S. federal income tax liability for the taxable year in which the excluded COD income is realized. In general, if the excluded COD income exceeds the amount of tax attributes that are available for reduction, the excess is permanently excluded from the taxpayer's income. Where the taxpayer joins in the filing of a consolidated U.S. federal income tax return, applicable Treasury Regulations may require the tax attributes of the taxpayer's consolidated subsidiaries to be reduced in certain circumstances.

Based on current valuations for the old notes, all or substantially all of any COD income that we recognize in the Exchange Offer would be offset by our existing NOLs, provided that valuations of the old notes do not materially decrease between now and the Closing Date. However, because the amount of COD income to be recognized by the Company depends in part on the fair market value and/or issue price of instruments to be issued on the Closing Date, the actual amount of COD income, if any, resulting from the exchange of old notes and, thus, whether our existing NOLs will be sufficient to offset all or substantially all of such COD income, cannot be determined prior to the Closing Date. To the extent that existing NOLs and other tax attributes of the Company are not sufficient to offset fully any COD income, we may incur a cash tax liability from such COD income.

Potential Limitations on Net Operating Loss Carryforwards and Other Tax Attributes

Under Section 382 of the Code, if a corporation or a consolidated group with NOLs, loss carryforwards or certain other tax attributes (a "Loss Corporation") undergoes an "ownership change," the Loss Corporation's use of its pre-change NOLs, loss carryforwards and certain other tax attributes generally will be subject to an annual

limitation in the post-change period. Generally, the conversion feature of the New Convertible Notes will not be taken into account for purposes of determining whether an "ownership change" has occurred under Section 382 of the Code until the conversion transaction(s) occur. Accordingly, the transactions contemplated by the Exchange Offer should not result in an "ownership change" of the Company within the meaning of Section 382 of the Code as of the Closing Date. It is possible, however, that the transactions contemplated by the Exchange Offer, together with the exercise of the warrants and conversion of substantially all of the New Convertible Notes within the three years following the Closing Date, could result in such an "ownership change" within the meaning of Section 382 of the Code. In such event, any NOLs, loss carryforwards and certain other tax attributes existing as of the date of such ownership change would be subject the limitations under Section 382 of the Code.

To the extent our NOLs, loss carryforwards and other relevant tax attributes are not used to offset COD income as described above, we expect such tax attributes will be subject to the annual limitation imposed by Section 382 of the Code following the Closing Date. The amount of this annual limitation generally will equal the product of (i) the fair market value of the Company's stock immediately before the ownership change (with certain adjustments) and (ii) the "long term tax exempt rate" in effect for the month in which the ownership change occurs. Any unused portion of the annual limitation may be carried forward to increase the annual limitation for the subsequent taxable year. The Company's annual limitation in any year may also be adjusted as a result of gain recognized (or deemed recognized under applicable IRS authorities) in the five years following the ownership change. Accordingly, the impact of the ownership change on the Company will depend upon, among other things, the amount of its NOLs, loss carryforwards and other tax attributes remaining after taking into any COD income, the value of its stock at the time of the ownership change and the amount and timing of its future taxable income.

Potential Limitation on Our Deductions for Interest on the Notes

Under Section 163(l) of the Code, our deductions for interest on the New Convertible Notes would be disallowed if they are found to be "disqualified debt instruments." Disqualified debt instruments are debt instruments:

- where a substantial amount of the principal or interest is required to be paid or converted, or at the option of the issuer or a related party is payable in or convertible into, issuer equity; or
- which are part of an arrangement that is reasonably expected to result in a transaction described in the preceding clause.

For these purposes, principal or interest on a debt instrument is treated as required to be paid in or converted into issuer equity if the payment or conversion may be required at the option of the holder and that option is substantially certain to be exercised. Furthermore, the legislative history of Section 163(l) of the Code indicates that the provision is not intended to apply to debt instruments with a conversion feature where the conversion price is significantly higher than the market price of the stock on the issue date of the debt. The conversion price of the New Convertible Notes is significantly higher than the current market price of the Shares. If this continues to the be the case on the Closing Date, then we believe that the New Convertible Notes would not be disqualified debt instruments under Section 163(l) of the Code. However, if the trading price of the Shares were to increase between now and the Closing Date to a level that approximates or exceeds the conversion price of the New Convertible Notes, there is a significant risk that the New Convertible Notes would be disqualified debt instruments under Section 163(l) of the Code.

Alternative Minimum Tax

Notwithstanding the anticipated ability to utilize NOLs and other tax attributes of the Company to offset COD income for regular United States federal income tax purposes, the alternative minimum tax ("AMT") provisions of the Code may nonetheless impose tax liability on the Company in the taxable year of the exchange.

Any AMT that a corporation pays generally is allowed as a nonrefundable credit against its regular United States federal income tax liability in future taxable years when it is no longer subject to the AMT.

PLAN OF DISTRIBUTION

Each broker-dealer that receives new notes for its own account pursuant to the Exchange Offer must acknowledge that it will deliver a prospectus in connection with any resale of new notes.

This prospectus, as it may be amended or supplemented from time to time, may be used by a broker-dealer in connection with resales of new notes received in exchange for old notes if the old notes were acquired as a result of market-making activities or other trading activities.

We have agreed to make this prospectus, as amended or supplemented, available to any broker-dealer to use in connection with any such resale for a period of at least 180 days after the Expiration Date of the Exchange Offer. In addition, until November 29, 2016 (90 days after the date of this prospectus), all broker-dealers effecting transactions in the new notes may be required to deliver a prospectus.

We will not receive any proceeds from any sale of new notes by broker-dealers. New notes received by broker-dealers for their own account pursuant to the Exchange Offer may be sold from time to time in one or more transactions:

- in the over-the-counter market;
- in negotiated transactions; or
- through the writing of options on the new notes or a combination of such methods of resale.

These resales may be made:

- at market prices prevailing at the time of resale;
- at prices related to such prevailing market prices; or
- at negotiated prices.

Any such resale may be made directly to purchasers or to or through brokers or dealers. Brokers or dealers may receive compensation in the form of commissions or concessions from any such broker-dealer or the purchasers of any such new notes. An “underwriter” within the meaning of the Securities Act includes:

- any broker-dealer that resells new notes that were received by it for its own account pursuant to the Exchange Offer; or
- any broker or dealer that participates in a distribution of such new notes.

Any profit on any resale of new notes and any commissions or concessions received by any persons may be deemed to be underwriting compensation under the Securities Act. The Letter of Transmittal states that, by acknowledging that it will deliver and by delivering a prospectus, a broker-dealer will not be deemed to admit that it is an “underwriter” within the meaning of the Securities Act.

For a period of not less than 180 days after the expiration of the Exchange Offer, we will promptly send additional copies of this prospectus and any amendment or supplement to this prospectus to any broker-dealer that requests those documents in the Letter of Transmittal. We have agreed to pay all expenses incident to performance of our obligations in connection with the Exchange Offer, other than commissions or concessions of any brokers or dealers.

LEGAL MATTERS

Certain legal matters in connection with the exchange of the old notes will be passed upon for us by Locke Lord LLP, Dallas, Texas. Certain legal matters will be passed upon for the Dealer Manager by Baker Botts L.L.P., Dallas, Texas.

EXPERTS

Ernst & Young LLP, independent registered public accounting firm, has audited our consolidated financial statements at December 31, 2015 and 2014, and each of the three years in the period ended December 31, 2015, as set forth in their report. Our financial statements are included in this prospectus and in the registration statement to which this prospectus relates in reliance on Ernst & Young LLP's report, given on their authority as experts in accounting and auditing.

Certain estimates of our oil and natural gas reserves and related information included in this prospectus have been derived from engineering reports prepared by Lee Keeling & Associates as of December 31, 2013, 2014 and 2015, and all such information has been so included on the authority of such firm as an expert regarding the matters contained in its reports.

DEFINITIONS

The following are abbreviations and definitions of terms commonly used in the oil and gas industry and this prospectus. 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 U.S. 42 gallons of oil.

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

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

"BOE" means one barrel of oil 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.

"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.

"GAAP" means generally accepted accounting principles in the United States of America.

"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 one thousand cubic feet of natural gas equivalent.

"MMBbls" means one million barrels of oil.

"MMBOE" means one million barrels of oil equivalent.

"MMBtu" means one million British thermal units.

"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.

"Proved developed reserves" means reserves that can be expected to be recovered through existing wells with existing equipment and operating methods.

"Proved developed non-producing" means reserves (i) expected to be recovered from zones capable of producing but which are shut-in because no market outlet exists at the present time or whose date of connection to a pipeline is uncertain or (ii) currently behind the pipe in existing wells, which are considered proved by virtue of successful testing or production of offsetting wells.

"Proved developed producing" means reserves expected to be recovered from currently producing zones under continuation of present operating methods. This category includes recently completed shut-in gas wells scheduled for connection to a pipeline in the near future.

"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 by contractual arrangements.

"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 are limited to those drilling locations offsetting productive wells that are reasonably certain of production when drilled or where it can be demonstrated with certainty that there is continuity of production from the existing productive formation.

"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.

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

"Tcfe" means one trillion cubic feet of natural gas equivalent.

"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.

WHERE YOU CAN FIND ADDITIONAL INFORMATION

We have filed a registration statement with the Securities and Exchange Commission, or SEC, under the Securities Act of 1933, as amended with regard to the Exchange Offer described in this prospectus. The registration statement, including the filed exhibits, contains additional relevant information about us.

We file annual, quarterly, and other reports, proxy statements and other information with the SEC under the Exchange Act. You may read and copy any materials we file with the SEC at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1–800–SEC–0330 for further information on the Public Reference Room. Our SEC filings are also available to the public through the SEC's website at http://www.sec.gov. General information about us, including our annual reports on Form 10–K, quarterly reports on Form 10–Q and current reports on Form 8–K, as well as any amendments and exhibits to those reports, are available free of charge through our website at http://www.comstockresources.com as soon as reasonably practicable after we file them with, or furnish them to, the SEC. Information on our website is not incorporated into this prospectus or our other securities filings and is not a part of this prospectus.

APPENDIX 1: COMPARISON OF TERMS OF THE NEW SENIOR SECURED NOTES TO OLD SENIOR SECURED NOTES

The following is a summary of "Certain Covenants", "Events of Default" and "Certain Definitions" of the New Senior Secured Notes (as set forth under "Description of New Senior Secured Notes") as compared to a summary of "Certain Covenants", "Events of Default" and "Certain Definitions" of the Old Senior Secured Notes, showing provisions that will be deleted or changed or provisions that will be added. The following summary does not restate the terms of the New Senior Secured Notes or the Old Senior Secured Notes in their entirety. We urge you to read the documents governing the New Senior Secured Notes and the Old Senior Secured Notes, including the Senior Secured Notes Indenture and the indenture governing the Old Senior Secured Notes, because they, and not this description, define your rights as a holder of the New Senior Secured Notes or the Old Senior Secured Notes.

Certain Covenants

Limitation on Indebtedness and Disqualified Capital Stock

The Company will not, and will not permit any of its Restricted Subsidiaries to, create, incur, issue, assume, guarantee or in any manner become directly or indirectly liable for the payment of (collectively, "incur") any Indebtedness (including any Acquired Indebtedness), and the Company will not issue any Disqualified Capital Stock and will not permit any of its Restricted Subsidiaries to issue any Disqualified Capital Stock or Preferred Stock; *provided* ~~however,~~ that the Company may incur Indebtedness (including Acquired Indebtedness) or issue Disqualified Capital Stock, and any Restricted Subsidiary that is a Subsidiary Guarantor may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Capital Stock or Preferred 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 2.25 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 or Preferred Stock is issued or would occur as a consequence of the incurrence of the additional Indebtedness or the issuance of the Disqualified Capital Stock or Preferred Stock.

The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "*Permitted Indebtedness*"):

(1) Indebtedness under the ~~notes~~New Senior Secured Notes issued on the Issue Date in ~~this offering~~the Exchange Offer and Consent Solicitation and up to $91,875,000 of Additional New Senior Secured Notes issued in connection with the payment of interest thereon;

(2) Indebtedness outstanding or in effect on the Issue Date (and not ~~repaid or defeased with the proceeds of the offering of the notes~~exchanged in connection with the Exchange Offer and Consent Solicitation);

(3) 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;

(4) the Subsidiary Guarantees of the ~~notes~~New Senior Secured Notes (and any assumption of the obligations guaranteed thereby) issued in respect of the New Senior Secured Notes issued on the Issue Date and with respect to any Additional New Senior Secured Notes issued in connection with the payment of interest thereon;

(5) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; *provided~~, however,~~* that:

(a) if the Company is the obligor on such Indebtedness and a Subsidiary Guarantor is not the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the ~~notes~~New Senior Secured Notes, or if a Subsidiary Guarantor is the obligor on such Indebtedness and neither the Company nor another Subsidiary Guarantor is the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Subsidiary Guarantee of such Subsidiary Guarantor; and

(b) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (ii) any sale or other transfer of any such Indebtedness to a Person that is neither the Company nor a Restricted Subsidiary of the Company will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (5);

(6) Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge, in whole or in part, any Indebtedness (other than intercompany Indebtedness) that was permitted by the Senior Secured Notes Indenture to be incurred under the first paragraph of this covenant or clauses (1)~~ or~~, (2) or (11) of this paragraph or this clause (6);

(7) Non-Recourse Indebtedness;

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

(9) 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);

(10) Indebtedness under the Revolving Credit Agreement in an aggregate principal amount not in excess of $50.0 million at any one time outstanding and any guarantee thereof by a Subsidiary Guarantor; and

(11) ~~any additional~~(a) Indebtedness under the New 2019 Convertible Notes issued on the Issue Date in an aggregate principal amount not ~~in excess of $75.0 million at any one time outstanding~~to exceed $288,516,000 and any guarantee thereof by a Subsidiary Guarantor; (b) Indebtedness under any Additional New 2019 Convertible Notes and any guarantee thereof by a Subsidiary Guarantor; (c) Indebtedness under the New 2020 Convertible Notes issued on the Issue Date in an aggregate principal amount not to

exceed $174,607,000 and any guarantee thereof by a Subsidiary Guarantor, and (d) Indebtedness under any Additional New 2020 Convertible Notes and any guarantee thereof by a Subsidiary Guarantor.

For purposes of determining compliance with this covenant, in the event that an item of Indebtedness meets the criteria of one or more of the categories of Permitted Indebtedness described in clauses (1) through (11) described above or is entitled to be incurred pursuant to the first paragraph of this covenant, 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 to 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; provided that all Indebtedness outstanding on the Issue Date under the Revolving Credit Agreement shall be deemed incurred under clause (10) of the second paragraph of this covenant and not under the first paragraph or clause (2) of the second paragraph~~. The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Capital Stock or Preferred Stock in the form of additional shares of the same class of Disqualified Capital Stock or Preferred Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Capital Stock or Preferred Stock for purposes of this covenant~~ and may not be later reclassified; provided, further, that all Indebtedness under the New Convertible Notes and Additional New Convertible Notes shall be deemed incurred under clause (11) of the second paragraph of this covenant and not under the first paragraph or clause (2) of the second paragraph and may not be later reclassified.

The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount or liquidation preference thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced (plus all accrued interest on the Indebtedness being refinanced and the amount of all expenses and premiums incurred in connection therewith).

Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Company or any Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

Limitation on Restricted Payments

The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly:

(1) declare or pay any dividend on, or make any other 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 in options, warrants or other rights to purchase Qualified Capital Stock of the Company);

(2) 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);

(3) 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 (excluding any intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries), except in any case out of the net cash proceeds of Permitted Refinancing Indebtedness; or

(4) make any Restricted Investment;

(such payments or other actions described in clauses (1) through (4) above being collectively referred to as "Restricted Payments"), unless at the time of and after giving effect to the proposed Restricted Payment:

(1) no Default or Event of Default shall have occurred and be continuing;

(2) the Company could incur $1.00 of additional Indebtedness in accordance with the Fixed Charge Coverage Ratio test set forth in the first paragraph of the "Limitation on Indebtedness and Disqualified Capital Stock" covenant; and

(3) the aggregate amount of all Restricted Payments declared or made after January 1, 2015 shall not exceed the sum (without duplication) of the following (the "Restricted Payments Basket"):

(a) 50% of the Consolidated Net Income of the Company accrued on a cumulative basis during the period beginning on January 1, 2015 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 is a loss, minus 100% of such loss); plus

(b) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after January 1, 2015 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

(c) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after January 1, 2015 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

(d) the aggregate Net Cash Proceeds received after January 1, 2015 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

(e) 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 January 1, 2015 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 January 1, 2015.

Notwithstanding the preceding provisions, the Company and its Restricted Subsidiaries may take the following actions so long as (in the case of clauses (3), (4), (5) and (8) below) no Default or Event of Default shall have occurred and be continuing:

(1) 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 the preceding paragraph (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 the preceding paragraph);

(2) the payment of any dividend payable from a Restricted Subsidiary to the Company or any other Restricted Subsidiary of the Company;

(3) 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 from, a substantially concurrent issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of the Company;

(4) the purchase, 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 issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of the Company;

(5) 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 ~~notes~~New Senior Secured Notes 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 ~~notes~~New Senior Secured Notes 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 ~~notes~~New Senior Secured Notes;

(6) loans made to officers, directors or employees of the Company or any Restricted Subsidiary approved by the Board of Directors in an aggregate amount not to exceed $1.0 million 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 (6);

(7) the repurchase of Equity Interests deemed to occur upon the exercise of stock or other equity options to the extent such Equity Interests represent a portion of the exercise price of those stock or other equity options and any repurchase or other acquisition of Equity Interests is made in lieu of or to satisfy withholding taxes in connection with any exercise or exchange of stock options, warrants, incentives or other rights to acquire Equity Interests; and

(8) other Restricted Payments in an aggregate amount not to exceed $35.0 million.

The actions described in clauses (1), (3), (4) and (6) above shall be Restricted Payments that shall be permitted to be made in accordance with the preceding paragraph but shall reduce the amount that would otherwise be available for Restricted Payments under clause (3) of the second preceding paragraph (provided that any dividend paid pursuant to clause (1) above shall reduce the amount that would otherwise be available under clause (3) of the second preceding paragraph when declared, but not also when subsequently paid pursuant to such clause (1)), and the actions described in clauses (2), (5), (7) and (8) above 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 the second preceding paragraph.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

Limitation on Transactions with Affiliates

The Company will not, and will not permit any Restricted Subsidiary 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 assets or 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) (each, an "*Affiliate Transaction*"), unless

(1) 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 those that would be available in a comparable arm's length transaction with unrelated third parties; and

(2) the Company delivers to the Senior Secured Notes Trustee:

(a) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $10.0 million but no greater than $25.0 million, an ~~Officers' Certificate~~officers' certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this covenant; and

(b) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $25.0 million, an

~~Officers' Certificate~~officers' certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this covenant and that such Affiliate Transaction or series of Affiliate Transactions has been approved by a majority of the Disinterested Directors of the Company.

The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph:

(1) 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 $1.0 million outstanding at any one time;

(2) 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;

(3) 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;

(4) the Company's employee compensation and other benefit arrangements;

(5) 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 the Senior Secured Notes Indenture; and

(6) any Restricted Payment permitted to be paid pursuant to the terms of the Senior Secured Notes Indenture described under "—Limitation on Restricted Payments."

Limitation on Liens

The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness on any of its property or assets, except for Permitted Liens.

Limitation on Asset Sales

The Company will not, and will not permit any Restricted Subsidiary 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 assets and 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 ~~notes~~New Senior Secured Notes) or liabilities of any Subsidiary Guarantor that made such Asset Sale (other than liabilities of a Subsidiary Guarantor that are by their terms subordinated to such Subsidiary Guarantor's Subsidiary 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 assets and property other than Permitted Consideration, so long as the aggregate Fair Market Value of all such assets and property other than Permitted Consideration received from Asset Sales since the Issue Date 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

- purchase, repay or prepay Pari Passu Obligations or other Indebtedness of the Company or any Subsidiary Guarantor secured by Permitted Collateral Liens (and, to the extent required pursuant to the terms of the Revolving Credit Agreement (as in effect on the Issue Date) in the case of revolving obligations, to correspondingly reduce commitments with respect thereto); or

- 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); *provided*~~, however,~~ that if such Asset Sale includes Oil and Gas Properties or Proved and Probable Drilling Locations, after giving effect to such Asset Sale the Company is in compliance with the Collateral requirements of the Senior Secured Notes Indenture.

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 $10.0 million, the Company will be required to make an offer (the "*Asset Sale Offer*") to all Holders of ~~notes~~New Senior Secured Notes and all Holders of other Indebtedness that is *pari passu* with the ~~notes~~New Senior Secured Notes containing provisions similar to those set forth in the Senior Secured Notes Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of ~~notes~~New Senior Secured Notes and such other *pari passu* Indebtedness that may be purchased out of the Excess Proceeds; *provided* to the extent such Excess Proceeds were received in respect of the sale or transfer of assets that constituted Collateral, an Asset Sale Offer will be made solely to the holders of Pari Passu Obligations. The offer price in any Asset Sale Offer will be equal to 100% of principal amount plus accrued and unpaid interest, if any, to the Purchase Date (subject to the right of Holders of record on the relevant record date to receive interest due on an interest payment date that is on or prior to the Purchase Date), and will be payable in cash. If the aggregate principal amount of ~~notes~~New Senior Secured Notes tendered by Holders thereof exceeds the amount of available Excess Proceeds allocated for repurchases of ~~notes~~New Senior Secured Notes pursuant to the Asset Sale Offer for ~~notes~~New Senior Secured Notes, then such Excess Proceeds will be allocated pro rata according to the principal amount of the ~~notes~~New Senior Secured Notes tendered and the Senior Secured Notes Trustee will select the ~~notes~~New Senior Secured Notes to be purchased in accordance with the Senior Secured Notes Indenture. 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 ~~notes~~New Senior Secured Notes have been given the opportunity to tender their ~~notes~~New Senior Secured Notes for purchase as described in the following paragraph in accordance with the Senior Secured Notes Indenture, the Company and its Restricted Subsidiaries may use such remaining amount for purposes permitted by the Senior Secured Notes Indenture and the amount of Excess Proceeds will be reset to zero.

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 ~~notes~~New Senior Secured Notes pursuant to the preceding paragraph, deliver a written Asset Sale Offer notice, by first-class mail, to the Holders of the ~~notes~~New Senior Secured Notes, with a copy to the Senior Secured Notes Trustee (the "*Asset Sale Offer Notice*"), accompanied by such information regarding the Company and its Subsidiaries as the Company believes will enable such Holders of the ~~notes~~New Senior Secured Notes to make an informed decision with respect to the Asset Sale Offer. The Asset Sale Offer Notice will state, among other things:

- that the Company is offering to purchase ~~notes~~New Senior Secured Notes pursuant to the provisions of the Senior Secured Notes Indenture;

- that any ~~note~~New Senior Secured Note (or any portion thereof) accepted for payment (and duly paid on the Purchase Date) pursuant to the Asset Sale Offer shall cease to accrue interest on the Purchase Date;

- that any ~~notes~~New Senior Secured Note (or portions thereof) not properly tendered will continue to accrue interest;

- 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 Asset Sale Offer Notice is mailed (the "Purchase Date");

- the aggregate principal amount of ~~notes~~New Senior Secured Notes to be purchased;

- a description of the procedure which Holders of ~~notes~~New Senior Secured Notes must follow in order to tender their ~~notes~~New Senior Secured Notes and the procedures that Holders of ~~notes~~New Senior Secured Notes must follow in order to withdraw an election to tender their ~~notes~~New Senior Secured Notes for payment; and

- all other instructions and materials necessary to enable Holders to tender ~~notes~~New Senior Secured Notes pursuant to the Asset Sale Offer.

The Company will 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 ~~notes~~New Senior Secured Notes as described above. To the extent that the provisions of any securities laws or regulations conflict with the provisions relating to the Asset Sale Offer, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations described above by virtue thereof.

Future Subsidiary Guarantees

If the Company or any of its Restricted Subsidiaries acquires or creates another Wholly Owned Restricted Subsidiary on or after the Issue Date, or any Subsidiary of the Company that is not already a Subsidiary Guarantor has outstanding or guarantees any Indebtedness under the Revolving Credit Agreement, then the Company will (1) (x) cause such Subsidiary to execute and deliver to the Senior Secured Notes Trustee a supplemental indenture pursuant to which such Subsidiary will become a Subsidiary Guarantor and (y) execute amendments to the Collateral Agreements pursuant to which it will grant a Pari Passu Lien on any Collateral held by it in favor of the Collateral Agent, for the benefit of the Pari Passu Secured Parties, and become a Collateral Grantor thereunder, and cause such Liens to be perfected as required thereby and (2) deliver to the Senior Secured Notes Trustee~~,~~ or the Collateral Agent, the Registrar, the Paying Agent or any other agents under the Senior Secured Note Documents one or more opinions of counsel in connection with the foregoing as specified in the Senior Secured Notes Indenture.

Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries

The Company will not, and will 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 pay dividends, in cash or otherwise, or make any other distributions on its Capital Stock, or make payments on any Indebtedness owed, to the Company or any other Restricted Subsidiary; *provided* that the priority that any series of preferred stock of a Restricted Subsidiary has in receiving dividends or liquidating distributions before dividends or liquidating distributions are paid in respect of common stock of such Restricted Subsidiary shall not constitute a restriction on the ability to make dividends or distributions on Capital Stock for purposes of this covenant;

- to make loans or advances to the Company or any other Restricted Subsidiary; or
- to transfer any of its property or assets to the Company or any other Restricted Subsidiary

(any such restrictions being collectively referred to herein as a "*Payment Restriction*"). However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(1) 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;

(2) 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 or assets of the Person, so acquired, provided that such Indebtedness was not incurred in anticipation of such acquisition;

(3) any instrument governing Indebtedness or Disqualified Capital Stock of a Restricted Subsidiary that is not a Subsidiary Guarantor~~,~~; *provided* that (a) such Indebtedness or Disqualified Capital Stock is permitted under the covenant described in "—Limitation on Indebtedness and Disqualified Capital Stock" and (b) the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement and the Senior Secured Notes Indenture as in effect on the Issue Date;

(4) the Revolving Credit Agreement as in effect on the Issue Date or any agreement that amends, modifies, supplements, restates, extends, renews, refinances or replaces the Revolving Credit Agreement~~,~~; *provided* that the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement as in effect on the Issue Date;

(5) the Senior Secured Notes Indenture, the ~~notes~~New Senior Secured Notes and the Subsidiary Guarantees; or

(6) the ~~Existing~~Convertible Notes Indentures, the New Convertible Notes and any subsidiary guarantees thereof, in each case as in effect on the Issue Date.

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 (1) 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 (2) the Company or such Restricted Subsidiary receives proceeds from such Sale/ Leaseback Transaction at least equal to the Fair Market Value thereof 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.

Change of Control

If a Change of Control occurs, each Holder of ~~notes~~New Senior Secured Notes will have the right to require the Company to repurchase all or any part (~~equal to a minimum amount of $2,000 and~~in integral multiples of ~~$1,000 in excess thereof~~1.00) of that Holder's ~~notes~~New Senior Secured Notes pursuant to a change of control offer (a "*Change of Control Offer*") on the terms set forth in the Senior Secured Notes Indenture. In the Change of

Control Offer, the Company will offer a payment in cash (the "*Change of Control Payment*") ~~in cash~~ equal to 101% (or, at the Company's election, a higher percentage) of the aggregate principal amount of ~~notes~~New Senior Secured Notes repurchased, plus accrued and unpaid interest, if any, on the ~~notes~~New Senior Secured Notes repurchased to the date of purchase (the "*Change of Control Payment Date*"), subject to the rights of Holders of ~~notes~~New Senior Secured Notes on the relevant record date to receive interest due on the relevant interest payment date. No later than 30 days following any Change of Control, the Company will deliver a notice to the Senior Secured Notes Trustee and paying agent and each Holder of the ~~notes~~New Senior Secured Notes describing the transaction or transactions that constitute the Change of Control and offering to repurchase ~~notes~~New Senior Secured Notes on the Change of Control Payment Date specified in the notice, which date will be no earlier than 30 days and no later than 60 days from the date such notice is mailed, pursuant to the procedures required by the Senior Secured Notes Indenture and described in such notice. The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations to the extent those requirements, laws and regulations are applicable in connection with the repurchase of the ~~notes~~New Senior Secured Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of the Senior Secured Notes Indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of the Senior Secured Notes Indenture by virtue of such compliance.

On or before the Change of Control Payment Date, the Company will, to the extent lawful:

(1) accept for payment all ~~notes~~New Senior Secured Notes or portions of ~~notes~~New Senior Secured Notes properly tendered and not withdrawn pursuant to the Change of Control Offer;

(2) deposit with the paying agent an amount equal to the Change of Control Payment in respect of all ~~notes~~New Senior Secured Notes or portions of ~~notes~~New Senior Secured Notes properly tendered and not withdrawn; and

(3) deliver or cause to be delivered to the Senior Secured Notes Trustee and paying agent the ~~notes~~New Senior Secured Notes properly accepted together with an ~~Officers' Certificate~~officers' certificate stating the aggregate principal amount of ~~notes~~New Senior Secured Notes or portions of ~~notes~~New Senior Secured Notes being purchased by the Company.

The paying agent will promptly deliver to each Holder of ~~notes~~New Senior Secured Notes properly tendered and not withdrawn the Change of Control Payment for such ~~notes~~New Senior Secured Notes (or if all ~~notes~~New Senior Secured Notes are then in global form, make such payment through the facilities of DTC), and the Senior Secured Notes Trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a ~~new note~~New Senior Secured Note equal in principal amount to any unpurchased portion of the ~~notes~~New Senior Secured Notes surrendered, if any; *provided~~, however,~~* that each such ~~new note~~New Senior Secured Note will be in a principal amount ~~of $2,000 or~~that is in integral multiples of ~~$1,000 in excess thereof.~~1.00. The Company will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

The provisions described above that require the Company to make a Change of Control Offer following a Change of Control will be applicable whether or not any other provisions of the Senior Secured Notes Indenture are applicable. Except as described above with respect to a Change of Control, the Senior Secured Notes Indenture does not contain provisions that permit the Holders of the ~~notes~~New Senior Secured Notes to require that the Company repurchase or redeem the ~~notes~~New Senior Secured Notes in the event of a takeover, recapitalization or similar transaction.

The Company will not be required to make a Change of Control Offer upon a Change of Control if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the

requirements set forth in the Senior Secured Notes Indenture applicable to a Change of Control Offer made by the Company and purchases all ~~notes~~New Senior Secured Notes properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of redemption has been given pursuant to the Senior Secured Notes Indenture as described above under "—Redemption—Optional Redemption," unless and until there is a default in payment of the applicable redemption price.

Notwithstanding anything to the contrary contained herein, a Change of Control Offer may be made in advance of a Change of Control, conditioned upon the consummation of such Change of Control, if a definitive agreement is in place for the Change of Control at the time the Change of Control Offer is made.

If Holders of not less than 90% in aggregate principal amount of the outstanding ~~notes~~New Senior Secured Notes validly tender and do not withdraw such ~~notes~~New Senior Secured Notes in a Change of Control Offer and the Company, or any third party making a Change of Control Offer in lieu of the Company as described above, purchases all of the ~~notes~~New Senior Secured Notes validly tendered and not withdrawn by such Holders, the Company will have the right, upon not less than 30 nor more than 60 days' prior notice, given not more than 30 days following such purchase pursuant to the Change of Control Offer described above, to redeem all ~~notes~~New Senior Secured Notes that remain outstanding following such purchase at a redemption price in cash equal to the applicable Change of Control Purchase Price plus, to the extent not included in the Change of Control Purchase Price, accrued and unpaid interest, if any, to the date of redemption.

The definition of Change of Control includes a phrase relating to the direct or indirect sale, lease, transfer, conveyance or other disposition of "all or substantially all" of the properties or assets of the Company and the Restricted Subsidiaries, taken as a whole. Although there is a limited body of case law interpreting the phrase "substantially all," there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a Holder of ~~notes~~New Senior Secured Notes to require the Company to repurchase its ~~notes~~New Senior Secured Notes as a result of a sale, lease, transfer, conveyance or other disposition of less than all of the assets of the Company and the Restricted Subsidiaries, taken as a whole, to another Person or group may be uncertain.

The Change of Control provisions of the ~~notes~~New Senior Secured Notes may, in certain circumstances, make more difficult or discourage a sale or takeover of the Company and, thus, the removal of incumbent management. Subject to the limitations discussed below, the Company could, in the future, enter into certain transactions, including acquisitions, refinancings or other recapitalizations, that would not constitute a Change of Control under the Senior Secured Notes Indenture, but that could increase the amount of Indebtedness outstanding at such time or otherwise affect the Company's capital structure or credit ratings. Restrictions on the Company's ability to Incur additional Indebtedness are contained in the covenants described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" and "—Certain Covenants—Limitation on Restricted Payments." Such restrictions in the Senior Secured Notes Indenture can be waived only with the consent of Holders of a majority in principal amount of the ~~notes~~New Senior Secured Notes then outstanding. Except for the limitations contained in such covenants, however, the Senior Secured Notes Indenture will not contain any covenants or provisions that may afford Holders of the ~~notes~~New Senior Secured Notes protection in the event of a highly leveraged transaction.

The Company's ability to repurchase the ~~notes~~New Senior Secured Notes pursuant to the Change of Control Offer may be limited by a number of factors. The ability of the Company to pay cash to the Holders of the ~~notes~~New Senior Secured Notes following the occurrence of a Change of Control may be limited by the Company's and the Restricted Subsidiaries' then existing financial resources, and sufficient funds may not be available when necessary to make any required repurchases. See "Risk Factors—Risks Related to the Exchange Offer and Holding the New Notes—Risks Related to Holding the New Notes—We may not ~~be able to redeem or repurchase~~have the ability to purchase the new notes ~~with cash~~ upon a change of control ~~as required by the indenture~~or upon certain sales or other dispositions of assets, or to make the cash payment due upon conversion or at maturity."

Future agreements governing Indebtedness of the Company or its Subsidiaries may contain prohibitions of certain events, including events that would constitute a Change of Control and including repurchases or other prepayments in respect of the ~~notes~~New Senior Secured Notes. The exercise by the Holders of ~~notes~~New Senior Secured Notes of their right to require the Company to repurchase the ~~notes~~New Senior Secured Notes upon a Change of Control could cause a default under these other agreements, even if the Change of Control itself does not, due to the financial effect of such repurchases on the Company or its Subsidiaries. In the event a Change of Control occurs at a time when the Company is prohibited from purchasing or redeeming ~~notes~~New Senior Secured Notes, the Company could seek the consent of its other applicable debt holders or lenders to purchase the ~~notes~~New Senior Secured Notes or could attempt to refinance the borrowings that contain such prohibition. If the Company does not obtain a consent or repay those borrowings, the Company will remain prohibited from purchasing ~~notes~~New Senior Secured Notes. In that case, the Company's failure to purchase tendered ~~notes~~New Senior Secured Notes would constitute an Event of Default under the Senior Secured Notes Indenture, which could, in turn, constitute a default under other Indebtedness of the Company.

Reports

The Senior Secured Notes Indenture provides that, whether or not the Company is subject to the reporting requirements of Section 13 or Section 15(d) of the Exchange Act, to the extent not prohibited by the Exchange Act, the Company will file with the Commission, and make available to the Senior Secured Notes Trustee and the Holders of the ~~notes~~New Senior Secured Notes without cost to any Holder, the annual reports and the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) that are specified in Sections 13 and 15(d) of the Exchange Act and applicable to a U.S. corporation within the time periods specified therein with respect to an accelerated filer. In the event that the Company is not permitted to file such reports, documents and information with the Commission pursuant to the Exchange Act, the Company will nevertheless make available such Exchange Act information to the Senior Secured Notes Trustee and the Holders of the ~~notes~~New Senior Secured Notes without cost to any Holder as if the Company were subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act within the time periods specified therein with respect to a non-accelerated filer.

If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then, to the extent material, the quarterly and annual financial information required by the preceding paragraph will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

The availability of the foregoing materials on the Commission's website or on the Company's website shall be deemed to satisfy the foregoing delivery obligations.

~~In addition, the Company and the Subsidiary Guarantors have agreed that, for so long as any notes remain outstanding, they will furnish to the Holders and to prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act. Delivery of these reports, information and documents to the Trustee is for informational purposes only, and the Trustee's receipt of them will not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants under the Indenture.~~ The Senior Secured Notes Indenture also provides that the Company will deliver all reports and other information required to be delivered under the TIA within the time periods set forth in the TIA.

Future Designation of Restricted and Unrestricted Subsidiaries

The Board of Directors of the Company may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if:

(1) the Company would be permitted to make (i) a Permitted Investment or (ii) an Investment pursuant to the covenant described under "—Limitation on Restricted Payments" above, in either case, in an amount equal to the Fair Market Value of all outstanding Investments owned by the Company and the Restricted Subsidiaries in such Subsidiary at the time of such designation;

(2) such Restricted Subsidiary meets the definition of an "Unrestricted Subsidiary";

(3) the designation would not constitute or cause (with or without the passage of time) a Default or Event of Default and no Default or Event of Default would be in existence following such designation; and

(4) the Company delivers to the Senior Secured Notes Trustee a certified copy of a resolution of the Board of Directors of Company giving effect to such designation and an ~~Officers' Certificate~~officers' certificate certifying that such designation complied with the preceding conditions and was permitted by the covenant described under "—Limitation on Restricted Payments".

If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Company and the Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under the covenant set forth under "—Limitation on Restricted Payments" or under one or more clauses of the definition of Permitted Investments, as determined by the Company.

If, at any time, any Unrestricted Subsidiary designated as such would fail to meet the preceding requirements as an Unrestricted Subsidiary, then such Subsidiary will thereafter cease to be an Unrestricted Subsidiary for purposes of the Senior Secured Notes Indenture and any Indebtedness of such Subsidiary will be deemed to be Incurred by a Restricted Subsidiary as of such date and, if such Indebtedness is not permitted to be Incurred as of such date under the covenant set forth under "—Limitation on Indebtedness and Disqualified Capital Stock," the Company or the applicable Restricted Subsidiary will be in default of such covenant.

The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary if:

(a) the Company and the Restricted Subsidiaries could Incur the Indebtedness which is deemed to be Incurred upon such designation under the "—Limitation on Indebtedness and Disqualified Capital Stock" covenant, equal to the total Indebtedness of such Subsidiary calculated on a pro forma basis as if such designation had occurred on the first day of the four-quarter reference period;

(b) the designation would not constitute or cause a Default or Event of Default; and

(c) the Company delivers to the Senior Secured Notes Trustee a certified copy of a resolution of the Board of Directors of the Company giving effect to such designation and an ~~Officers' Certificate~~officers' certificate certifying that such designation complied with the preceding conditions, including the Incurrence of Indebtedness under the covenant described under "—Limitation on Indebtedness and Disqualified Capital Stock".

Merger, Consolidation and Sale of Assets

The Company will not, in any single transaction or 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 of the properties and assets of the Company and its Restricted Subsidiaries on a consolidated basis to any Person or group of Affiliated Persons, and the Company will 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 the sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the properties and assets 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 effect thereto:

(1) either (a) if the transaction is a merger or consolidation, the Company shall be the surviving Person of such merger or consolidation, or (b) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or to which the properties and assets 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 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 a supplemental indenture to the Senior Secured Notes Indenture executed and delivered to the Senior Secured Notes Trustee, in form satisfactory to the Senior Secured Notes Trustee, and pursuant to agreements reasonably satisfactory to the Senior Secured Notes Trustee and the Collateral Agent, as applicable, all the obligations of the Company under the ~~notes~~New Senior Secured Notes, the Senior Secured Notes Indenture and the other Senior Secured Note Documents to which the Company is a party, and, in each case, such Senior Secured Note Documents shall remain in full force and effect;

(2) 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 an obligation of the Company or any of its Restricted Subsidiaries in connection with or as a result of such transaction as having been incurred at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(3) except in the case of the consolidation or merger of any Restricted Subsidiary with or into the Company or another Restricted Subsidiary, either:

(a) 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 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 the Senior Secured Notes Indenture) could incur $1.00 of additional Indebtedness in accordance with the Fixed Charge Coverage Ratio test set forth in the first paragraph of the "Limitation on Indebtedness and Disqualified Capital Stock" covenant; or

(b) 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 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 Fixed Charge Coverage Ratio of the Company (or the Surviving Entity if the Company is not the continuing obligor under the Senior Secured Notes Indenture) will be equal to or greater than the Fixed Charge Coverage Ratio of the Company immediately before such transaction or transactions;

(4) if the Company is not the continuing obligor under the Senior Secured Notes Indenture, then each Subsidiary Guarantor, unless it is the Surviving Entity, shall have by supplemental indenture to the Senior Secured Notes Indenture confirmed that its Subsidiary Guarantee of the ~~notes~~New Senior Secured Notes shall apply to the Surviving Entity's obligations under the Senior Secured Notes Indenture and the ~~notes~~New Senior Secured Notes;

(5) any Collateral owned by or transferred to the Surviving Entity shall (a) continue to constitute Collateral under the Senior Secured Notes Indenture and the Collateral Agreements and (b) be subject to a Pari Passu Lien in favor of the Collateral Agent for the benefit of the Pari Passu Secured Parties ~~holders of the Pari Passu Obligations~~;

(6) the Surviving Entity shall take such action (or agree to take such action) as may be reasonably necessary to cause any property or assets that constitute Collateral owned by or transferred to the Surviving Entity to be subject to the Pari Passu Liens in the manner and to the extent required under the Collateral Agreements and shall deliver an opinion of counsel as to the enforceability of any amendments, supplements or other instruments with respect to the Collateral Agreements to be executed, delivered, filed and recorded, as applicable, and such other matters as the Senior Secured Notes Trustee or Collateral Agent, as applicable, may reasonably request; and

(7) the Company (or the Surviving Entity if the Company is not the continuing obligor under the Senior Secured Notes Indenture) shall have delivered to the Senior Secured Notes Trustee, in form and substance reasonably satisfactory to the Senior Secured Notes Trustee, an ~~Officers' Certificate~~officers' certificate and an ~~Opinion~~opinion of ~~Counsel~~counsel each stating that such consolidation, merger, transfer, lease or other disposition and any supplemental indenture in respect thereto comply with the requirements under the Senior Secured Notes Indenture and that the requirements of this paragraph have been ~~satisfied~~complied with.

Upon any consolidation or merger or any sale, assignment, lease, conveyance, transfer or other disposition of all or substantially all of the properties and assets of the Company and its Restricted Subsidiaries on a consolidated basis in accordance with the foregoing, in which the Company is not the continuing corporation, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of, the Company under the Senior Secured Notes Indenture and the other Senior Secured Note Documents with the same effect as if the Surviving Entity had been named as the Company therein, and thereafter the Company, except in the case of a lease, will be discharged from all obligations and covenants under the ~~notes~~New Senior Secured Notes, the Senior Secured Notes Indenture and the other Senior Secured Note Documents and may be liquidated and dissolved.

Events of Default

The following are "Events of Default" under the Senior Secured Notes Indenture:

(1) default in any payment of interest with respect to the ~~notes~~New Senior Secured Notes when due, which default continues for 30 days;

(2) default in the payment when due (at maturity, upon optional redemption, upon declaration of acceleration or otherwise) of the principal of, or premium, if any, on, the ~~notes~~New Senior Secured Notes;

(3) failure by the Company to comply with the provisions described under the captions "—Certain Covenants—Limitation on Asset Sales," "—Certain Covenants—Change of Control," or "—Merger, Consolidation and Sale of Assets";

(4) (a) except with respect to the covenant described under "—Certain Covenants—Reports," failure by the Company or any of the Restricted Subsidiaries for 60 days after notice to the Company by the Senior Secured Notes Trustee or the Holders of at least 25% in aggregate principal amount of the ~~notes~~New Senior Secured Notes then outstanding voting as a single class to comply with any covenant or agreement (other than a default referred to in clauses (1), (2) and (3) above) contained in the Senior Secured Notes Indenture, the Collateral Agreements or the ~~notes~~New Senior Secured Notes, or (b) failure by the Company for 120 days after notice to the Company by the Senior Secured Notes Trustee or the Holders of at least 25% in aggregate principal amount of the ~~notes~~New Senior Secured Notes then outstanding voting as a single class to comply with the covenant described under "—Certain Covenants—Reports;"

(5) default under the Revolving Credit Agreement, if that default:

(a) is caused by a failure to pay principal of, or interest or premium, if any, on, any Revolving Credit Agreement Obligation prior to the expiration of the grace period, if any, provided in the Revolving Credit Agreement on the date of such default; or

(b) permits the Revolving Credit Agreement Agent or any Revolving Credit Agreement Secured Parties to accelerate all or any part of the Revolving Credit Agreement Obligations prior to their Stated Maturity,

provided~~, however,~~ that if any such default is cured or waived, or the Discharge of Revolving Credit Agreement Obligations occurs, within a period of 30 days from the occurrence of such default, such Event of Default and any consequential acceleration of the ~~notes~~New Senior Secured Notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;

(6) default (other than a default referred to in clause (5) above) under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Company or any of the Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of the Restricted Subsidiaries), whether such Indebtedness or guarantee now exists or is created after the Issue Date, if that default:

(a) is caused by a failure to pay principal of, or interest or premium, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "*Payment Default*"); or

(b) results in the acceleration of such Indebtedness prior to its Stated Maturity,

and, in either case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment

Default or the maturity of which has been so accelerated, aggregates $25.0 million or more; *provided*~~, however,~~ that if any such default is cured or waived or any such acceleration rescinded, or such Indebtedness is repaid, within a period of 60 days from the continuation of such default beyond the applicable grace period or the occurrence of such acceleration, as the case may be, such Event of Default and any consequential acceleration of the ~~notes~~New Senior Secured Notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;

(7) failure by the Company or any of the Restricted Subsidiaries to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of $25.0 million, which judgments are not paid, discharged or stayed for a period of 60 days;

(8) the occurrence of the following:

(a) except as permitted by the Senior Secured Note Documents, any Collateral Agreement establishing the Pari Passu Liens ceases for any reason to be enforceable; *provided* that it will not be an Event of Default under this clause (8)(a) if the sole result of the failure of one or more Collateral Agreements to be fully enforceable is that any Pari Passu Lien purported to be granted under such Collateral Agreements on Collateral, individually or in the aggregate, having a fair market value of not more than $10.0 million, ceases to be an enforceable and perfected first-priority Lien, subject only to the payment priorities in favor of the holders of Revolving Credit Agreement Obligations pursuant to the terms of the Pari Passu Intercreditor Agreement and subject to Permitted Collateral Liens; *provided*, *further*, that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period;

(b) except as permitted by the Senior Secured Note Documents, any Pari Passu Lien purported to be granted under any Collateral Agreement on Collateral, individually or in the aggregate, having a fair market value in excess of $10.0 million, ceases to be an enforceable and perfected first-priority Lien, subject only to the payment priorities in favor of the holders of Revolving Credit Agreement Obligations pursuant to the terms of the Pari Passu Intercreditor Agreement and subject to Permitted Collateral Liens; *provided* that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period; and

(c) the Company or any other Collateral Grantor, or any Person acting on behalf of any of them, denies or disaffirms, in writing, any obligation of the Company or any other Collateral Grantor set forth in or arising under any Collateral Agreement establishing Pari Passu Liens.

(9) except as permitted by the Senior Secured Notes Indenture, any Subsidiary Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Subsidiary Guarantor, or any Person duly acting on behalf of any such Subsidiary Guarantor, denies or disaffirms its obligations under its Subsidiary Guarantee; ~~and~~

(10) certain events of bankruptcy or insolvency described in the Senior Secured Notes Indenture with respect to the Company or any Restricted Subsidiary that is a Significant Subsidiary, or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary; and

(11) the Required Stockholder Approval is not obtained and the Charter Amendment has not become effective, in each case by December 31, 2016, and such failure shall continue for a period of 90 days.

The Senior Secured Notes Trustee shall not be charged with knowledge of any Default or Event of Default with respect to the ~~notes~~New Senior Secured Notes unless a written notice of such Default or Event of Default shall have been given to an officer of the Senior Secured Notes Trustee with direct responsibility for the administration of the Senior Secured Notes Indenture and the ~~notes~~New Senior Secured Notes, by the Company or any Holder of ~~notes~~New Senior Secured Notes.

In the case of an Event of Default described in clause (10) above with respect to the Company or a Subsidiary Guarantor, all outstanding ~~notes~~New Senior Secured Notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Senior Secured Notes Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding ~~notes may (and the Trustee will, if directed by Holders of at least 25% in aggregate principal amount of the then outstanding notes)~~New Senior Secured Notes may declare all the ~~notes~~New Senior Secured Notes to be due and payable immediately.

If the ~~notes~~New Senior Secured Notes are accelerated or otherwise become due prior to their maturity date, ~~in each case, as a result of an Event of Default on or after March 15, 2016,~~ the amount of principal of, accrued and unpaid interest and premium on the ~~notes~~New Senior Secured Notes that becomes due and payable shall equal the redemption price applicable with respect to an optional redemption of the ~~notes~~New Senior Secured Notes, in effect on the date of such acceleration as if such acceleration were an optional redemption of the ~~notes accelerated. If the notes are accelerated or otherwise become due prior to their maturity date, in each case, as a result of an Event of Default prior to March 15, 2016, the amount of principal of, accrued and unpaid interest and premium on the notes that becomes due and payable shall equal 100% of the principal amount of the notes redeemed plus the Applicable Premium in effect on the date of such acceleration, as if such acceleration were an optional redemption of the notes~~New Senior Secured Notes accelerated.

Without limiting the generality of the foregoing, it is understood and agreed that if the ~~notes~~New Senior Secured Notes are accelerated or otherwise become due prior to their maturity date, in each case, in respect of any Event of Default (including, but not limited to, upon the occurrence of a bankruptcy or insolvency event (including the acceleration of claims by operation of law)), the premium applicable with respect to an optional redemption of the ~~notes~~New Senior Secured Notes will also be due and payable, in cash, as though the ~~notes~~New Senior Secured Notes were optionally redeemed and shall constitute part of the Senior Secured Note Obligations, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Holder's lost profits as a result thereof. Any premium payable above shall be presumed to be the liquidated damages sustained by each Holder as the result of the early redemption and the Company agrees that it is reasonable under the circumstances currently existing. The premium shall also be payable in the event the ~~notes~~New Senior Secured Notes (and/or the Senior Secured Notes Indenture) are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other means. THE COMPANY EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Company expressly agrees (to the fullest extent it may lawfully do so) that: (A) the premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (B) the premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) there has been a course of conduct between Holders and the Company giving specific consideration in this transaction for such agreement to pay the premium; and (D) the Company shall be estopped hereafter from claiming differently than as agreed to in this paragraph. The Company expressly acknowledges that its agreement to pay the premium to Holders as herein described is a material inducement to Holders to purchase the ~~notes.~~ New Senior Secured Notes.

Subject to certain limitations, Holders of a majority in aggregate principal amount of the then outstanding ~~notes~~New Senior Secured Notes may direct the Senior Secured Notes Trustee in its exercise of any trust or power. The Senior Secured Notes Trustee may withhold from Holders of the ~~notes~~New Senior Secured Notes notice of any continuing Default or Event of Default if it determines that withholding notice is in their interest, except a Default or Event of Default relating to the payment of principal of, or premium ~~or interest~~, if any, or interest on the ~~notes~~New Senior Secured Notes.

Subject to the provisions of the Senior Secured Notes Indenture relating to the duties of the Senior Secured Notes Trustee, in case an Event of Default occurs and is continuing, the Senior Secured Notes Trustee will be under no obligation to exercise any of the rights or powers under the Senior Secured Notes Indenture at the request or direction of any Holders of ~~notes~~New Senior Secured Notes unless such Holders have offered to the Senior Secured Notes Trustee, and the Senior Secured Notes Trustee has received, indemnity or security (or both) satisfactory to it against any loss, liability or expense. Except to enforce the right to receive payment of principal, premium, if any, or interest, if any, when due, no Holder of a note may pursue any remedy with respect to the Senior Secured Notes Indenture or the ~~notes~~New Senior Secured Notes unless:

(1) such Holder has previously given the Senior Secured Notes Trustee written notice that an Event of Default is continuing;

(2) Holders of at least 25% in aggregate principal amount of the then outstanding ~~notes~~New Senior Secured Notes have made a written request to the Senior Secured Notes Trustee to pursue the remedy;

(3) such Holders have offered the Senior Secured Notes Trustee, and the Senior Secured Notes Trustee has received (if requested), security or indemnity (or both) satisfactory to it against any loss, liability or expense;

(4) the ~~Senior Secured~~ Notes Trustee has not complied with such request within 60 days after its receipt of the request and the offer of security or indemnity (or both) satisfactory to it; and

(5) Holders of a majority in aggregate principal amount of the then outstanding ~~notes~~New Senior Secured Notes have not given the Senior Secured Notes Trustee a direction inconsistent with such request within such 60-day period.

The Holders of a majority in aggregate principal amount of the then outstanding ~~notes~~New Senior Secured Notes by notice to the Senior Secured Notes Trustee may, on behalf of the Holders of all of the ~~notes~~New Senior Secured Notes, rescind an acceleration or waive any existing Default or Event of Default and its consequences under the Senior Secured Notes Indenture except a continuing Default or Event of Default in the payment of principal of, or premium, if any, interest, if any, on, the ~~notes~~New Senior Secured Notes (other than a payment Default or Event of Default that resulted from an acceleration that has been rescinded).

The Company is required to deliver to the Senior Secured Notes Trustee annually a statement in writing regarding compliance with the Senior Secured Notes Indenture. Within 10 ~~business~~ days of becoming aware of any Default or Event of Default, the Company is required to deliver to the Senior Secured Notes Trustee a statement in writing specifying such Default or Event of Default.

Certain Definitions

"*2019 Convertible Notes Indenture*" means the Indenture, dated as of _____, 2016, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as trustee, relating to the New 2019 Convertible Notes.

"*2020 Convertible Notes Indenture*" means the Indenture, dated as of , 2016, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as trustee, relating to the New 2020 Convertible Notes.

"*Acquired Indebtedness*" means Indebtedness of a Person (1) existing at the time such Person becomes a Restricted Subsidiary or (2) assumed in connection with acquisitions of properties or assets 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 or assets from such Person.

"*Additional Assets*" means:

(1) any assets or property (other than cash, Cash Equivalents or securities) used in the Oil and Gas Business or any business ancillary thereto;

(2) 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;

(3) the acquisition from third parties of Capital Stock of a Restricted Subsidiary; or

(4) capital expenditures by the Company or a Restricted Subsidiary in the Oil and Gas Business.

"Additional New 2019 Convertible Notes" means the additional securities issued under the 2019 Convertible Notes Indenture solely in connection with the payment of interest in kind on the New 2019 Convertible Notes.

"*Additional New 2020 Convertible Notes*" means the additional securities issued under the 2020 Convertible Notes Indenture solely in connection with the payment of interest in kind on the New 2020 Convertible Notes.

"*Additional New Convertible Notes*" means, collectively, the Additional New 2019 Convertible Notes and the Additional New 2020 Convertible Notes.

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

(1) 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:

(i) estimated proved oil and gas reserves acquired since such year-end, which reserves were not reflected in such year-end reserve report, and

(ii) 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:

(iii) estimated proved oil and gas reserves produced or disposed of since such year-end, and

(iv) 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 (i) through (iv), 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 (1)(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 (i) the net book value on a date no earlier than the date of the Company's latest annual or quarterly financial statements and (ii) 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

(2) 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 (1)(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 (1)(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 Subsidiary Guarantor at any date shall mean the amount by which the fair value of the properties and assets of such Subsidiary 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 Subsidiary Guarantee, of such Subsidiary 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; and the term "Affiliated" shall have a meaning correlative to the foregoing. 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.

"*Agents*" means, collectively, the Collateral Agent, the Revolving Credit Agreement Agent~~, the Trustee~~ and ~~any Authorized Representative for the Other Pari Passu Secured Parties that is specified in the applicable joinder agreement to the Pari Passu Intercreditor Agreement~~the Senior Secured Notes Trustee, and "Agent" means any one of them.

"*Alternate Controlling Party*" means ~~(a) in the case of the Revolving Credit Agreement Agent, the Trustee and (b) in the case of the Trustee, the Authorized Representative of the Major Non-Controlling Party~~the Senior Secured Notes Trustee.

~~"*Applicable Premium*" means, with respect to any note on any redemption date, the greater of:~~

~~(1) 1.0% of the principal amount of the note; and~~

~~(2) the excess of:~~

~~(a) the present value at such redemption date of (i) the redemption price of the note at March 15, 2016 (such redemption price being set forth in the table appearing above under "—Redemption—Optional Redemption", excluding accrued and unpaid interest to the redemption date), plus (ii) all required interest payments due on the note through March 15, 2016 (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over~~

~~(b) the principal amount of the note.~~

"*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 Production

Payment, net profits interest, overriding royalty interest, sale and leaseback transaction, 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, (ii) all or substantially all of the properties and assets of any division or line of business of the Company or any of its Restricted Subsidiaries or (iii) any other properties or assets 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 properties 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 or assets (including Capital Stock) that is governed by, and made in accordance with, the provisions described under "—Merger, Consolidation and Sale of Assets;" (B) any transfer of properties or assets to an Unrestricted Subsidiary, if permitted under the "Limitation on Restricted Payments" covenant; or (C) any transfer (in a single transaction or a series of related transactions) of properties or assets (including Capital Stock) having a Fair Market Value of less than $25.0 million.

"*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.

"*Authorized Representative*" means (a) in the case of the Revolving Credit Agreement Obligations or the Revolving Credit Agreement Secured Parties, the Revolving Credit Agreement Agent, (b) in the case of the Senior Secured Note Obligations or the Senior Secured Notes Trustee and the Holders of the ~~notes~~New Senior Secured Notes, the Senior Secured Notes Trustee~~, and (c) in the case of any Series of Other Pari Passu Obligations or Other Pari Passu Secured Parties that become subject to the Pari Passu Intercreditor Agreement after the Issue Date, the Authorized Representative~~ and (c) as used in the context of the Junior Lien Intercreditor Agreement under "—Junior Lien Intercreditor Agreement," in the case of the Junior Lien Obligations, the authorized representative named for ~~such Series~~the applicable series of New Convertible Notes in the applicable ~~joinder agreement to the Pari Passu Intercreditor Agreement~~Convertible Notes Indenture.

"*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.

"*Bankruptcy Code*" means Title 11 of the United States Code, as amended.

"*Board of Directors*" means:

(1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board;

(2) with respect to a partnership, the board of directors of the general partner of the partnership;

(3) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and

(4) with respect to any other Person, the board or committee of such Person serving a similar function.

"*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 (whether real, personal or mixed) that is required to be classified and accounted for as a capital lease obligation under GAAP, and, for the purpose of the Senior Secured Notes Indenture, the amount of such obligation at any date shall be the capitalized amount thereof at such date, determined in accordance with GAAP. Notwithstanding the foregoing, any lease (whether entered into before or after date of the Senior Secured Notes Indenture) that would have been classified as an operating lease pursuant to GAAP as in effect on the date of the Senior Secured Notes Indenture will be deemed not to represent a Capitalized Lease Obligation.

"*Cash Equivalents*" means:

(1) 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);

(2) 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 million;

(3) 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-1 by S&P or at least P-1 by Moody's;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (1) above entered into with any commercial bank meeting the specifications of clause (2) above;

(5) overnight bank deposits and bankers acceptances at any commercial bank meeting the qualifications specified in clause (2) above;

(6) deposits available for withdrawal on demand with any commercial bank not meeting the qualifications specified in clause (2) above but which is a lending bank under the Revolving Credit Agreement, provided all such deposits do not exceed $5.0 million in the aggregate at any one time;

(7) demand and time deposits and certificates of deposit with any commercial bank organized in the United States not meeting the qualifications specified in clause (2) 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

(8) investments in money market or other mutual funds substantially all of whose assets comprise securities of the types described in clauses (1) through (5) above.

"*Change of Control*" means the occurrence of any event or series of events by which:

(1) 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;

(2) 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;

(3) 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 and assets 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);

(4) the Company is liquidated or dissolved; or

(5) the occurrence of any other event that constitutes a "Change of Control" under ~~either~~any of the ~~Existing~~Convertible Note Indentures or the Old Indentures.

"*Charter Amendment*" means the amendment of the Company's restated articles of incorporation to increase the number of shares of the Company's common stock authorized for issuance in an amount to provide a sufficient number of authorized shares of the Company's common stock for the issuance of shares upon conversion of all of the outstanding New Convertible Notes and exercise, to the extent necessary, of all of the New Warrants.

"*Collateral*" means all property wherever located and whether now owned or at any time acquired after the date of the Senior Secured Notes Indenture by any Collateral Grantor as to which a Lien is granted under the Collateral Agreements to secure the ~~notes~~New Senior Secured Notes or any Subsidiary Guarantee.

"*Collateral Agent*" means the collateral agent for all holders of Pari Passu Obligations. Bank of Montreal will initially serve as the Collateral Agent.

"*Collateral Agreements*" means, collectively, each Mortgage, the Pledge Agreement, the Security Agreement, the Intercreditor Agreements and each other instrument, including any assignment, security agreement, mortgage, deed of trust, pledge agreement or other security instrument, creating Liens in favor of the Collateral Agent as required by the Pari Passu Documents ~~or~~, including the Intercreditor Agreements, in each case, as the same may be in effect from time to time.

"*Collateral Grantors*" means the Company and each Subsidiary Guarantor that is party to a Collateral Agreement.

"*Commodity Exchange Act*" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"*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 (1) 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, to (2) Consolidated Interest Expense for such period; *provided*~~, however,~~ that (i) the Consolidated Fixed Charge Coverage Ratio shall be calculated on a pro forma basis assuming 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 the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" 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 or assets 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, (ii) 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 the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" 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, (iii) 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 the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" 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, (iv) notwithstanding clauses (ii) and (iii) 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, (v) in making such calculation, Consolidated Interest Expense shall exclude interest attributable to Dollar-Denominated Production Payments, and (vi) if after the first day of the period referred to in clause (1) 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 (1) 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, (2) 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, (3) 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 (4) 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 (1) through (4), 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:

(1) net after-tax extraordinary gains or losses (less all fees and expenses relating thereto);

(2) net after-tax gains or losses (less all fees and expenses relating thereto) attributable to Asset Sales;

(3) 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 are attributable to net income (or net loss) of such Person during such period or during any prior period);

(4) 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;

(5) dividends paid in Qualified Capital Stock;

(6) income resulting from transfers of assets received by the Company or any Restricted Subsidiary from an Unrestricted Subsidiary;

(7) Consolidated Exploration Expenses and any write-downs or impairments of non-current assets; and

(8) the cumulative effect of a change in accounting principles.

"*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).

"*Controlling Secured Parties*" means, at any time, the Series of Pari Passu Secured Parties whose Authorized Representative is the Controlling Party for the Collateral at such time.

"*Convertible Notes Indentures*" means, collectively, the 2019 Convertible Notes Indenture and the 2020 Convertible Notes Indenture.

"*Default*" means any event, act or condition that is, or after notice or passage of time or both would become, an Event of Default.

"*Discharge of Pari Passu Obligations*" means~~, with respect to any Collateral and any Series of Pari Passu Obligations other than the Revolving Credit Agreement Obligations, the date on which such Series of Pari Passu Obligations is no longer required to be secured by such Collateral. The term "Discharged" shall have a corresponding meaning.~~ the occurrence of all of the following:

(1) termination or expiration of all commitments to extend credit that would constitute Pari Passu Obligations;

(2) payment in full in cash of the principal of and interest, premium (if any) and fees on all Pari Passu Obligations (other than any undrawn letters of credit);

(3) discharge or cash collateralization (at 105% of the aggregate undrawn amount) of all outstanding letters of credit constituting Pari Passu Obligations;

(4) payment in full in cash of obligations in respect of Secured Swap Obligations that are secured by Pari Passu Liens (and, with respect to any particular Secured Swap Obligation, termination of such agreement and payment in full in cash of all obligations thereunder or such other arrangements as have been made by the counterparty thereto (and communicated to the Collateral Agent)); and

(5) payment in full in cash of all other Pari Passu Obligations that are outstanding and unpaid at the time the Pari Passu Obligations are paid in full in cash (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at or prior to such time);

provided that, if, at any time after the Discharge of Pari Passu Obligations has occurred, any Collateral Grantor enters into any Pari Passu Document evidencing a Pari Passu Obligation which incurrence is not prohibited by the applicable Secured Debt Documents, then such Discharge of Pari Passu Obligations shall automatically be deemed not to have occurred for all purposes of the Junior Lien Intercreditor Agreement with respect to such new Pari Passu Obligation (other than with respect to any actions taken as a result of the occurrence of such first Discharge of Pari Passu Obligations), and, from and after the date on which the Company designates such Indebtedness as a Pari Passu Obligation in accordance with the Junior Lien Intercreditor Agreement, the obligations under such Pari Passu Document shall automatically and without any further action be treated as Pari Passu Obligations for all purposes of the Junior Lien Intercreditor Agreement, including for purposes of the lien priorities and rights in respect of Collateral set forth in the Junior Lien Intercreditor Agreement, and any Junior Lien Obligations shall be deemed to have been at all times Junior Lien Obligations and at no time Pari Passu Obligations.

"*Discharge of Revolving Credit Agreement Obligations*" means, except to the extent otherwise provided in the Pari Passu Intercreditor Agreement, payment in full, in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) of all Revolving Credit Agreement Obligations and, with respect to letters of credit outstanding under the Revolving Credit Agreement Obligations, delivery of cash collateral or backstop letters of credit in respect thereof in a manner consistent with the Revolving Credit Agreement and otherwise reasonably satisfactory to the Revolving Credit Agreement Agent, and termination of and payment in full in cash of, all Secured Swap Obligations, in each case after or concurrently with the termination of all commitments to extend credit thereunder and the termination of all commitments of the Revolving Credit Agreement Secured Parties under the Revolving Credit Agreement Documents; *provided* that the Discharge of Revolving Credit Agreement Obligations shall not be deemed to have occurred if such payments are made with the proceeds of other Revolving Credit Agreement Obligations that constitute an exchange or replacement for or a refinancing of such Revolving Credit Agreement Obligations.

"*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 resolution of the Board of Directors under the Senior Secured Notes Indenture, 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 date that is 91 days after the final Stated Maturity of the ~~notes~~New Senior Secured Notes or is redeemable at the option of the Holder thereof at any time prior to the date that is 91 days after the final Stated Maturity of the ~~notes~~New Senior Secured Notes, or is convertible into or exchangeable for debt securities at any time prior to the date that is 91 days after the final Stated Maturity of the ~~notes~~New Senior Secured Notes. For purposes of the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock," 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 a Restricted Subsidiary recorded as liabilities in accordance with GAAP, together with all undertakings and obligations in connection therewith.

"*Engineering Report*" means a reserve report as of each December 31 and June 30, as applicable, with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Company and the Subsidiary Guarantors prepared by an independent engineering firm of recognized standing in accordance with accepted industry practice and all updates thereto.

"*Equity Interests*" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

~~"*Equity Offering*" means a public or private offering of Qualified Capital Stock of the Company made for cash on a primary basis by the Company after the date of the Indenture, other than (1) public offerings with respect to the Company's common stock registered on Form S-8 and (2) issuances to any Subsidiary of the Company.~~

"*Event of Default*" has the meaning set forth above under the caption "Events of Default."

"*Excess Pari Passu Obligations*" means Obligations constituting Pari Passu Obligations for the principal amount of loans, letters of credit, reimbursement Obligations under the Pari Passu Documents to the extent that such Obligations are in excess of the Pari Passu Lien Cap.

"*Exchange Offer and Consent Solicitation*" means a series of transactions in which the Company will (i) exchange the New Senior Secured Notes and the New Warrants for the Old Senior Secured Notes, (ii) exchange the New 2019 Convertible Notes for the Company's 7 ¾% Senior Notes due 2019, (iii) exchange the New2020 Convertible Notes for the Company's 9 ½% Senior Notes due 2020 and (iv) solicit the consent of the holders of the Old Senior Secured Notes and Old Unsecured Notes for certain amendments to the Old Indentures, including amendments to eliminate or amend certain of the restrictive covenants contained in the Old Indentures and release the collateral securing the Old Senior Secured Notes.

"*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.

"*Excluded Collateral*" means any cash, certificate of deposit, deposit account, money market account or other such liquid assets to the extent that such cash, certificate of deposit, deposit account, money market account or other such liquid assets are on deposit or maintained with the Revolving Credit Agreement Agent or any other Revolving Credit Agreement Secured Party (other than the Collateral Agent, in its capacity as such) to cash collateralize letters of credit constituting Revolving Credit Agreement Obligations or Secured Swap Obligations constituting Revolving Credit Agreement Obligations.

~~"*Existing Indentures*" means (i) the Indenture, dated as of October 9, 2009 (the "Base Indenture"), among the Company, the subsidiary guarantors named therein, and the Bank of New York Mellon Trust Company, N.A., as trustee, as amended and supplemented by the Third Supplemental Indenture, dated as of March 14, 2011, among the Company, the subsidiary guarantors named therein and The Bank of New York Mellon Trust Company, N.A., as trustee, relating to the Company's 7 ¾% Senior Notes due 2019 and (ii) the Base Indenture, as amended and supplemented by the Fourth Supplemental Indenture, dated as of June 5, 2012, among the Company, the subsidiary guarantors named therein and The Bank of New York Mellon Trust Company, N.A., as trustee, relating to the Company's 9 ½% Senior Notes due 2020.~~

~~"*Existing Unsecured Notes*" means the Company's 7 ¾% Senior Notes due 2019 and 9 ½% Senior Notes due 2020.~~

"*Fair Market Value*" means with respect to any asset or property, the sale value that would be obtained in an arm's-length free market transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy. Fair Market Value of an asset or property equal to or in excess of $10.0 million shall be determined by the Board of Directors of the Company acting in good faith, whose determination shall be conclusive and evidenced by a resolution of such Board of Directors delivered to the Senior Secured Notes Trustee, and any lesser Fair Market Value may be determined by an officer of the Company acting in good faith.

"*GAAP*" means generally accepted accounting principles in the United States of America as in effect from time to time. All ratios and computations based on GAAP contained in the Senior Secured Notes Indenture will be computed in conformity with GAAP.

The term "guarantee" means, as applied to any obligation, (~~1~~i) a guarantee (other than by endorsement of negotiable instruments 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.

"*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 similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing and any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act), 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.

"*Holder"* means a Person in whose name a ~~note~~New Senior Secured Note (including an Additional New Senior Secured Note) is registered in the Note Register.

"*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.

"*Indebtedness*" means, with respect to any Person, without duplication:

(1) 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 Issue Date 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;

(2) 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;

(3) all obligations of such Person with respect to letters of credit;

(4) 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;

(5) all Capitalized Lease Obligations of such Person;

(6) the Attributable Indebtedness (in excess of any related Capitalized Lease Obligations) related to any Sale/Leaseback Transaction of such Person;

(7) 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);

(8) 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

(9) 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.

The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Capital Stock or Preferred Stock in the form of additional shares of the same class of Disqualified Capital Stock or Preferred Stock shall be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Capital Stock or Preferred Stock for purposes of this definition. In addition, Disqualified Capital Stock shall be deemed to be Indebtedness.

Subject to clause (8) 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.~~

"*Insolvency or Liquidation Proceeding*" means (a) any voluntary or involuntary case or proceeding under any bankruptcy law with respect to any Collateral Grantor, (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Collateral Grantor or with respect to any of its assets, (c) any liquidation, dissolution, reorganization or winding up of any Collateral Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy (other than any liquidation, dissolution, reorganization or winding up of any Subsidiary of the Company ~~Issuer~~ permitted by the Pari Passu Documents), (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Collateral Grantor or (e) any other proceeding of any type or nature in which substantially all claims of creditors of any Collateral Grantor are determined and any payment or distribution is or may be made on account of such claims.

"*Intercreditor ~~Agreement~~Agreements*" means, individually or collectively, as the context may require, the Pari Passu Intercreditor Agreement and ~~any~~the Junior Lien Intercreditor Agreement.

"*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 by such Person to (by means of any transfer of cash or other property or assets to others or any payment for property, assets 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 (1) 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, (2) 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 the "Limitation on Indebtedness and Disqualified Capital Stock" covenant, 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 (3) endorsements of negotiable instruments and documents in the ordinary course of business. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of ~~the~~ Company's Investments in such Restricted Subsidiary that were not sold or disposed of.

"*Issue Date*" means the date of original issuance of the ~~notes~~New Senior Secured Notes.

"*Junior Lien*" means any Lien which ~~(i) is also granted to secure the Pari Passu Obligations and (ii)~~ is subordinate to the Liens securing the Pari Passu Obligations pursuant to the Junior Lien Intercreditor Agreement.

~~*"Junior Lien Intercreditor Agreement" means an intercreditor agreement in form and substance satisfactory to the Collateral Agent in its sole discretion, to be entered into on a future date, if at all, between the Collateral Agent, the Collateral Grantors and any collateral agent or other representative with respect to any Junior Lien Obligations, as amended, restated, supplemented or otherwise modified from time to time, pursuant to which, among other things, (i) the Liens securing the Junior Lien Obligations are expressly subordinated to the Liens securing the Pari Passu Obligations, (ii) no Liens are granted to secure the Junior Lien Obligations unless such Liens also secure, on a first priority basis, the Pari Passu Obligations, and (iii) the holders of such Junior Lien Obligations waive certain voting and other rights in connection with any Insolvency or Liquidation Proceeding with respect to the Company or any Subsidiary Guarantor, in each case in a manner satisfactory to the Collateral Agent in its sole discretion.*~~ *Junior Lien Collateral Agent"* means, individually or collectively, as the context may require, any collateral agent for holders of New Convertible Notes. Bank of Montreal will initially serve as the Junior Lien Collateral Agent.

"*Junior Lien Collateral Agreements*" means, collectively, each mortgage, pledge agreement, security agreement, the Junior Lien Intercreditor Agreement and each other instrument, including any assignment, security agreement, mortgage, deed of trust, pledge agreement or other security instrument, creating Junior Liens in favor of the Junior Lien Collateral Agent as required by the documents governing the Junior Lien Obligations.

"*Junior Lien Documents*" means, collectively, any indenture, credit agreement or other agreement or instrument pursuant to which Junior Lien Obligations are incurred (including the New Convertible Notes and the Convertible Notes Indentures) and the Junior Lien Collateral Agreements, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time.

"*Junior Lien Intercreditor Agreement*" means (i) the Intercreditor Agreement among the Collateral Agent, the Junior Lien Collateral Agent, the Company, each other Collateral Grantor and the other parties from time to time party thereto, to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise

modified from time to time in accordance with the Senior Secured Notes Indenture and (ii) any replacement thereof that contains terms not materially less favorable to the Holders of the New Senior Secured Notes than the Junior Intercreditor Agreement referred to in clause (i).

"*Junior Lien Obligations*" means (i) the New 2019 Convertible Notes, (ii) the New 2020 Convertible Notes and (iii) Indebtedness of the Company or any Subsidiary Guarantor that is secured on a junior basis with the Pari Passu Obligations by a Junior Lien that was permitted to be incurred and so secured under each applicable Pari Passu Document; *provided* that, in the case of any Indebtedness referred to in this definition:

(1) on or before the date on which such Indebtedness is incurred by the Company or any Subsidiary Guarantor, such Indebtedness is designated by the Company (which such designation shall be made), in an officers' certificate delivered to the Collateral, Agent in respect of Indebtedness referred to in clause (iii) above) as "Junior Lien Obligations" for the purposes of the Senior Secured Notes Indenture and any other applicable Pari Passu Document; provided that if such Indebtedness is designated as "Junior Lien Obligations," it cannot also be designated as Pari Passu Obligations; and

(2) the collateral agent or other representative with respect to such Indebtedness, the Collateral Agent, the Senior Secured Notes Trustee, the Company and each Subsidiary Guarantor have duly executed and delivered a joinder to the Junior Lien Intercreditor Agreement and all requirements set forth in ~~such~~the Junior Lien Intercreditor Agreement as to the confirmation, grant or perfection of the Liens of the holders of Junior Lien Obligations to secure such Indebtedness in respect thereof are satisfied.

"*Lender Provided Hedging Agreement*" means any Hedging Agreement between the Company or any Subsidiary Guarantor and a Secured Swap Counterparty.

"*Lien* ~~"*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 (1) of an issuer that is not an Affiliate of the Company, (2) that are publicly traded on the New York Stock Exchange, the American Stock Exchange or the Nasdaq Stock Market and (3) 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 (1), (2) and (3) 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 the provisions of the Senior Secured Notes Indenture described under "—Certain Covenants—Limitation on Asset Sales," 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 (1)(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 and assets during such quarter that were disposed of in compliance with the provisions of the Senior Secured Notes Indenture described under "—Certain Covenants—Limitation on Asset Sales."

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

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

"*Mortgage*" means all mortgages, deeds of trust and similar documents, instruments and agreements (and all amendments, modifications and supplements thereof) creating, evidencing, perfecting or otherwise establishing the Liens on Oil and Gas Properties and other related assets to secure payment of the ~~notes~~New Senior Secured Notes and the Subsidiary Guarantees or any part thereof.

"*Mortgaged Properties*" means any property owned by a Collateral Grantor that is subject to the Liens existing and to exist under the terms of the Mortgages.

"*Net Available Cash*" from an Asset Sale or Sale/Leaseback Transaction means cash proceeds received therefrom (including (1) 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 (2) 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 assets or 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 (1) and (2)), in each case net of (i) 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, (ii) 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, (iii) 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 (iv)~~(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 (1) all current assets of the Company and its Restricted Subsidiaries, less (2) 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.

"*New 2019 Convertible Notes*" means the Company's 7 3/4% Convertible Secured PIK Notes due 2019. Unless the context otherwise requires, all references to the New 2019 Convertible Notes shall include the Additional New 2019 Convertible Notes.

"*New 2020 Convertible Notes*" means the Company's 9 1/2% Convertible Secured PIK Notes due 2020. Unless the context otherwise requires, all references to the New 2020 Convertible Notes shall include the Additional New 2020 Convertible Notes.

"*New Convertible Notes*" means, collectively, the New 2019 Convertible Notes and the New 2020 Convertible Notes.

"*New Warrants*" means the warrants issued to the holders of the Old Senior Secured Notes in the Exchange Offer and Consent Solicitation that are exercisable for shares of the Company's common stock.

"*Non-Conforming Plan of Reorganization*" means any Plan of Reorganization that does not provide for payments in respect of the Revolving Credit Agreement Obligations to be made with the priority specified in the Pari Passu Intercreditor Agreement and that has not been approved by the Majority Lenders (as defined in the Revolving Credit Agreement).

"*Non-Controlling Authorized Representative*" means, at any time, with respect to any Collateral, an Authorized Representative that is not the Controlling Party with respect to such Collateral at such time.

"*Non-Controlling Secured Parties*" means, at any time, with respect to any Collateral, the Pari Passu Secured Parties that are not Controlling Secured Parties with respect to such Collateral at such time.

"*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 or assets and as to which (i) the holders of such Indebtedness agree that they will look solely to the property or assets 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.

~~"*Note Documents*" means the Indenture, the Collateral Agreements and any agreement instrument or other document evidencing or governing any Note Obligations.~~

~~"*Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Company or any Subsidiary Guarantor arising under the Indenture, the notes, the Subsidiary Guarantees and the Collateral Agreements (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), 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 and fees that accrue after the commencement by or against the Company or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.~~

"*Note Register*" means the register maintained by or for the Company in which the Company shall provide for the registration of the ~~notes~~New Senior Secured Notes and the transfer of the ~~notes~~New Senior Secured Notes.

"*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.

"*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.

"*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, rightsofway, easements and servitudes together with all additions, substitutions, replacements, accessions and attachments to any and all of the foregoing.

~~"*Other Pari Passu Obligations*" means other Indebtedness of the Company or any Subsidiary Guarantor that is secured by a Pari Passu Lien (subject to the Pari Passu Intercreditor Agreement) as permitted by the Pari Passu Documents and is designated by the Company as an Other Pari Passu Obligation pursuant to the Pari Passu Intercreditor Agreement.~~ *Old Indentures*" means (i) the Indenture, dated as of October 9, 2009 (the "*Base Indenture*"), among the Company, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, as amended and supplemented by the Third Supplemental Indenture, dated as of March 14, 2011, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's 7 ¾% Senior Notes due 2019, (ii) the Base Indenture, as amended and supplemented by the Fourth Supplemental Indenture, dated as of June 5, 2012, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's 9 ½% Senior Notes due 2020 and (iii) the Indenture, dated as of March 13, 2015, among the Company, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's Old Senior Secured Notes.

~~"*Other Pari Passu Secured Parties*" means the holders of any Other Pari Passu Obligations and any Authorized Representative with respect thereto.~~ *Old Senior Secured Notes" means the Company's 10% Senior Secured Notes due 2020.*

"*Old Unsecured Notes*" means the Company's 7 ¾% Senior Notes due 2019 and 9 ½% Senior Notes due 2020.

"*Pari Passu Documents*" means, collectively, the Revolving Credit Agreement Documents~~,~~ and the Senior Secured Note Documents ~~and any document or instrument evidencing or governing any Other Pari Passu Obligations.~~ .

"*Pari Passu Excluded Collateral*" has the meaning set forth in the Pari Passu Intercreditor Agreement.

"*Pari Passu Intercreditor Agreement*" means (i) the Amended and Restated Priority Lien Intercreditor Agreement among the Collateral Agent, the Senior Secured Notes Trustee, the Revolving Credit Agreement Agent, the Company, each other Collateral Grantor ~~and~~, the other parties from time to time party thereto, and American Stock Transfer & Trust Company, LLC ~~The Bank of New York Mellon Trust Company, N.A.~~ in its capacity as the successor trustee under the Old Senior Secured Notes to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Senior Secured Notes Indenture and (ii) any replacement thereof that contains terms not materially less favorable to the Holders of the ~~notes~~New Senior Secured Notes than the Pari Passu Intercreditor Agreement referred to in clause (i).

"*Pari Passu Lien*" means a Lien granted (or purported to be granted) by the Company or any Subsidiary Guarantor in favor of the Collateral Agent, at any time, upon any assets or property of the Company or any Subsidiary Guarantor to secure any Pari Passu Obligations.

"*Pari Passu Lien Cap*" means, as of any date, (a) the principal amount of Pari Passu Obligations (including any interest paid-in-kind) that may be incurred as "Permitted Indebtedness" as of such date, plus (b) the amount of all Secured Swap Obligations, to the extent such Secured Swap Obligations are secured by the Pari Passu Liens, plus (c) the amount of accrued and unpaid interest (excluding any interest paid-in-kind) and outstanding fees, to the extent such Obligations are secured by the Pari Passu Liens. For purposes of this definition, all letters of credit will be valued at the face amount thereof, whether or not drawn.

"*Pari Passu Obligations*" means, collectively, (a) the Revolving Credit Agreement Obligations~~,~~ and (b) the Senior Secured Note Obligations~~, (c) all Other Pari Passu Obligations and (e) all other obligations of the Company and the Subsidiary Guarantors in respect of, or arising under, the Pari Passu Documents, plus interest and all fees, costs, charges and expenses, including legal fees and expenses to the extent authorized under the Pari Passu Documents~~, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding.

"*Pari Passu Secured Parties*" means (a) the Collateral Agent, (b) the Senior Secured Notes Trustee, (c) the Holders of the New Senior Secured Notes and (d) the Revolving Credit Agreement Secured Parties.

"*Permitted Collateral Liens*" means Liens described in clauses (1), (4), (5), (6), (7), (8), (9), (10), (12), (17), (18), (19), (20), (21), (22) and (23) of the definition of "Permitted Liens" that, by operation of law, have priority over the Liens securing the ~~notes~~New Senior Secured Notes and the Subsidiary Guarantees.

"*Permitted Investments*" means any of the following:

(1) Investments in Cash Equivalents;

(2) Investments in property, plant and equipment used in the ordinary course of business;

(3) Investments in the Company or any of its Restricted Subsidiaries;

(4) Investments by the Company or any of its Restricted Subsidiaries in another Person, if (a) as a result of such Investment (i) such other Person becomes a Restricted Subsidiary or (ii) such other Person is merged or consolidated with or into, or transfers or conveys all or substantially all of its properties and assets to, the Company or a Restricted Subsidiary and (b) such other Person is primarily engaged in the Oil and Gas Business;

(5) 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;

(6) 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;

(7) entry into any currency exchange contract in the ordinary course of business;

(8) 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;

(9) guarantees of Indebtedness permitted under the "Limitation on Indebtedness and Disqualified Capital Stock" covenant;

(10) investments in Unrestricted Subsidiaries or joint ventures in an aggregate amount not to exceed at any one time outstanding $15.0 million; and

(11) other Investments, in an aggregate amount not to exceed at any one time outstanding the greater of (a) $25.0 million and (b) 5% of Adjusted Consolidated Net Tangible Assets.

"*Permitted Liens*" means the following types of Liens:

(1) Liens existing as of the Issue Date (excluding Liens securing Indebtedness of the Company and any Subsidiary Guarantor under the Revolving Credit Agreement ~~or any Indebtedness repaid with the proceeds of the notes~~);

(2) Liens on any property or assets of the Company and any Subsidiary Guarantor securing the ~~notes~~New Senior Secured Notes issued on the Issue Date and up to $91,875,000 of Additional New Senior Secured Notes and the Subsidiary Guarantees in respect thereof;

(3) Liens in favor of the Company or any Restricted Subsidiary;

(4) 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;

(5) 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;

(6) 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);

(7) 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;

(8) 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;

(9) any interest or title of a lessor under any capitalized lease or operating lease;

(10) purchase money Liens; *provided*~~, however,~~ that (a) the related purchase money Indebtedness shall not be secured by any property or assets of the Company or any Restricted Subsidiary other than the property or assets so acquired (including, without limitation, those acquired indirectly through the acquisition of stock or other ownership interests) and any proceeds therefrom, (b) the aggregate principal amount of Indebtedness secured by such Liens it otherwise permitted to be incurred under the Senior Secured Notes Indenture and does not exceed the cost of the property or assets so acquired and (c) the Liens securing such Indebtedness shall be created within 90 days of such acquisition;

(11) 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;

(12) 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;

(13) Liens securing reimbursement obligations with respect to commercial letters of credit which encumber documents and other property or assets relating to such letters of credit and products and proceeds thereof;

(14) Liens encumbering property or assets under construction arising from progress or partial payments by a customer of the Company or its Restricted Subsidiaries relating to such property or assets;

(15) 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;

(16) Liens securing Interest Rate Protection Obligations which Interest Rate Protection Obligations relate to Indebtedness that is secured by Liens otherwise permitted under the Senior Secured Notes Indenture;

(17) Liens (other than Liens securing Indebtedness) on, or related to, properties or assets to secure all or part of the costs incurred in the ordinary course of business for the exploration, drilling, development or operation thereof;

(18) Liens on pipeline or pipeline facilities which arise by operation of law;

(19) 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;

(20) Liens reserved in oil and gas mineral leases for bonus or rental payments or for compliance with the terms of such leases;

(21) 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, assets or services, and in the aggregate do not materially adversely affect the value of properties and assets of the Company and the Restricted Subsidiaries, taken as a whole, or materially impair the use of such properties and assets for the purposes for which such properties and assets are held by the Company or any Restricted Subsidiaries;

(22) Liens securing Non-Recourse Indebtedness; *provided*~~, however,~~ that the related Non-Recourse Indebtedness shall not be secured by any property or assets of the Company or any Restricted Subsidiary other than the property and assets 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;

(23) Liens on property existing at the time of acquisition thereof by the Company or any Subsidiary of the Company and Liens on property or assets 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;

(24) 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 so long as such deposit and such defeasance are permitted under the covenant described under "—Certain Covenants—Limitation on Restricted Payments;"

(25) Junior Liens to secure ~~Junior Lien Obligations (a)~~the New Convertible Notes issued on the Issue Date and the Additional New Convertible Notes, in each case incurred under clause (~~6~~11) of the definition of "Permitted Indebtedness" ~~to~~; *provided* that such Junior Liens are subject to the Junior Lien Intercreditor Agreement;

(26) Liens to secure any Permitted Refinancing Indebtedness incurred to renew, refinance, refund, replace, amend, defease or discharge, as a whole or in part, ~~any Existing Unsecured Notes, together with any Permitted Refinancing Indebtedness permitted by clause (6) of the definition of Permitted Indebtedness in respect thereof, (b) incurred in accordance with the Fixed Charge Coverage Ratio test set forth in the first paragraph of the "Limitation on Indebtedness and Disqualified Capital Stock" covenant, together with any Permitted Refinancing Indebtedness permitted by clause (6) of the definition of Permitted Indebtedness in respect thereof, or (c) incurred under clause (10) of the definition of "Permitted Indebtedness"; *provided* that Liens incurred under clauses (b) and (c) of this clause (25) do not secure obligations in excess of $200.0 million in the aggregate; (26) Liens to secure any Permitted Refinancing Indebtedness in respect of the notes issued on the Issue Date~~Indebtedness that was previously so secured; *provided* that (a) the new Liens~~Lien~~ shall be limited to all or part of the same property and assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced and (b) the new Liens have~~Lien has~~ no greater priority relative to the ~~notes~~New Senior Secured Notes and the Subsidiary Guarantees, and the holders of the Indebtedness secured by such Liens~~Lien~~ have no greater intercreditor rights relative to the ~~notes~~New Senior Secured Notes and the Subsidiary Guarantees and the Holders thereof than the original Liens and the related Indebtedness and the holders thereof and such new Liens are subject to the ~~Pari Passu~~ Intercreditor ~~Agreement;~~Agreements, as applicable; and

(27) Liens securing Indebtedness of the Company and any Subsidiary Guarantor under the Revolving Credit Agreement in an aggregate principal amount not to exceed $50.0 million at any time outstanding; *provided* that such Liens are subject to the Pari Passu Intercreditor Agreement~~; and~~

~~(28) additional Liens incurred in the ordinary course of business of the Company or any Restricted Subsidiary of the Company with respect to obligations that do not exceed at any one time outstanding the greater of (a) $75.0 million or (b) 5% of Adjusted Consolidated Net Tangible Assets; *provided* that such Liens cannot secure any Junior Lien Obligations unless such Liens (i) are also granted to secure the Pari Passu Obligations and (ii) are subordinate to the Liens securing the Pari Passu Obligations pursuant to the Junior Lien Intercreditor Agreement~~.

Notwithstanding anything in clauses (1) through (~~28~~27) of this definition, the term "Permitted Liens" does 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 or assets 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 Asset Sale Offer) outstanding Indebtedness of the Company or any

Restricted Subsidiary; *provided* that (1) if the Indebtedness (including the ~~notes~~New Senior Secured Notes) being renewed, extended, refinanced, refunded or repurchased is *pari passu* with or subordinated in right of payment to either the ~~notes~~New Senior Secured Notes or the Subsidiary Guarantees, then such Indebtedness is *pari passu* with or subordinated in right of payment to the ~~notes~~New Senior Secured Notes or the Subsidiary Guarantees, as the case may be, at least to the same extent as the Indebtedness being renewed, extended, refinanced, refunded or repurchased, (2) 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, (3) if the Company or a Subsidiary Guarantor is the issuer of, or otherwise an obligor in respect of the Indebtedness being renewed, refinanced, refunded or repurchased, such Permitted Refinancing Indebtedness is not Incurred by any Restricted Subsidiary that is not the Company or a Subsidiary Guarantor ~~and~~, (4) 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 and (5) if the Indebtedness being renewed, extended, refinanced, refunded or repurchased by its terms provides that interest is payable only in kind, then such Indebtedness may not permit the payment of scheduled interest in cash; *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 or 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.

"*Plan of Reorganization*" means any plan of reorganization, plan of liquidation, agreement for composition, or other type of plan or arrangement proposed in or in connection with any Insolvency or Liquidation Proceeding.

"*Pledge Agreement*" means each Pledge Agreement and Irrevocable Proxy to be entered into on the Issue Date in favor of the Collateral Agent for the benefit of the Holders of the ~~notes,~~New Senior Secured Notes, the Revolving Credit Agreement Secured Parties ~~and the Other Pari Passu Secured Parties~~, the Senior Secured Notes Trustee and the Collateral Agent and each other pledge agreement in substantially the same form in favor of the Collateral Agent for the benefit of the holders of the ~~notes,~~New Senior Secured Notes, the Revolving Credit Agreement Secured Parties ~~and the Other Pari Passu Secured Parties~~, the Senior Secured Notes Trustee and the Collateral Agent delivered in accordance with the Senior Secured Notes Indenture and the Collateral Agreements.

"*Preferred Stock*," as applied to the Capital Stock of any Person, means Capital Stock of such Person of any class or classes (however designated) that ranks 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.

"*Production Payments*" means, collectively, Dollar-Denominated Production Payments and Volumetric Production Payments.

"*Proved and Probable Drilling Locations*" means all drilling locations of the Collateral Grantors located in the Haynesville and Bossier shale acreage in the States of Louisiana and Texas that are Proved Reserves or classified, in accordance with the Petroleum Industry Standards, as "Probable Reserves."

"*Proved Reserves*" means those Hydrocarbons that have been estimated with reasonable certainty, as demonstrated by geological and engineering data, to be economically recoverable from the Oil and Gas Properties by existing producing methods under existing economic conditions.

"*Qualified Capital Stock*" of any Person means any and all Capital Stock of such Person other than Disqualified Capital Stock.

"*Required Stockholder Approval*" means the approval by (1) a majority of the issued and outstanding shares of common stock of the amendment to the Company's restated articles of incorporation to increase the number of shares of the Company's common stock authorized for issuance in an amount to provide a sufficient number of authorized shares of Comstock's common stock for the issuance of shares upon conversion of the New Convertible Notes and, to the extent necessary, exercise of the New Warrants and (2) a majority of the shares of common stock represented at the special meeting and entitled to vote on the issuance of the maximum number of shares of common stock that would be issued upon conversion of all of the outstanding New Convertible Notes and, to the extent necessary, exercise of all of the New Warrants.

"*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 Issue Date, unless such Subsidiary of the Company is an Unrestricted Subsidiary or is designated as an Unrestricted Subsidiary pursuant to the terms of the Senior Secured Notes Indenture.

"*Revolving Credit Agreement*" means that certain Credit Agreement ~~to be~~, dated ~~on or about the Issue Date,~~as of March 4, 2015, among the Company, the lenders from time to time party thereto and the Revolving Credit Agreement Agent, as amended, restated, modified, renewed, refunded, replaced or refinanced, from time to time.

"*Revolving Credit Agreement Agent*" means Bank of Montreal (or other agent designated in the Revolving Credit Agreement), together with its successors and permitted assigns in such capacity.

"*Revolving Credit Agreement Documents*" means the Revolving Credit Agreement, the Collateral Agreements and any other Loan Documents (as defined in the Revolving Credit Agreement).

"*Revolving Credit Agreement Obligations*" means, collectively, (a) the Obligations (as defined in the Revolving Credit Agreement) of the Company and the Subsidiary Guarantors under the Revolving Credit Agreement Documents, in an aggregate principal amount for all such Obligations not to exceed $50,000,000, plus interest and all fees, costs, charges, penalties and expenses, including legal fees and expenses to the extent authorized under the Revolving Credit Agreement Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding, and (b) the Secured Swap Obligations.

"*Revolving Credit Agreement Secured Parties*" means, collectively, the Lenders (as defined in the Revolving Credit Agreement), the Secured Swap Counterparties and the Revolving Credit Agreement Agent.

"*S&P*" means ~~Standard and Poor's~~S&P Global Ratings ~~Services~~, a division of The McGraw-Hill Companies, Inc., or any successor to the rating agency business thereof.

"*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, whereby such property has been or is to be sold or transferred by the Company or any of its Restricted Subsidiaries to such Person.

"*Secured ~~Parties~~*" ~~means (a) the Collateral Agent, (b) the Trustee and the Holders of the notes, (c) the Revolving Credit Agreement Secured Parties and (d) the Other Pari Passu Secured Parties~~*Debt*" means, collectively, Pari Passu Obligations and Junior Lien Obligations.

"*Secured Debt Documents*" means the Pari Passu Documents and the Junior Lien Documents.

"*Secured Swap Counterparty*" means, with respect to a Lender Provided Hedging Agreement, a counterparty that at the time such Hedging Agreement is entered into is a Lender (as defined in the Revolving Credit Agreement) or an Affiliate of a Lender (including a Hedging Agreement in existence prior to the date hereof or prior to such Person or its Affiliate becoming a Lender); *provided* that, for the avoidance of doubt, the term "Lender Provided Hedging Agreement" shall not include any Hedging Agreement or transactions under any Hedging Agreement entered into after the time that such counterparty ceases to be a Lender or an Affiliate of a Lender.

"*Secured Swap Obligations*" means all obligations of the Company or any Subsidiary Guarantor under any Lender Provided Hedging Agreement.

"*Security Agreement*" means each Pledge Agreement and Irrevocable Proxy dated as of the Issue Date in favor of the Collateral Agent for the benefit of the holders of the ~~notes,~~New Senior Secured Notes and the Revolving Credit Agreement ~~Secured Parties and the Other Pari Passu~~ Secured Parties and each other security agreement in substantially the same form in favor of the Collateral Agent for the benefit of the holders of the ~~notes,~~New Senior Secured Notes and the Revolving Credit Agreement ~~Secured Parties and the Other Pari Passu~~ Secured Parties delivered in accordance with the Senior Secured Notes Indenture and the Collateral Agreements.

"*Security Documents*" means the Collateral Agreements and the Junior Lien Collateral Agreements.

"*Senior Indebtedness*" means any Indebtedness of the Company or a Restricted Subsidiary (whether outstanding on the date hereof or hereinafter incurred), unless such Indebtedness is Subordinated Indebtedness.

~~"*Series*" means each of (i) the Note Obligations, (ii) the Revolving Credit Agreement Obligations and (iii) the Other Pari Passu Obligations incurred pursuant to any document or instrument evidencing such Other Pari Passu Obligations, which pursuant to any joinder agreement to the Pari Passu Intercreditor Agreement, are to be represented hereunder by a common Authorized Representative (in its capacity as such for such Other Pari Passu Obligations).~~ *Senior Secured Note Documents*" means the Senior Secured Notes Indenture, the Collateral Agreements and any agreement instrument or other document evidencing or governing any Senor Secured Note Obligations.

"*Senior Secured Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Company or any Subsidiary Guarantor arising under the Senior Secured Notes Indenture, the New Senior Secured Notes, the Additional New Senior Secured Notes, the Subsidiary Guarantees and the Collateral Agreements (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), 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 and fees that accrue after the commencement by or against the Company or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"*Series*" means (a) with respect to the Pari Passu Secured Parties, each of (i) the Revolving Credit Agreement Secured Parties (in their capacities as such) and (ii) the Holders of the New Senior Secured Notes and the Senior Secured Notes Trustee and (b) with respect to Pari Passu Obligations, each of (i) the Revolving Credit Agreement Obligations, and (ii) the Senior Secured Note Obligations.

"*Significant Subsidiary*" means any Restricted Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date~~, provided, however, that notwithstanding anything to the contrary in the Indenture~~.

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

"*Subordinated Indebtedness*" means Indebtedness of the Company or a Subsidiary Guarantor which is expressly subordinated in right of payment to the ~~notes~~New Senior Secured Notes or the Subsidiary Guarantees, as the case may be.

"*Subsidiary*" means, with respect to any Person:

(1) any corporation, limited liability company, association or other business entity (other than a partnership) of which more than 50% of the total voting power of its Voting Stock is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership of which (a) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof), whether in the form of general, special or limited partnership interests or otherwise, or (b) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

"*Subsidiary Guarantee*" means any guarantee of the ~~notes~~New Senior Secured Notes by any Subsidiary Guarantor in accordance with the provisions described under "—Subsidiary Guarantees of New Senior Secured Notes" and "—Certain Covenants—Future Subsidiary Guarantees."

"*Subsidiary Guarantor*" means (1) Comstock Oil & Gas, LP, (2) Comstock Oil & Gas—Louisiana, LLC, (3) Comstock Oil & Gas GP, LLC, (4) Comstock Oil & Gas Investments, LLC, (5) Comstock Oil & Gas Holdings, Inc., (6) each of Comstock's other Restricted Subsidiaries, if any, executing a supplemental indenture in which such Subsidiary agrees to be bound by the terms of the Senior Secured Notes Indenture and (7) any Person that becomes a successor guarantor of the ~~notes~~New Senior Secured Notes in compliance with the provisions described under "—Subsidiary Guarantees of New Senior Secured Notes" and "Certain Covenants—Future Subsidiary Guarantees."

"*Swap Obligation*" means, with respect to any Subsidiary Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1(a)(47) of the Commodity Exchange Act.

~~"*Treasury Rate*" means, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two business days prior to the redemption date (or, if such statistical release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to March 15, 2016 *provided, however*, that if the period from the redemption date to March 15, 2016 is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.~~

~~"*Trustee Control Termination Date*" has the meaning set forth under "—Intercreditor Agreement—Identity of the Controlling Party."~~

"*Unrestricted Subsidiary*" means:

(1) 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

(2) any Subsidiary of an Unrestricted Subsidiary.

The Company may designate any Subsidiary of the Company (other than a Collateral Grantor) as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of, the Company or any Restricted Subsidiary (other than solely any Subsidiary of the Subsidiary to be so designated); *provided* that the Subsidiary to be so designated and each Subsidiary of such Subsidiary:

(1) has no Indebtedness other than Non-Recourse Indebtedness;

(2) is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;

(3) is a Person with respect to which neither the Company nor any of the Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; and

(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of the Restricted Subsidiaries.

"*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*" of any specified Person as of any date means the Capital Stock of such Person entitling the holders thereof (whether at all times or only so long as no senior class of Capital Stock has voting power by reason of any contingency) to vote in the election of members of the Board of Directors of such Person; *provided* that with respect to a limited partnership or other entity which does not have a Board of Directors, Voting Stock means the managing membership interest or the Capital Stock of the general partner of such limited partnership or other business entity with the ultimate authority to manage the business and operations of such Person, as applicable.

"*Wholly Owned Restricted Subsidiary*" means any Restricted Subsidiary of the Company to the extent (1) all of the Capital Stock or other ownership interests in such Restricted Subsidiary, other than directors' qualifying shares mandated by applicable law, is owned directly or indirectly by the Company or (2) 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.

APPENDIX 2: COMPARISON OF TERMS OF THE NEW CONVERTIBLE NOTES TO OLD 2020 NOTES

The following is a summary of the "Certain Covenants", "Events of Default" and "Certain Definitions" of the New Convertible Notes (as set forth under "Description of New Convertible Notes") as compared to a summary of Certain "Covenants", "Events of Default" and "Certain Definitions" of the Old 2020 Notes, showing provisions that will be deleted or changed or provisions that will be added. The following summary does not restate the terms of the New Convertible Notes or the Old 2020 Notes in their entirety. We urge you to read the documents governing the New Senior Secured Notes and the Old 2020 Notes, including the 2019 Convertible Notes Indenture, the 2020 Convertible Notes Indenture and the indenture governing the Old 2020 Notes, because they, and not this description, define your rights as a holder of the New Convertible Notes or the Old 2020 Notes.

Certain Covenants

Limitation on Indebtedness and Disqualified Capital Stock

Comstock will not, and will not permit any of its Restricted Subsidiaries to, create, incur, issue, assume, guarantee or in any manner become directly or indirectly liable for the payment of (collectively, "incur") any Indebtedness (including any Acquired Indebtedness), and Comstock will not, and will not permit any of its Restricted Subsidiaries to, issue any Disqualified Capital Stock (except for the issuance by Comstock of Disqualified Capital Stock (A) which is redeemable at Comstock's option in cash or Qualified Capital Stock and (B) the dividends on which are payable at Comstock's option in cash or Qualified Capital Stock); *provided, however,* that Comstock and its Restricted Subsidiaries that are Subsidiary 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 2.25 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.

The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "*Permitted Indebtedness*"):

(1) ~~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 Agreement at such time less the sum of all repayments of principal of Priority Credit Facility Debt made pursuant to "—Limitation on Asset Sales" and (b) 25% of Adjusted Consolidated Net Tangible Assets; provided, however, that Indebtedness and Disqualified Capital Stock of Restricted Subsidiaries that are not Subsidiary Guarantors shall not at any time constitute more than 50% of all Priority Credit Facility Debt otherwise permitted under this clause (1);~~ Indebtedness under the Revolving Credit Agreement in an aggregate principal amount not in excess of $50.0 million at any one time outstanding and any guarantee thereof by a Subsidiary Guarantor;

(2) Indebtedness under ~~the notes;~~ (a) the New 2019 Convertible Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation and the Additional New 2019 Convertible Notes issued in connection with the payment of interest thereon and (b) the New 2020 Convertible Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation and the Additional New 2020 Convertible Notes issued in connection with the payment of interest thereon;

(3) Indebtedness outstanding or in effect on the Issue Date (and not ~~repaid or defeased with the proceeds of the offering of the notes~~exchanged in connection with this Exchange Offer and Consent Solicitation);

(4) 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;

(5) the Junior Lien Subsidiary Guarantees of ~~the notes~~(a) the New 2019 Convertible Notes issued on the Issue Date in this Exchange and Consent Solicitation (and any assumption of the obligations guaranteed thereby) and the Additional New 2019 Convertible Notes issued in connection with the payment of interest thereon and (b) the New 2020 Convertible Notes issued on the Issue Date in this Exchange and Consent Solicitation (and any assumption of obligations guaranteed thereby) and the Additional New 2020 Convertible Notes issued in connection with the payment of interest thereon;

(6) the incurrence by Comstock or any of its Restricted Subsidiaries of intercompany Indebtedness between or among Comstock and any of its Restricted Subsidiaries; *provided*, *however*, that:

(a) if the Company is the obligor on such Indebtedness and a Subsidiary Guarantor is not the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the ~~notes~~New Convertible Notes, or if a Subsidiary Guarantor is the obligor on such Indebtedness and neither Comstock nor another Subsidiary Guarantor is the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Junior Lien Subsidiary Guarantee of such Subsidiary Guarantor; and

(b) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than Comstock or a Restricted Subsidiary of Comstock and (ii) any sale or other transfer of any such Indebtedness to a Person that is neither Comstock nor a Restricted Subsidiary of Comstock will be deemed, in each case, to constitute an incurrence of such Indebtedness by Comstock or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);

(7) Permitted Refinancing Indebtedness and any guarantee thereof;

(8) Non-Recourse Indebtedness;

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

(10) Indebtedness in respect of bid, performance or surety bonds issued for the account of Comstock 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~~

(11) any additional Indebtedness in an aggregate principal amount not in excess of $75.0 million at any one time outstanding and any guarantee thereof; *provided* that the Company may issue (and the Subsidiary Guarantors may guarantee) up to $91,875,000 of Additional New Senior Secured Notes under this clause (11) in lieu of paying cash interest of up to $75,000,000 on the New Senior Secured Notes, and any such issuance of Additional New Senior Secured Notes shall reduce (on a dollar for dollar basis) the amount of other Indebtedness that is permitted to be incurred under this clause (11); and

(12) Indebtedness under the New Senior Secured Notes issued on the Issue Date in an aggregate principal amount not to exceed $700.0 million and any guarantee thereof by a Subsidiary Guarantor.

For purposes of determining compliance with this covenant, in the event that an item of Indebtedness meets the criteria of one or more of the categories of Permitted Indebtedness described in clauses (1) through (11~~12~~) described above or is entitled to be incurred pursuant to the first paragraph of this covenant, Comstock 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 to 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; *provided* that all Indebtedness outstanding on the Issue Date under the Revolving Credit Agreement shall be deemed incurred under clause (1) of the second paragraph of this covenant and not under the first paragraph or clause (3) of the second paragraph~~. The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this covenant~~ and may not be later reclassified; *provided*, *further*, that all Indebtedness under the New Senior Secured Notes incurred on the Issue Date shall be deemed incurred under clause (12) of the second paragraph of this covenant and not under the first paragraph or clause (3) of the second paragraph and may not be later reclassified; *provided*, *further*, that all Indebtedness under the New Convertible Notes (including the Additional New 2019 Convertible Notes or the Additional 2020 Convertible Notes, as applicable) shall be deemed to be incurred under clause (2) of the second paragraph and not under the first paragraph or clause (3) of the second paragraph and may not be later reclassified.

The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount or liquidation preference thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced (plus all accrued interest on the Indebtedness being refinanced and the amount of all expenses and premiums incurred in connection therewith).

Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that Comstock or any Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness incurred to

refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

Limitation on Restricted Payments

Comstock will not, and will not permit any Restricted Subsidiary to, directly or indirectly:

(1) declare or pay any dividend on, or make any other distribution to holders of, any shares of Capital Stock of Comstock or any Restricted Subsidiary (other than dividends or distributions payable solely in shares of Qualified Capital Stock of Comstock or in options, warrants or other rights to purchase Qualified Capital Stock of Comstock);

(2) purchase, redeem or otherwise acquire or retire for value any Capital Stock of Comstock or any Affiliate thereof (other than any Wholly Owned Restricted Subsidiary of Comstock) 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 Comstock solely in shares of Qualified Capital Stock of Comstock);

(3) 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 (excluding any intercompany Indebtedness between or among Comstock and any of its Restricted Subsidiaries), except in any case out of the net cash proceeds of Permitted Refinancing Indebtedness; or

(4) make any Restricted Investment;

(such payments or other actions described in clauses (1) through (4) above being collectively referred to as "Restricted Payments"), unless at the time of and after giving effect to the proposed Restricted Payment:

(1) no Default or Event of Default shall have occurred and be continuing;

(2) Comstock could incur $1.00 of additional Indebtedness in accordance with the Fixed Charge Coverage Ratio test set forth in the first paragraph of the "Limitation on Indebtedness and Disqualified Capital Stock" covenant; and

(3) the aggregate amount of all Restricted Payments declared or made after January 1, 2004 shall not exceed the sum (without duplication) of the following (the "*Restricted Payments Basket*"):

(a) 50% of the Consolidated Net Income of Comstock accrued on a cumulative basis during the period beginning on January 1, 2004 and ending on the last day of Comstock's last fiscal quarter ending prior to the date of such proposed Restricted Payment (or, if such Consolidated Net Income is a loss, minus 100% of such loss); plus

(b) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after January 1, 2004 by Comstock from the issuance or sale (other than to any of its Restricted Subsidiaries) of shares of Qualified Capital Stock of Comstock or any options, warrants or rights to purchase such shares of Qualified Capital Stock of Comstock; plus

(c) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after January 1, 2004 by Comstock (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 Comstock; plus

(d) the aggregate Net Cash Proceeds received after January 1, 2004 by Comstock 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 Comstock, together with the aggregate cash received by Comstock at the time of such conversion or exchange; plus

(e) 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 Comstock or a Restricted Subsidiary after January 1, 2004 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 Comstock and its Restricted Subsidiaries in such Unrestricted Subsidiary after January 1, 2004.

~~The amount of the Restricted Payments Basket as of March 31, 2012 was approximately $239.3 million.~~ Notwithstanding the preceding provisions, Comstock and its Restricted Subsidiaries may take the following actions so long as (in the case of clauses (3), (4), (5) and (7) below) no Default or Event of Default shall have occurred and be continuing:

(1) the payment of any dividend on any Capital Stock of Comstock within 60 days after the date of declaration thereof, if at such declaration date such declaration complied with the provisions of the preceding paragraph (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 the preceding paragraph);

(2) the payment of any dividend payable from a Restricted Subsidiary to Comstock or any other Restricted Subsidiary of Comstock;

(3) the repurchase, redemption or other acquisition or retirement of any shares of any class of Capital Stock of Comstock or any Restricted Subsidiary, in exchange for, or out of the aggregate Net Cash Proceeds from, a substantially concurrent issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of Comstock;

(4) the purchase, 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 issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of Comstock;

(5) 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 Comstock 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 Comstock as necessary to accomplish such refinancing, plus the amount of expenses of Comstock incurred in connection with such refinancing, (b) such new Indebtedness is subordinated to the ~~notes~~New Convertible Notes 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 ~~notes~~New Convertible Notes and such new Indebtedness has a Stated Maturity for the final scheduled principal payment that is at least 91 days later than the Stated Maturity for the final scheduled principal payment of the ~~notes~~New Convertible Notes;

(6) loans made to officers, directors or employees of Comstock or any Restricted Subsidiary approved by the Board of Directors in an aggregate amount not to exceed $1.0 million outstanding at any one time, the proceeds of which are used solely (a) to purchase common stock of Comstock 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 (6); and

(7) other Restricted Payments in an aggregate amount not to exceed $10.0 million.

The actions described in clauses (1), (3), (4) and (6) above shall be Restricted Payments that shall be permitted to be made in accordance with the preceding paragraph but shall reduce the amount that would otherwise be available for Restricted Payments under clause (3) of the second preceding paragraph (provided that any dividend paid pursuant to clause (1) above shall reduce the amount that would otherwise be available under clause (3) of the second preceding paragraph when declared, but not also when subsequently paid pursuant to such clause (1)), and the actions described in clauses (2), (5) and (7) above 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 the second preceding paragraph.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries

Comstock (1) will not permit any Restricted Subsidiary to issue or sell any Preferred Stock to any Person other than Comstock or one of its Wholly Owned Restricted Subsidiaries and (2) will not permit any Person other than Comstock or one of its Wholly Owned Restricted Subsidiaries to own any Preferred Stock of any Restricted Subsidiary, except, in each case, for (a) the Preferred Stock of a Restricted Subsidiary owned by a Person at the time such Restricted Subsidiary became a Restricted Subsidiary, or (b) a sale of Preferred Stock in connection with the sale of all the Capital Stock of a Restricted Subsidiary owned by Comstock or its Subsidiaries effected in accordance with the provisions of the applicable Convertible Notes Indenture described under "— Limitation on Asset Sales."

Limitation on Transactions with Affiliates

Comstock will not, and will not permit any Restricted Subsidiary 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 assets or property or the rendering of any services) with, or for the benefit of, any Affiliate of Comstock (other than Comstock or a Wholly Owned Restricted Subsidiary) (each, an "*Affiliate Transaction*"), unless

(1) such transaction or series of related transactions is on terms that are no less favorable to Comstock or such Restricted Subsidiary, as the case may be, than those that would be available in a comparable arm's length transaction with unrelated third parties; and

(2) Comstock delivers to the applicable Convertible Notes Trustee:

(a) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $10.0 million but no greater than $25.0 million, an ~~Officers' Certificate~~officers' certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this covenant; and

(b) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $25.0 million, an ~~Officers' Certificate~~officers' certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this covenant and that such Affiliate Transaction or series of Affiliate Transactions has been approved by a majority of the Disinterested Directors of Comstock.

The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph:

(1) loans or advances to officers, directors and employees of Comstock or any Restricted Subsidiary made in the ordinary course of business in an aggregate amount not to exceed $1.0 million outstanding at any one time;

(2) indemnities of officers, directors, employees and other agents of Comstock or any Restricted Subsidiary permitted by corporate charter or other organizational document, bylaw or statutory provisions;

(3) the payment of reasonable and customary fees to directors of Comstock or any of its Restricted Subsidiaries who are not employees of Comstock or any Affiliate;

(4) Comstock's employee compensation and other benefit arrangements;

(5) transactions exclusively between or among Comstock and any of the Restricted Subsidiaries or exclusively between or among such Restricted Subsidiaries, provided such transactions are not otherwise prohibited by the applicable Convertible Notes Indenture; and

(6) any Restricted Payment permitted to be paid pursuant to the terms of the applicable Convertible Notes Indenture described under "—Limitation on Restricted Payments."

Limitation on Liens

Comstock will not, and will not permit any of the Restricted ~~Subsidiary~~Subsidiaries to, directly or indirectly, create, incur, assume~~, affirm~~ or suffer to exist ~~or become effective~~ any Lien of any kind securing Indebtedness on any of its property or assets, except for Permitted Liens~~. upon any of their respective property or assets, whether now owned or acquired after the Issue Date, or any income, profits or proceeds therefrom, or assign or convey any right to receive income thereon, unless (1) in the case of any Lien securing Subordinated Indebtedness, the notes are secured by a lien on such property, assets or proceeds that is senior in priority to such Lien and (2) in the case of any other Lien, the notes are directly secured equally and ratably with the obligation or liability secured by such Lien. The incurrence of additional secured Indebtedness by Comstock and its Restricted Subsidiaries is subject to further limitations on the incurrence of Indebtedness as described under "—Limitation on Indebtedness and Disqualified Capital Stock."~~

Limitation on Asset Sales

Comstock will not, and will not permit any Restricted Subsidiary to, consummate any Asset Sale unless (i) Comstock 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 assets and property subject to such Asset Sale and (ii) all of the consideration paid to Comstock 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 Comstock (other than liabilities of Comstock that are by their terms subordinated to the ~~notes~~New Convertible Notes) or liabilities of any Subsidiary Guarantor that made such Asset Sale (other than liabilities of a Subsidiary Guarantor that are by their terms subordinated to such Subsidiary Guarantor's Junior Lien Subsidiary Guarantee), in each case as a result of which Comstock and its remaining Restricted Subsidiaries are no longer liable for such liabilities ("*Permitted Consideration*"); *provided*, *however*, that Comstock and its Restricted Subsidiaries shall be permitted to receive assets and property other than Permitted Consideration, so long as the aggregate Fair Market Value of all such assets and property other than Permitted Consideration received from Asset Sales since the 2009 Notes Issue Date and held by Comstock 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 Comstock or a Restricted Subsidiary may be applied by Comstock or such Restricted Subsidiary, to the extent Comstock or such Restricted Subsidiary elects (or is required by the terms of any Senior Indebtedness of Comstock or a Restricted Subsidiary), to

- prepay, repay, redeem or purchase Senior Indebtedness of Comstock or a Restricted Subsidiary; or
- reinvest in Additional Assets (including by means of an Investment in Additional Assets by a Restricted Subsidiary with Net Available Cash received by Comstock or another Restricted Subsidiary)~~.~~; *provided* that if such Asset Sale includes Oil and Gas Properties or Proved and Probable Drilling Locations, after giving effect to such Asset Sale, Comstock is in compliance with the Collateral requirements in the applicable Convertible Notes Indenture.

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 $10.0 million, Comstock will be required to make an offer (the "*Prepayment Offer*") to all Holders of ~~notes~~the applicable series New Convertible Notes and all Holders of other Indebtedness that is *pari passu* with ~~the notes~~such series of the New Convertible Notes containing provisions similar to those set forth in the applicable Convertible Notes Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of ~~notes~~such New Convertible Notes and such other *pari passu* Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Prepayment Offer will be equal to 100% of principal amount plus accrued and unpaid interest, if any, to the Purchase Date (subject to the right of the Holders of record of the applicable series of New Convertible Notes on the relevant

record date to receive interest due on an interest payment date that is on or prior to the Purchase Date), and will be payable in cash. If the aggregate principal amount of ~~notes~~New Convertible Notes tendered by Holders thereof exceeds the amount of available Excess Proceeds allocated for repurchases of ~~notes~~New Convertible Notes pursuant to the Prepayment Offer for ~~notes~~the applicable series of New Convertible Notes, then such Excess Proceeds will be allocated pro rata according to the principal amount of the ~~notes~~New Convertible Notes tendered and the applicable Convertible Notes Trustee will select the ~~notes~~New Convertible Notes to be purchased in accordance with the applicable Convertible Notes Indenture. 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 ~~notes~~the applicable series of New Convertible Notes have been given the opportunity to tender their ~~notes~~New Convertible Notes for purchase as described in the following paragraph in accordance with the applicable Convertible Notes Indenture, Comstock and its Restricted Subsidiaries may use such remaining amount for purposes permitted by the applicable Convertible Notes Indenture and the amount of Excess Proceeds will be reset to zero.

Within 30 days after the 365th day following the date of an Asset Sale, Comstock shall, if it is obligated to make an offer to purchase the ~~notes~~applicable series New Convertible Notes pursuant to the preceding paragraph, ~~send~~deliver a written Prepayment Offer notice, by first-class mail, to the Holders of the ~~notes~~applicable series New Convertible Notes, with a copy to the applicable Convertible Notes Trustee (the "*Prepayment Offer Notice*"), accompanied by such information regarding Comstock and its Subsidiaries as Comstock believes will enable such Holders of ~~the notes~~such New Convertible Notes to make an informed decision with respect to the Prepayment Offer. The Prepayment Offer Notice will state, among other things:

- that Comstock is offering to purchase ~~notes~~New Convertible Notes pursuant to the provisions of the Convertible Notes Indenture;
- that any ~~note~~New Convertible Note (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;
- that any ~~notes~~New Convertible Note (or portions thereof) not properly tendered will continue to accrue interest;
- 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*");
- the aggregate principal amount of ~~notes~~New Convertible Notes to be purchased;
- a description of the procedure which Holders of ~~notes~~New Convertible Notes must follow in order to tender their ~~notes~~New Convertible Notes and the procedures that Holders of ~~notes~~New Convertible Notes must follow in order to withdraw an election to tender their ~~notes~~New Convertible Notes for payment; and
- all other instructions and materials necessary to enable Holders to tender ~~notes~~New Convertible Notes pursuant to the Prepayment Offer.

Comstock will 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 ~~notes~~New Convertible Notes as described above. To the extent that the provisions of any securities laws or regulations conflict with the provisions relating to the Prepayment Offer, Comstock will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations described above by virtue thereof.

Future Junior Lien Subsidiary Guarantees

If any Restricted Subsidiary that is not already a Subsidiary Guarantor has outstanding or guarantees any other Indebtedness of Comstock or a Subsidiary Guarantor, then in either case that Subsidiary will become a Subsidiary Guarantor by executing (x) a supplemental indenture and delivering it to the applicable Convertible Notes Trustee within 20 business days of the date on which it incurred or guaranteed such Indebtedness, as the case may be; *provided, however*, that the foregoing shall not apply to Subsidiaries of Comstock that have properly been designated as Unrestricted Subsidiaries in accordance with the applicable Convertible Notes Indenture for so long as they continue to constitute Unrestricted Subsidiaries~~.~~, (y) amendments to the Junior Lien Collateral Agreements pursuant to which it will grant a Junior Lien on any Collateral held by it in favor of the Junior Lien Collateral Agent for the benefit of the holders of the New Convertible Notes and the other Convertible Note Obligations, the Convertible Notes Trustees and the Junior Lien Collateral Agent, and become a Collateral Grantor thereunder, and cause such Liens to be perfected as required thereby and (z) deliver to the applicable Convertible Notes Trustee or the Collateral Agent, the Registrar, the Paying Agent or any other agents under the applicable Convertible Note Documents one or more opinions of counsel in connection with the foregoing as specified in the applicable Convertible Notes Indenture.

Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries

Comstock will not, and will 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 pay dividends, in cash or otherwise, or make any other distributions on its Capital Stock, or make payments on any Indebtedness owed, to Comstock or any other Restricted Subsidiary;
- to make loans or advances to Comstock or any other Restricted Subsidiary; or
- to transfer any of its property or assets to Comstock or any other Restricted Subsidiary

(any such restrictions being collectively referred to herein as a "*Payment Restriction*"). However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(1) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of Comstock or any Restricted Subsidiary, or customary restrictions in licenses relating to the property covered thereby and entered into in the ordinary course of business;

(2) any instrument governing Indebtedness of a Person acquired by Comstock 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 or assets of the Person, so acquired, provided that such Indebtedness was not incurred in anticipation of such acquisition;

(3) any instrument governing Indebtedness or Disqualified Capital Stock of a Restricted Subsidiary that is not a Subsidiary Guarantor~~;~~; *provided* that (a) such Indebtedness or Disqualified Capital Stock is permitted under the covenant described in "—Limitation on Indebtedness and Disqualified Capital Stock" and (b) the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the ~~Bank~~Revolving Credit Agreement and the ~~Indenture~~Convertible Notes Indentures as in effect on the Issue Date;

(4) the ~~Bank~~Revolving Credit Agreement as in effect on the Issue Date or any agreement that amends, modifies, supplements, restates, extends, renews, refinances or replaces the

~~Bank~~Revolving Credit Agreement~~;~~; *provided* that the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the ~~Bank~~Revolving Credit Agreement as in effect on the Issue Date;

(5) the Senior Secured Notes Indenture, the ~~notes~~New Senior Secured Notes and the ~~Subsidiary Guarantees; or (6) the indenture governing Comstock's existing 8 3/8% Senior Notes due 2017, 7 3/4% Senior Notes due 2019 and any~~ subsidiary guarantees thereof; or

(6) the Convertible Notes Indentures, the New Convertible Notes and any Junior Lien Subsidiary Guarantees, in each case as in effect on the Issue Date.

Limitation on Sale and Leaseback Transactions

Comstock will not, and will not permit any of its Restricted Subsidiaries to, enter into any Sale/ Leaseback Transaction unless (1) Comstock 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 (2) Comstock or such Restricted Subsidiary receives proceeds from such Sale/ Leaseback Transaction at least equal to the Fair Market Value thereof 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.

Change of Control

~~Upon~~Each Convertible Notes Indenture will provide that upon the occurrence of a Change of Control, Comstock shall be obligated to make an offer to purchase all of the then outstanding ~~notes~~New Convertible Notes under the applicable series (a "*Change of Control Offer*"), and shall purchase, on a business day (the "*Change of Control Purchase Date*") not more than 60 nor less than 30 days following such Change of Control, all of the then outstanding ~~notes~~New Convertible Notes under the applicable series validly tendered pursuant to such Change of Control Offer, at a purchase price (the "*Change of Control Purchase Price*") equal to 101% of the principal amount thereof plus accrued and unpaid interest to the Change of Control Purchase Date (subject to the right of Holders of record on the relevant record date to receive interest due on an interest payment date that is on or prior to the Change of Control Purchase Date). 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.

In order to effect a Change of Control Offer, Comstock shall, not later than the 30th day after the occurrence of a Change of Control, give to the applicable Convertible Notes Trustee and each applicable Holder a notice of the Change of Control Offer, which notice shall govern the terms of the Change of Control Offer and shall state, among other things, the procedures that Holders must follow to accept the Change of Control Offer.

~~The Bank Credit Agreement contains, and any future credit agreements or other agreements relating to Senior Indebtedness or other obligations of Comstock may contain, prohibitions or restrictions on Comstock's ability to effect a Change of Control Offer. In the event a Change of Control occurs at a time when such prohibitions or restrictions are in effect, Comstock could seek the consent of its lenders to the repurchase of notes or could attempt to refinance the borrowings or renegotiate the agreements that contain such prohibitions. If Comstock does not obtain such a consent or repay such borrowings or change such agreements, Comstock will be effectively prohibited from repurchasing notes. Failure by Comstock to purchase the notes when required would result in an Event of Default. See "—Events of Default." There can be no assurance that Comstock would have adequate resources to repay or refinance all Indebtedness and other obligations owing under the Bank Credit Agreement and such other agreements and to fund the purchase of the notes upon a Change of Control.~~

Comstock will not be required to make a Change of Control Offer upon a Change of Control 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 set forth in the Convertible Notes Indenture applicable to a Change of Control Offer to be made by Comstock and purchases all ~~notes~~related New Convertible Notes validly tendered and not withdrawn under such Change of Control Offer.

If ~~holders~~Holders of not less than 90% in aggregate principal amount of the outstanding ~~notes~~New Convertible Notes under the applicable series validly tender and do not withdraw such ~~notes~~New Convertible Notes in a Change of Control Offer and Comstock, or any third party making a Change of Control Offer in lieu of Comstock as described above, purchases all of the ~~notes~~New Convertible Notes validly tendered and not withdrawn by such ~~holders~~Holders, Comstock will have the right, upon not less than 30 nor more than 60 days' prior notice, given not more than 30 days following such purchase pursuant to the Change of Control Offer described above, to redeem all ~~notes~~New Convertible Notes that remain outstanding following such purchase at a redemption price in cash equal to the applicable Change of Control Purchase Price plus, to the extent not included in the Change of Control Purchase Price, accrued and unpaid interest, if any, to the date of redemption.

The definition of Change of Control includes a phrase relating to the disposition of "all or substantially all" of the properties and assets of Comstock and its Restricted Subsidiaries, taken as a whole. Although there is a ~~developing~~limited body of case law interpreting the phrase "substantially all," there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a Holder of ~~the notes~~New Convertible Notes to require Comstock to ~~purchase such notes~~repurchase its New Convertible Notes as a result of a disposition of less than all of the properties and assets of Comstock and its Restricted Subsidiaries, taken as a whole, to another Person may be uncertain.

Comstock intends to comply with Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder, if applicable, in the event that a Change of Control occurs and Comstock is required to purchase notes as described above. The ~~existence of a Holder's right to require, subject to certain conditions, Comstock to repurchase its notes upon a Change of Control may deter a third party from acquiring Comstock in a transaction that constitutes, or results in, a Change of Control~~Change of Control provisions of the New Convertible Notes may, in certain circumstances, make more difficult or discourage a sale or takeover of Comstock and, thus, the removal of incumbent management. Subject to the limitations discussed below, Comstock could, in the future, enter into certain transactions, including acquisitions, refinancings or other recapitalizations, that would not constitute a Change of Control under the applicable Convertible Notes Indenture, but that could increase the amount of Indebtedness outstanding at such time or otherwise affect Comstock's capital structure or credit ratings. Restrictions on Comstock's ability to Incur additional Indebtedness are contained in the covenants described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" and "—Certain Covenants—Limitation on Restricted Payments." Such restrictions in the applicable Convertible Notes Indenture can be waived only with the consent of Holders of a majority in principal amount of the applicable series of New Convertible Notes then outstanding. Except for the limitations contained in such covenants, however, the Convertible Notes Indentures will not contain any covenants or provisions that may afford Holders of the New Convertible Notes protection in the event of a highly leveraged transaction.

Comstock's ability to repurchase the New Convertible Notes pursuant to the Change of Control Offer may be limited by a number of factors. The ability of Comstock to pay cash to the Holders of the New Convertible Notes following the occurrence of a Change of Control may be limited by Comstock's and the Restricted Subsidiaries' then existing financial resources, and sufficient funds may not be available when necessary to make any required repurchases. See "Risk Factors—Risks Related to the Exchange Offer and Holding the New Notes—Risks Related to Holding the New Notes—We may not have the ability to purchase the new notes upon a change of control or upon certain sales or other dispositions of assets, or to make the cash payment due upon conversion or at maturity."

The Revolving Credit Agreement and the Senior Secured Notes Indenture contain, and future agreements governing Indebtedness of Comstock or its Subsidiaries may contain prohibitions of certain events, including

events that would constitute a Change of Control and including repurchases or other prepayments in respect of the New Convertible Notes. The exercise by the Holders of New Convertible Notes of their right to require Comstock to repurchase the New Convertible Notes upon a Change of Control could cause a default under these other agreements, even if the Change of Control itself does not, due to the financial effect of such repurchases on Comstock or its Subsidiaries. In the event a Change of Control occurs at a time when Comstock is prohibited from purchasing or redeeming New Convertible Notes, Comstock could seek the consent of its other applicable debt holders or lenders to purchase the New Convertible Notes or could attempt to refinance the borrowings that contain such prohibition. If Comstock does not obtain a consent or repay those borrowings, Comstock will remain prohibited from purchasing New Convertible Notes. In that case, Comstock's failure to purchase tendered New Convertible Notes would constitute an Event of Default under the Convertible Notes Indentures, which could, in turn, constitute a default under other Indebtedness of Comstock.

Reports

~~The~~Each Convertible Notes Indenture will provide that, whether or not Comstock is subject to the reporting requirements of Section 13 or Section 15(d) of the Exchange Act, to the extent not prohibited by the Exchange Act, Comstock will file with the Commission, and make available to the ~~Trustee~~Convertible Notes Trustees and the ~~holders~~Holders of the ~~notes~~New Convertible Notes without cost to any ~~holder~~Holder, the annual reports and the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) that are specified in Sections 13 and 15(d) of the Exchange Act and applicable to a U.S. corporation within the time periods specified therein with respect to an accelerated filer. In the event that Comstock is not permitted to file such reports, documents and information with the Commission pursuant to the Exchange Act, Comstock will nevertheless make available such Exchange Act information to the ~~Trustee~~Convertible Notes Trustees and the ~~holders~~Holders of the ~~notes~~New Convertible Notes without cost to any ~~holder~~Holder as if Comstock were subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act within the time periods specified therein with respect to a non-accelerated filer.

If Comstock has designated any of its Subsidiaries as Unrestricted Subsidiaries, then, to the extent material, the quarterly and annual financial information required by the preceding paragraph will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of Comstock and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of Comstock.

The availability of the foregoing materials on the Commission's website or on Comstock's website shall be deemed to satisfy the foregoing delivery obligations.

Each New Convertible Notes Indenture will also provide that Comstock will deliver all reports and other information required to be delivered under the TIA within the time periods set forth in the TIA.

Future Designation of Restricted and Unrestricted Subsidiaries

The foregoing covenants (including calculation of financial ratios and the determination of limitations on the incurrence of Indebtedness and Liens) may be affected by the designation by Comstock of any existing or future Subsidiary of Comstock as an Unrestricted Subsidiary. The definition of "Unrestricted Subsidiary" set forth under ~~the caption~~ "—Certain Definitions" describes the circumstances under which a Subsidiary of Comstock may be designated as an Unrestricted Subsidiary by the Board of Directors of Comstock.

Merger, Consolidation and Sale of Assets

Comstock will not, in any single transaction or 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 of the properties and assets of Comstock and its Restricted Subsidiaries on a consolidated basis to any Person or group of Affiliated Persons, and Comstock will 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 the sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the properties and assets of Comstock and its Restricted Subsidiaries on a consolidated basis to any other Person or group of Affiliated Persons, unless at the time and after giving effect thereto:

(1) either (a) if the transaction is a merger or consolidation, Comstock shall be the surviving Person of such merger or consolidation, or (b) the Person (if other than Comstock) formed by such consolidation or into which Comstock is merged or to which the properties and assets of Comstock 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 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 a supplemental indenture to the applicable Convertible Notes Indenture executed and delivered to the applicable Convertible Notes Trustee, in form satisfactory to ~~the Trustee~~such Convertible Notes Trustee, or pursuant to agreements reasonably satisfactory to such Convertible Notes Trustee or the Junior Lien Collateral Agent, as applicable, all the obligations of Comstock under the ~~notes and the Indenture, and, in each case, the Indenture~~applicable series of New Convertible Notes, the applicable Convertible Notes Indenture and the other Convertible Note Documents to which Comstock is a party, and, in each case, such Convertible Note Documents shall remain in full force and effect;

(2) 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 Comstock or any of its Restricted Subsidiaries which becomes an obligation of Comstock or any of its Restricted Subsidiaries in connection with or as a result of such transaction as having been incurred at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(3) except in the case of the consolidation or merger of any Restricted Subsidiary with or into Comstock or another Restricted Subsidiary, either:

(a) 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 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), Comstock (or the Surviving Entity if Comstock is not the continuing obligor under the applicable Convertible Notes Indenture) could incur $1.00 of additional Indebtedness in accordance with the Fixed Charge Coverage Ratio test set forth in the first paragraph of the "—Limitation on Indebtedness and Disqualified Capital Stock" covenant; or

(b) 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 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 Fixed Charge Coverage Ratio of Comstock (or the Surviving Entity if Comstock is not the continuing obligor under the applicable Convertible Notes Indenture) will be equal to or greater than the Fixed Charge Coverage Ratio of Comstock immediately before such transaction or transactions;

(4) if Comstock is not the continuing obligor under the applicable Convertible Notes Indenture, then each Subsidiary Guarantor, unless it is the Surviving Entity, shall have by supplemental indenture to the applicable Convertible Notes Indenture confirmed that its Junior Lien Subsidiary Guarantee of the ~~notes~~applicable series of New Convertible Notes shall apply to the Surviving Entity's obligations under ~~the~~such Convertible Notes Indenture and ~~the notes~~such New Convertible Notes;

(5) ~~if any of the properties or assets of Comstock 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 and imposition of such Lien shall have been in compliance with the "Limitation on Liens" covenant; and~~ any Collateral owned by or transferred to the Surviving Entity shall (a) continue to constitute Collateral under the applicable Convertible Notes Indenture and the Junior Lien Collateral Agreements and (b) be subject to a Junior Lien in favor of the Junior Lien Collateral Agent for the benefit of the holders of the Junior Lien Note Obligations, the applicable Convertible Notes Trustee and the Junior Lien Collateral Agent;

(6) the Surviving Entity shall take such action (or agree to take such action) as may be reasonably necessary to cause any property or assets that constitute Collateral owned by or transferred to the Surviving Entity to be subject to the Junior Liens in the manner and to the extent required under the Junior Lien Collateral Agreements and shall deliver an opinion of counsel as to the enforceability of any amendments, supplements or other instruments with respect to the Junior Lien Collateral Agreements to be executed, delivered, filed and recorded, as applicable, and such other matters as the Convertible Notes Trustees or Junior Lien Collateral Agent, as applicable, may reasonably request; and

(~~6~~7) Comstock (or the Surviving Entity if Comstock is not the continuing obligor under the applicable Convertible Notes Indenture) shall have delivered to the applicable Convertible Notes Trustee, in form and substance reasonably satisfactory to ~~the~~such Convertible Notes Trustee, an (a) ~~an Officers' Certificate~~officers' certificate and an opinion of counsel each stating that such consolidation, merger, transfer, lease or other disposition and any supplemental indenture in respect thereto comply with the requirements under ~~the~~such Convertible Notes Indenture and (b) an ~~Opinion~~opinion of ~~Counsel stating~~counsel that the requirements of clause (1) of this paragraph have been ~~satisfied~~complied with.

Upon any consolidation or merger or any sale, assignment, lease, conveyance, transfer or other disposition of all or substantially all of the properties and assets of Comstock and its Restricted Subsidiaries on a consolidated basis in accordance with the foregoing, in which Comstock is not the continuing corporation, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of, Comstock under the applicable Convertible Notes Indenture and the other Convertible Note Documents with the same effect as if the Surviving Entity had been named as Comstock therein, and thereafter Comstock, except in the case of a lease, will be discharged from all obligations and covenants under the applicable series of New Convertible Notes, the related Convertible Notes Indenture and the ~~notes~~other Convertible Note Documents and may be liquidated and dissolved.

Events of Default

The following are "Events of Default" under ~~the Indenture~~each of the Convertible Notes Indentures:

(1) default in the payment of the principal of or premium, if any, on any of the ~~notes~~applicable series of New Convertible Notes, 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;

(2) default in the payment of any installment of interest on any of the ~~notes~~applicable series of New Convertible Notes, when due, and the continuance of such default for a period of 30 days;

(3) default in the performance or breach of the provisions of the "Merger, Consolidation and Sale of Assets" section of the applicable Convertible Notes Indenture, the failure to make or consummate a Change of Control Offer in accordance with the provisions of the "Change of Control" covenant or the failure to make or consummate a Prepayment Offer in accordance with the provisions of the "Limitation on Asset Sales" covenant;

(4) Comstock or any Subsidiary Guarantor shall fail to comply with the provisions described under "—Certain Covenants—Reports" for a period of 90 days after written notice of such failure stating that it is a "notice of default" under the applicable Convertible Notes Indenture shall have been given (a) to Comstock by the applicable Convertible Notes Trustee or (y) to Comstock and the applicable Convertible Notes Trustee by the Holders of at least 25% in aggregate principal amount of the ~~notes~~applicable series of New Convertible Notes then outstanding);

(5) Comstock or any Subsidiary Guarantor shall fail to perform or observe any other term, covenant or agreement contained in the ~~notes~~applicable series of New Convertible Notes, any Subsidiary Guarantee or the applicable Convertible Notes Indenture (other than a default specified in (1), (2), (3) or (4) above) for a period of 60 days after written notice of such failure stating that it is a "notice of default" under the applicable Convertible Notes Indenture shall have been given (a) to Comstock by the applicable Convertible Notes Trustee or (b) to Comstock and the applicable Convertible Notes Trustee by the Holders of at least 25% in aggregate principal amount of the ~~notes~~applicable series of New Convertible Notes then outstanding);

(6) the occurrence and continuation beyond any applicable grace period of any default in the payment of the principal of, premium, if any, or interest on any Indebtedness of Comstock (other than the ~~notes~~applicable series New Convertible Notes) or any Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed when due, or any other default resulting in acceleration of any Indebtedness of Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed~~,~~; *provided* that the aggregate principal amount of such Indebtedness, together with the aggregate principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, shall exceed $50.0 million and *provided*, *further*, that if any such default is cured or waived or any such acceleration rescinded, or such Indebtedness is repaid, within a period of 10 days from the continuation of such default beyond the applicable grace period or the occurrence of such acceleration, as the case may be, such Event of Default under the applicable Convertible Notes Indenture and any consequential acceleration of the notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;

(7) any Subsidiary Guarantee shall for any reason cease to be, or be asserted by Comstock or any Subsidiary Guarantor, as applicable, not to be in full force and effect (except pursuant to the release of any such Subsidiary Guarantee in accordance with the applicable Convertible Notes Indenture);

(8) failure by Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary to pay final judgments or orders rendered against Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary aggregating in excess of $50.0 million (net of any amounts covered by insurance with a reputable and creditworthy insurance company that has not disclaimed liability) and either (a) commencement by any creditor of an enforcement proceeding upon such judgment (other than a judgment that is stayed by reason of a 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;

(9) the entry of a decree or order by a court having jurisdiction in the premises (a) for relief in respect of Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or (b) adjudging Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary bankrupt or insolvent, or approving a petition seeking reorganization, arrangement, adjustment or composition of Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary under any applicable federal or state law, or appointing under any such law a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of Comstock or any Subsidiary 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~~

(10) the commencement by Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary of a voluntary case or proceeding under any 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 Comstock or any Subsidiary 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 any 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 Comstock or any Subsidiary 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 Comstock or any Subsidiary 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 Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary in furtherance of any such action;

(11) the occurrence of the following:

(a) except as permitted by the applicable Convertible Note Documents, any Junior Lien Collateral Agreement establishing the Junior Liens ceases for any reason to be

enforceable; *provided* that it will not be an Event of Default under this clause (11)(a) if the sole result of the failure of one or more Junior Lien Collateral Agreements to be fully enforceable is that any Junior Lien purported to be granted under such Junior Lien Collateral Agreements on Collateral, individually or in the aggregate, having a fair market value of not more than $10.0 million, ceases to be an enforceable and perfected second-priority Lien, subject only to the Priority Liens securing the Priority Lien Obligations and subject to Permitted Collateral Liens; *provided, further*, that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of Comstock or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period;

(b) except as permitted by the applicable Convertible Note Documents, any Junior Lien purported to be granted under any Junior Lien Collateral Agreement on Collateral, individually or in the aggregate, having a fair market value in excess of $10.0 million, ceases to be an enforceable and perfected second-priority Lien, subject only to the Priority Liens securing the Priority Lien Obligations and subject to Permitted Collateral Liens; *provided* that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of Comstock or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period; and

(c) Comstock or any other Collateral Grantor, or any Person acting on behalf of any of them, denies or disaffirms, in writing, any obligation of Comstock or any other Collateral Grantor set forth in or arising under any Junior Lien Collateral Agreement establishing Junior Liens; and

(12) the Required Stockholder Approval is not obtained and the Charter Amendment has not become effective, in each case by December 31, 2016, and such failure shall continue for a period of 90 days.

If an Event of Default (other than as specified in clause (9) or (10) above) shall occur and be continuing, the applicable Convertible Notes Trustee, by written notice to Comstock, or the Holders of at least 25% in aggregate principal amount of the ~~notes~~applicable New Convertible Notes then outstanding, by written notice to the applicable Convertible Notes Trustee and Comstock, may~~, and the Trustee upon the request of the Holders of not less than 25% in aggregate principal amount of the notes then outstanding shall,~~ declare the principal of, premium, if any, and accrued and unpaid interest on all of ~~the notes~~such New Convertible Notes due and payable immediately, upon which declaration all amounts payable in respect of ~~the notes~~such New Convertible Notes shall be immediately due and payable. If an Event of Default specified in clause (9) or (10) above occurs and is continuing, then the principal of, premium, if any, and accrued and unpaid interest on all of ~~the notes~~such New Convertible Notes shall become and be immediately due and payable without any declaration, notice or other act on the part of the applicable Convertible Notes Trustee or any Holder of ~~notes~~the applicable series of New Convertible Notes.

After a declaration of acceleration under the applicable Convertible Notes Indenture, but before a judgment or decree for payment of the money due has been obtained by the applicable Convertible Notes Trustee, the Holders of a majority in aggregate principal amount of the applicable series of New Convertible Notes then outstanding ~~notes~~, by written notice to Comstock, the Subsidiary Guarantors and the applicable Convertible Notes Trustee, may rescind and annul such declaration if (1) Comstock or any Subsidiary Guarantor has paid or deposited with the applicable Convertible Notes Trustee a sum sufficient to pay (a) all sums paid or advanced by ~~the~~such Convertible Notes Trustee under the applicable Convertible Notes Indenture and the reasonable compensation, expenses, disbursements and advances of ~~the~~such Convertible Notes Trustee, its agents and counsel, (b) all overdue interest on ~~all notes~~the applicable series of New Convertible Notes, (c) the principal of and premium, if

any, on any ~~notes which~~New Convertible Notes under the applicable series that have become due otherwise than by such declaration of acceleration and interest thereon at the rate borne by ~~the notes~~such New Convertible Notes, and (d) to the extent that payment of such interest is lawful, interest upon overdue interest and overdue principal at the rate borne by ~~the notes~~such New Convertible Notes (without duplication of any amount paid or deposited pursuant to clause (b) or (c)); (2) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and (3) all Events of Default, other than the non-payment of principal of, premium, if any, or interest on the ~~notes~~New Convertible Notes under the applicable series that has become due solely by such declaration of acceleration, have been cured or waived.

No Holder will have any right to institute any proceeding ~~with respect to~~under the applicable Convertible Notes Indenture or any remedy thereunder, unless (i) such Holder has notified the applicable Convertible Notes Trustee of a continuing Event of Default and the Holders of at least 25% in aggregate principal amount of the outstanding ~~notes~~New Convertible Notes under the applicable series have made written request, and offered such ~~reasonable~~ indemnity ~~as the~~satisfactory to the applicable Convertible Notes Trustee ~~may require~~, to ~~the~~such Convertible Notes Trustee to institute such proceeding ~~as Trustee~~ under ~~the notes~~such New Convertible Notes and the related New Convertible Notes Indenture, ~~the~~(ii) such Convertible Notes Trustee has failed to institute such proceeding within 60 days after receipt of such notice and ~~the~~(iii) such Convertible Notes Trustee, within such 60-day period, has not received directions inconsistent with such written request by Holders of a majority in aggregate principal amount of the outstanding ~~notes~~New Convertible Notes under the applicable series. Such limitations will not apply, however, to a suit instituted by the Holder of ~~a note~~any New Convertible Note for the enforcement of the payment of the principal of, premium, if any, or interest on such ~~note~~New Convertible Note on or after the respective due dates expressed in such ~~note~~New Convertible Note.

During the existence of an Event of Default, the applicable Convertible Notes Trustee will be required to exercise such rights and powers vested in it under the applicable Convertible Notes Indenture and use the same degree of care and skill in its exercise thereof as a prudent person would exercise under the circumstances in the conduct of such person's own affairs. Subject to the provisions of the applicable Convertible Notes Indenture relating to the duties of the ~~Trustee~~trustee thereunder, in case an Event of Default shall occur and be continuing, the applicable Convertible Notes Trustee will not be under any obligation to exercise any of its rights or powers under the applicable Convertible Notes Indenture at the request or direction of any of the applicable Holders unless such Holders shall have offered to ~~the~~such Convertible Notes Trustee such ~~reasonable~~ security or indemnity ~~as it may require~~satisfactory to the Convertible Notes Trustee. Subject to certain provisions concerning the rights of ~~the~~such Convertible Notes Trustee, the Holders of a majority in aggregate principal amount of the outstanding ~~notes~~New Convertible Notes under the applicable series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the applicable Convertible Notes Trustee, or exercising any trust or power conferred on ~~the~~such Convertible Notes Trustee under the related Convertible Notes Indenture.

If a Default or an Event of Default occurs and is continuing and is known to the applicable Convertible Notes Trustee, ~~the Trustee~~such trustee shall mail to each applicable Holder notice of the Default or Event of Default within 60 days after the occurrence thereof. Except in the case of a Default or an Event of Default in payment of principal of, premium, if any, or interest on any ~~notes~~New Convertible Notes, the applicable Convertible Notes Trustee may withhold the notice to the applicable Holders ~~of the notes~~ if ~~the Trustee~~such trustee determines in good faith that withholding the notice is in the interest of ~~the~~such Holders ~~of the notes~~.

Each Convertible Notes Indenture will provide that Comstock will be required to furnish to the applicable Convertible Notes Trustee annual statements as to the performance by Comstock of its obligations under the applicable Convertible Notes Indenture and as to any default in such performance. Comstock is also required to notify ~~the~~such Convertible Notes Trustee within 10 days of any Default or Event of Default.

Certain Definitions

"*Act of Junior Lien Debtholders*" means, as to any matter at any time, a direction in writing delivered to the Junior Lien Collateral Agent by or with the written consent of the holders of Convertible Note Obligations representing the Required Junior Lien Debtholders.

"*Acquired Indebtedness*" means Indebtedness of a Person (1) existing at the time such Person becomes a Restricted Subsidiary or (2) assumed in connection with acquisitions of properties or assets 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 or assets from such Person.

"*Additional Assets*" means:

(1) any assets or property (other than cash, Cash Equivalents or securities) used in the Oil and Gas Business or any business ancillary thereto;

(2) 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;

(3) the acquisition from third parties of Capital Stock of a Restricted Subsidiary; or

(4) capital expenditures by Comstock or a Restricted Subsidiary in the Oil and Gas Business.

"*Additional New Senior Secured Notes*" means the additional securities issued under the Senior Secured Notes Indenture solely in connection with the payment of interest in kind on the New Senior Secured Notes.

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

(1) the sum of:

(a) discounted future net revenues from proved oil and gas reserves of Comstock and its Restricted Subsidiaries calculated in accordance with Commission guidelines before any state, federal or foreign income taxes, as estimated by Comstock and confirmed by a nationally recognized firm of independent petroleum engineers in a reserve report prepared as of the end of Comstock'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:

(i) estimated proved oil and gas reserves acquired since such year-end, which reserves were not reflected in such year-end reserve report, and

(ii) 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:

(iii) estimated proved oil and gas reserves produced or disposed of since such year-end, and

(iv) 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 (i) through (iv), such increases and decreases shall be as estimated by Comstock'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~~1)(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 Comstock and its Restricted Subsidiaries to which no proved oil and gas reserves are attributable, based on Comstock's books and records as of a date no earlier than the date of Comstock's latest annual or quarterly financial statements;

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

(d) the greater of (i) the net book value on a date no earlier than the date of Comstock's latest annual or quarterly financial statements and (ii) the appraised value, as estimated by independent appraisers, of other tangible assets (including, without duplication, Investments in unconsolidated Restricted Subsidiaries) of Comstock and its Restricted Subsidiaries, as of the date no earlier than the date of Comstock's latest audited financial statements, minus

(2) the sum of:

(a) Minority Interests;

(b) any net gas balancing liabilities of Comstock and its Restricted Subsidiaries reflected in Comstock's latest audited financial statements;

(c) to the extent included in (1)(a) above, the discounted future net revenues, calculated in accordance with Commission guidelines (utilizing the prices utilized in Comstock's year-end reserve report), attributable to reserves which are required to be delivered to third parties to fully satisfy the obligations of Comstock 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 (1)(a) above, would be necessary to fully satisfy the payment obligations of Comstock 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 Subsidiary Guarantor at any date shall mean the amount by which the fair value of the properties and assets of such Subsidiary 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 Junior Lien Subsidiary Guarantee, of such Subsidiary 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 and the term "Affiliated" shall have the meaning correlative to the foregoing. 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.

"*Agents*" means, collectively, the Priority Collateral Agent, the Junior Lien Collateral Agent and each Convertible Notes Trustee, and "Agent" means any one of them.

"*Asset Sale*" means any sale, issuance, conveyance, transfer, lease or other disposition to any Person other than Comstock or any of its Restricted Subsidiaries (including, without limitation, by means of a Production Payment, net profits interest, overriding royalty interest, sale and leaseback transaction, 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, (ii) all or substantially all of the properties and assets of any division or line of business of Comstock or any of its Restricted Subsidiaries or (iii) any other properties or assets of Comstock 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 properties 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 or assets (including Capital Stock) that is governed by, and made in accordance with, the provisions described under "—Merger, Consolidation and Sale of Assets;" (B) any transfer of properties or assets to an Unrestricted Subsidiary, if permitted under the "Limitation on Restricted Payments" covenant; or (C) any transfer (in a single transaction or a series of related transactions) of properties or assets (including Capital Stock) having a Fair Market Value of less than $25.0 million.

"*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.

"*Authorized Representative*" means (a) in the case of the Revolving Credit Agreement Obligations or the Revolving Credit Agreement Secured Parties, the Revolving Credit Agreement Agent, (b) in the case of the Senior Secured Note Obligations or the Senior Secured Notes Trustee and the holders of the New Senior Secured Notes, the Senior Secured Notes Trustee and (c) in the case of the Convertible Note Obligations and the Holders of the applicable series of New Convertible Notes, the applicable Convertible Notes Trustee.

"*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 Agreement*" means that certain Third Amended and Restated Credit Agreement dated as of November 30, 2010 among Comstock, 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, JP Morgan Chase Bank, N.A. and Union Bank, 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 the covenant described under "Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock") 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.~~ "*Bankruptcy Code*" means Title 11 of the United States Code, as amended.

"*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 (whether real, personal or mixed) that is required to be classified and accounted for as a capital lease obligation under GAAP, and, for the purpose of the applicable Convertible Notes Indenture, the amount of such obligation at any date shall be the capitalized amount thereof at such date, determined in accordance with GAAP. Notwithstanding the foregoing, any lease (whether entered into before or after the date of the applicable Convertible Note Indenture) that would have been classified as an operating lease pursuant to GAAP as in effect on the date of this Indenture will be deemed not to represent a Capitalized Lease Obligation.

"*Cash Equivalents*" means:

(1) 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);

(2) 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 million;

(3) commercial paper with a maturity of 180 days or less issued by a corporation that is not an Affiliate of Comstock and is organized under the laws of any state of the United States or the District of Columbia and rated at least A-1 by S&P or at least P-1 by Moody's;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (1) above entered into with any commercial bank meeting the specifications of clause (2) above;

(5) overnight bank deposits and bankers acceptances at any commercial bank meeting the qualifications specified in clause (2) above;

(6) deposits available for withdrawal on demand with any commercial bank not meeting the qualifications specified in clause (2) above but which is a lending bank under the ~~Bank~~Revolving Credit Agreement, provided all such deposits do not exceed $5.0 million in the aggregate at any one time;

(7) demand and time deposits and certificates of deposit with any commercial bank organized in the United States not meeting the qualifications specified in clause (2) 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

(8) investments in money market or other mutual funds substantially all of whose assets comprise securities of the types described in clauses (1) through (5) above.

"*Change of Control*" means the occurrence of any event or series of events by which:

(1) 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 Comstock;

(2) Comstock consolidates with or merges into another Person or any Person consolidates with, or merges into, Comstock, in any such event pursuant to a transaction in which the outstanding Voting Stock of Comstock is changed into or exchanged for cash, securities or other property, other than any such transaction where (a) the outstanding Voting Stock of Comstock 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 Comstock 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;

(3) Comstock, 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 and assets of Comstock 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 Comstock or a Wholly Owned Restricted Subsidiary);

(4) during any consecutive two-year period, individuals who at the beginning of such period constituted the Board of Directors of Comstock (together with any new directors whose election by such Board of Directors or whose nomination for election by the

stockholders of Comstock 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 Comstock then in office; or

(5) Comstock is liquidated or dissolved.

"*Charter Amendment*" means the amendment of Comstock's restated articles of incorporation to increase the number of shares of Comstock's common stock authorized for issuance in an amount to provide a sufficient number of authorized shares of the Comstock's common stock for the issuance of shares upon conversion of all of the outstanding New Convertible Notes and, to the extent necessary, exercise of all of the warrants.

"*Collateral*" means all property wherever located and whether now owned or at any time acquired after the date of the applicable Convertible Notes Indenture by any Collateral Grantor as to which a Lien is granted under the Junior Lien Collateral Agreements to secure the New Convertible Notes or any Junior Lien Subsidiary Guarantee.

"*Collateral Grantors*" means Comstock and each Subsidiary Guarantor that is party to a Junior Lien Collateral Agreement.

"*Commodity Exchange Act*" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"*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.~~ means the common stock, par value $0.50 per share, of Comstock.

"*Consolidated Exploration Expenses*" means, for any period, exploration expenses of Comstock 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 (1) 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 Comstock 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, to (2) Consolidated Interest Expense for such period; *provided*, *however*, that (i) the Consolidated Fixed Charge Coverage Ratio shall be calculated on a pro forma basis assuming 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 the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" 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 Comstock or any Restricted Subsidiary of any properties or assets outside the ordinary course of business, or any repayment of any principal amount of any Indebtedness of Comstock 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, (ii) 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 the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" 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 Comstock, a fixed or floating rate of interest, shall be computed by applying, at the option of Comstock, either the fixed or floating rate, (iii) 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 the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock" 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, (iv) notwithstanding clauses (ii) and (iii) 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, (v) in making such calculation, Consolidated Interest Expense shall exclude interest attributable to Dollar-Denominated Production Payments, and (vi) if after the first day of the period referred to in clause (1) of this definition Comstock has permanently retired any Indebtedness out of the Net Cash Proceeds of the issuance and sale of shares of Qualified Capital Stock of Comstock 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 Comstock 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 (1) the interest expense of Comstock 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, (2) to the extent any Indebtedness of any Person (other than Comstock or a Restricted Subsidiary) is guaranteed by Comstock 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, (3) 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 Comstock and its Restricted Subsidiaries during such period as determined on a consolidated basis in accordance with GAAP and (4) 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 Comstock and its Restricted Subsidiaries, to the extent such Disqualified Capital Stock is owned by Persons other than Comstock or its Restricted Subsidiaries, less, to the extent included in any of clauses (1) through (4), amortization of capitalized debt issuance costs of Comstock and its Restricted Subsidiaries during such period.

"*Consolidated Net Income*" means, for any period, the consolidated net income (or loss) of Comstock and its Restricted Subsidiaries for such period as determined in accordance with GAAP, adjusted by excluding:

(1) net after-tax extraordinary gains or losses (less all fees and expenses relating thereto);

(2) net after-tax gains or losses (less all fees and expenses relating thereto) attributable to Asset Sales;

(3) the net income (or net loss) of any Person (other than Comstock or any of its Restricted Subsidiaries), in which Comstock 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 Comstock or any of its Restricted Subsidiaries in cash by such other Person during such period (regardless of whether such cash dividends or distributions are attributable to net income (or net loss) of such Person during such period or during any prior period);

(4) 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;

(5) dividends paid in Qualified Capital Stock;

(6) income resulting from transfers of assets received by Comstock or any Restricted Subsidiary from an Unrestricted Subsidiary;

(7) Consolidated Exploration Expenses and any write-downs or impairments of non-current assets; and

(8) the cumulative effect of a change in accounting principles.

~~"*Consolidated Net Worth*" means, at any date, the consolidated stockholders' equity of Comstock and its Restricted Subsidiaries less the amount of such stockholders' equity attributable to Disqualified Capital Stock or treasury stock of Comstock 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 Comstock 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 Comstock and its Restricted Subsidiaries as of any date of determination, the aggregate of all Indebtedness of Comstock and its Restricted Subsidiaries as of such date of determination, on a consolidated basis, determined in accordance with GAAP.~~ *Convertible Note Documents*" means the 2019 Convertible Notes Indenture or the 2020 Convertible Notes Indenture, as the context may require, the Junior Lien Collateral Agreements and any agreement instrument or other document evidencing or governing any Convertible Note Obligations related to the 2019 Convertible Notes Indenture or the 2020 Convertible Notes Indenture, as the context may require.

"*Convertible Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, Comstock or any Subsidiary Guarantor arising under the Convertible Notes Indentures, the New Convertible Notes, the Additional New 2019 Convertible Notes, the Additional New 2020 Convertible Notes, the Junior Lien Subsidiary Guarantees and the Junior Lien Collateral Agreements (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), 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 and fees that accrue after the commencement by or against Comstock or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"*Convertible Notes Indentures*" means, individually or collectively, as the context may require, the 2019 Convertible Notes Indenture and the 2020 Convertible Notes Indenture.

"*Convertible Notes Trustees*" means, individually or collectively, as the context may require, the 2019 Convertible Notes Trustee and the 2020 Convertible Notes Trustee.

"*Daily VWAP*" means for any Trading Day, the per share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page "WLL<equity>VWAP" (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day, up to and including the final closing print (which is indicated by Condition Code "6" in Bloomberg) (or if such volume-weighted average price is unavailable, the market value of one share of Common Stock on such Trading Day, determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by Comstock).

"*Default*" means any event, act or condition that is, or after notice or passage of time or both would become, an Event of Default.

"*Discharge of Priority Lien Obligations*" means the occurrence of all of the following:

(1) termination or expiration of all commitments to extend credit that would constitute Priority Lien Obligations;

(2) payment in full in cash of the principal of and interest, premium (if any) and fees on all Priority Lien Obligations (other than any undrawn letters of credit);

(3) discharge or cash collateralization (at 105% of the aggregate undrawn amount) of all outstanding letters of credit constituting Priority Lien Obligations;

(4) payment in full in cash of obligations in respect of Secured Swap Obligations that are secured by Priority Liens (and, with respect to any particular Secured Swap Obligation, termination of such agreement and payment in full in cash of all obligations thereunder or such other arrangements as have been made by the counterparty thereto (and communicated to the Priority Lien Collateral Agent)); and

(5) payment in full in cash of all other Priority Lien Obligations that are outstanding and unpaid at the time the Priority Lien Obligations are paid in full in cash (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at or prior to such time);

provided that, if, at any time after the Discharge of Priority Lien Obligations has occurred, any Collateral Grantor enters into any Priority Lien Document evidencing a Priority Lien Obligation which incurrence is not prohibited by the applicable Secured Debt Documents, then such Discharge of Priority Lien Obligations shall automatically be deemed not to have occurred for all purposes of the Junior Lien Intercreditor Agreement with respect to such new Priority Lien Obligation (other than with respect to any actions taken as a result of the occurrence of such first Discharge of Priority Lien Obligations), and, from and after the date on which Comstock designates such Indebtedness as a Priority Lien Obligation in accordance with the Junior Lien Intercreditor Agreement, the obligations under such Priority Lien Document shall automatically and without any further action be treated as Priority Lien Obligations for all purposes of the Junior Lien Intercreditor Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth in the Junior Lien Intercreditor Agreement and any Convertible Note Obligations shall be deemed to have been at all times Convertible Note Obligations and at no time Priority Lien Obligations.

"*Discharge of Revolving Credit Agreement Obligations*" means, except to the extent otherwise provided in the Pari Passu Intercreditor Agreement, payment in full, in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) of all Revolving Credit Agreement Obligations and, with respect to letters of credit outstanding under the Revolving Credit Agreement Obligations, delivery of cash collateral or backstop letters of credit in respect thereof in a manner consistent with the Revolving Credit Agreement and otherwise reasonably satisfactory to the Revolving Credit Agreement Agent, and termination of and payment in full in cash of, all Secured Swap Obligations, in each case after or concurrently with the termination of all commitments to extend credit thereunder and the termination of all commitments of the Revolving Credit Agreement Secured Parties under the Revolving Credit Agreement Documents; *provided* that the Discharge of Revolving Credit Agreement Obligations shall not be deemed to have occurred if such payments are made with the proceeds of other Revolving Credit Agreement Obligations that constitute an exchange or replacement for or a refinancing of such Revolving Credit Agreement Obligations.

"*Disinterested Director*" means, with respect to any transaction or series of transactions in respect of which the Board of Directors of Comstock is required to deliver a resolution of the Board of Directors under the applicable Convertible Notes Indenture, a member of the Board of Directors of Comstock 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 Comstock) 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 ~~notes~~applicable series of New Convertible Notes or is redeemable at the option of the Holder thereof at any time prior to such final Stated Maturity of such New Convertible Notes, or is convertible into or exchangeable for debt securities at any time prior to such final Stated Maturity of such New Convertible Notes. For purposes of the covenant described under "—Certain Covenants—Limitation on Indebtedness and Disqualified Capital Stock," 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 Comstock or a Restricted Subsidiary recorded as liabilities in accordance with GAAP, together with all undertakings and obligations in connection therewith.

"*Engineering Report*" means a reserve report as of each December 31 and June 30, as applicable, with respect to all Hydrocarbons attributable to the Oil and Gas Properties of Comstock and the Subsidiary Guarantors prepared by an independent engineering firm of recognized standing in accordance with accepted industry practice and all updates thereto.

"*Equity Interests*" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"*Event of Default*" has the meaning set forth above under the caption "Events of Default."

"*Excess Priority Lien Obligations*" means Obligations constituting Priority Lien Obligations for the principal amount of loans, letters of credit, reimbursement Obligations under the Priority Lien Documents to the extent that such Obligations are in excess of the Priority Lien Cap.

"*Exchange Offer and Consent Solicitation*" means a series of transactions in which Comstock will (i) exchange the New Senior Secured Notes and the New Warrants for the Old Senior Secured Notes, (ii) exchange the New Convertible Notes for the Old Unsecured Notes and (iii) solicit the consent of the holders of the Old Senior Secured Notes and Old Unsecured Notes for certain amendments to the Old Indentures, including amendments to eliminate or amend certain of the restrictive covenants contained in the Old Indentures and release the collateral securing the Old Senior Secured Notes.

"*Exchanged Properties*" means properties or assets used or useful in the Oil and Gas Business received by Comstock or a Restricted Subsidiary in trade or as a portion of the total consideration for other such properties or assets.

"*Excluded Collateral*" means any cash, certificate of deposit, deposit account, money market account or other such liquid assets to the extent that such cash, certificate of deposit, deposit account, money market account or other such liquid assets are on deposit or maintained with the Revolving Credit Agreement Agent or any other Revolving Credit Agreement Secured Party (other than the Priority Lien Collateral Agent, in its capacity as such) to cash collateralize letters of credit constituting Revolving Credit Agreement Obligations or Secured Swap Obligations constituting Revolving Credit Agreement Obligations.

"*Fair Market Value*" means with respect to any asset or property, the sale value that would be obtained in an arm's-length free market transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy. Fair Market Value of an asset or property equal to or in excess of $10.0 million shall be determined by the Board of Directors of Comstock acting in good faith, whose determination shall be conclusive and evidenced by a resolution of such Board of Directors delivered to the applicable Convertible Notes Trustee, and any lesser Fair Market Value may be determined by an officer of Comstock acting in good faith.

"*GAAP*" means generally accepted accounting principles in the United States of America as in effect from time to time. All ratios and computations based on GAAP contained in the applicable Convertible Notes Indenture will be computed in conformity with GAAP.

The term "guarantee" means, as applied to any obligation, (1i) a guarantee (other than by endorsement of negotiable instruments 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.

~~"*Holder*" means a Person in whose name a note is registered in the Note Register.~~ "*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 similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing and any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act), 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.

"*Holder*" means a Person in whose name a New Convertible Note is registered in the Note Register.

"*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.

"*Indebtedness*" means, with respect to any Person, without duplication:

(1) 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 Issue Date 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;

(2) 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;

(3) all obligations of such Person with respect to letters of credit;

(4) 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;

(5) all Capitalized Lease Obligations of such Person;

(6) the Attributable Indebtedness (in excess of any related Capitalized Lease Obligations) related to any Sale/ Leaseback Transaction of such Person;

(7) 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);

(8) 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

(9) 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.

The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Capital Stock or Preferred Stock in the form of additional shares of the same class of Disqualified Capital Stock or Preferred Stock shall be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Capital Stock or Preferred Stock for purposes of this definition. In addition, Disqualified Capital Stock shall be deemed to be Indebtedness.

Subject to clause (8) 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.~~

"*Insolvency or Liquidation Proceeding*" means (a) any voluntary or involuntary case or proceeding under any bankruptcy law with respect to any Collateral Grantor, (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Collateral Grantor or with respect to any of its assets, (c) any liquidation, dissolution, reorganization or winding up of any Collateral Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy (other than any liquidation, dissolution, reorganization or winding up of any Subsidiary of Comstock permitted by the applicable Convertible Note Documents), (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Collateral Grantor or (e) any other proceeding of any type or nature in which substantially all claims of creditors of any Collateral Grantor are determined and any payment or distribution is or may be made on account of such claims.

"*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 by such Person to (by means of any transfer of cash or other property or assets to others or any payment for property, assets 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 Comstock in such Unrestricted Subsidiary at such time. "Investments" shall exclude (1) 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, (2) 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 the "Limitation on Indebtedness and Disqualified Capital Stock" covenant, 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 (3) endorsements of negotiable

instruments and documents in the ordinary course of business. If Comstock or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of Comstock such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of Comstock, Comstock will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of Comstock's Investments in such Restricted Subsidiary that were not sold or disposed of.

"*Issue Date*" means the date of original issuance of the ~~notes~~applicable series of New Convertible Notes.

"*Junior Lien*" means a Lien granted (or purported to be granted) by Comstock or any Subsidiary Guarantor in favor of the Junior Lien Collateral Agent, at any time, upon any assets or property of Comstock or any Subsidiary Guarantor to secure any Convertible Note Obligations.

"*Junior Lien Collateral Agent*" means the collateral agent for all holders of the Convertible Note Obligations. Bank of Montreal will initially serve as the Junior Lien Collateral Agent.

"*Junior Lien Collateral Agreements*" means, collectively, each Junior Lien Mortgage, the Junior Lien Pledge Agreement, the Junior Lien Security Agreement, the Junior Lien Intercreditor Agreement, the Collateral Trust Agreement and each other instrument, including any assignment, security agreement, mortgage, deed of trust, pledge agreement or other security instrument, creating Liens in favor of the Junior Lien Collateral Agent as required by the Convertible Note Documents, including the Junior Lien Intercreditor Agreement or the Collateral Trust Agreement, in each case, as the same may be in effect from time to time.

"*Junior Lien Intercreditor Agreement*" means (i) the Intercreditor Agreement among the Priority Lien Collateral Agent, the Junior Lien Collateral Agent, Comstock, each other Collateral Grantor and the other parties from time to time party thereto, to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Convertible Notes Indentures or the Collateral Trust Agreement, as applicable and (ii) any replacement thereof that contains terms not materially less favorable to the Holders of the New Convertible Notes than the Junior Lien Intercreditor Agreement referred to in clause (i).

"*Junior Lien Mortgage*" means all mortgages, deeds of trust and similar documents, instruments and agreements (and all amendments, modifications and supplements thereof) creating, evidencing, perfecting or otherwise establishing the Liens on Oil and Gas Properties and other related assets to secure payment of the New Convertible Notes and the Junior Lien Subsidiary Guarantees or any part thereof.

"*Junior Lien Pledge Agreement*" means each Pledge Agreement and Irrevocable Proxy to be entered into on the Issue Date in favor of the Junior Lien Collateral Agent for the benefit of the Holders of the New Convertible Notes and the other Convertible Note Obligations, the Convertible Notes Trustees and the Junior Lien Collateral Agent and each other pledge agreement in substantially the same form in favor of the Junior Lien Collateral Agent for the benefit of the Holders of the New Convertible Notes and the other Convertible Note Obligations, the Convertible Notes Trustees and the Junior Lien Collateral Agent delivered in accordance with the Convertible Notes Indentures and the Junior Lien Collateral Agreements.

"*Junior Lien Security Agreement*" means each Pledge Agreement and Irrevocable Proxy dated as of the Issue Date in favor of the Junior Lien Collateral Agent for the benefit of the Holders of the New Convertible Notes and the other Convertible Note Obligations, the Convertible Notes Trustees and the Junior Lien Collateral Agent and each other security agreement in substantially the same form in favor of the Junior Lien Collateral Agent for the benefit of the Holders of the New Convertible Notes and the other Convertible Note Obligations, the Convertible Notes Trustees and the Junior Lien Collateral Agent delivered in accordance with the Convertible Notes Indentures and the Junior Lien Collateral Agreements.

"*Junior Lien Subsidiary Guarantee*" means any guarantee of the New Convertible Notes by any Subsidiary Guarantor in accordance with the provisions described under "—Junior Lien Subsidiary Guarantees of New Convertible Notes" and "—Certain Covenants—Future Junior Lien Subsidiary Guarantees."

"*Lender Provided Hedging Agreement*" means any Hedging Agreement between Comstock or any Subsidiary Guarantor and a Secured Swap Counterparty.

"*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 (1) of an issuer that is not an Affiliate of Comstock, (2) that are publicly traded on the New York Stock Exchange, the American Stock Exchange or the Nasdaq Stock Market and (3) as to which Comstock 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 (1), (2) and (3) 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 Comstock or a Restricted Subsidiary received the securities was in compliance with the provisions of the Convertible Notes Indenture described under "—Certain Covenants —Limitation on Asset Sales," 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 Comstock and its Restricted Subsidiaries, calculated in accordance with clause (1)(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 Comstock'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 and assets during such quarter that were disposed of in compliance with the provisions of the applicable Convertible Notes Indenture described under "—Certain Covenants—Limitation on Asset Sales."

~~"*Maturity*" means, with respect to any note, the date on which any principal of such note becomes due and payable as therein or in the Indenture provided, whether at the Stated Maturity with respect to such principal or by declaration of acceleration, call for redemption or purchase or otherwise.~~

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

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

"*Mortgaged Properties*" means any property owned by a Collateral Grantor that is subject to the Liens existing and to exist under the terms of the Junior Lien Mortgages.

"*Net Available Cash*" from an Asset Sale or Sale/ Leaseback Transaction means cash proceeds received therefrom (including (1) 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 (2) 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 assets or 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 (1) and (2)), in each case net of (i) 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, (ii) all payments made on any Indebtedness (but specifically excluding Indebtedness of Comstock 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, (iii) 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 (iv)~~(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 Comstock 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 (1) all current assets of Comstock and its Restricted Subsidiaries, less (2) all current liabilities of Comstock and its Restricted Subsidiaries, except current liabilities included in Indebtedness, in each case as set forth in consolidated financial statements of Comstock prepared in accordance with GAAP.

"*New Convertible Notes*" means, individually or collectively, as the context may require, the New 2019 Convertible Notes and the New 2020 Convertible Notes.

"*New Senior Secured Notes*" means Comstock's 10.0% Senior Secured Toggle Notes due 2020. Unless the context otherwise requires, all references to the New Senior Secured Notes shall include the Additional New Senior Secured Notes.

"*New Warrants*" means the warrants issued to the holders of the Old Senior Secured Notes in the Exchange Offer and Consent Solicitation that are exercisable for shares of the Company's common stock.

"*Non-Recourse Indebtedness*" means Indebtedness or that portion of Indebtedness of Comstock or any Restricted Subsidiary incurred in connection with the acquisition by Comstock or such Restricted Subsidiary of any property or assets and as to which (i) the holders of such Indebtedness agree that they will look solely to the property or assets so acquired and securing such Indebtedness for payment on or in respect of such Indebtedness, and neither Comstock 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 Comstock 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.

"*Note Register*" means the register maintained by or for Comstock in which Comstock shall provide for the registration of the ~~notes~~applicable series of New Convertible Notes and the transfer of ~~the notes~~such New Convertible Notes.

"*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.

"*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.

"*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, rightsofway, easements and servitudes together with all additions, substitutions, replacements, accessions and attachments to any and all of the foregoing.

"*Old Indentures*" means (i) the Indenture, dated as of October 9, 2009 (the "*Base Indenture*"), among Comstock, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, as amended and supplemented by the Third Supplemental Indenture, dated as of March 14, 2011, among Comstock, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to Comstock's 7¾% Senior Notes due 2019, (ii) the Base Indenture, as amended and supplemented by the Fourth Supplemental Indenture, dated as of June 5, 2012, among Comstock, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to Comstock's 9½% Senior Notes due 2020 and (iii) the Indenture, dated as of March 13, 2015, among Comstock, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to Comstock's Old Senior Secured Notes.

"*Old Senior Secured Notes*" means Comstock's 10% Senior Secured Notes due 2020.

"*Old Unsecured Notes*" means, collectively, Comstock's 7¾% Senior Notes due 2019 and 9½% Senior Notes due 2020.

"*Permitted Collateral Liens*" means Liens described in clauses (1), (2), (5), (6), (7), (8), (9), (10), (11), (13), (18), (19), (20), (21), (22), (23) and (24) of the definition of "Permitted Liens" that, by operation of law, have priority over the Liens securing the New Convertible Notes and the Junior Lien Subsidiary Guarantees.

"*Permitted Investments*" means any of the following:

(1) Investments in Cash Equivalents;

(2) Investments in property, plant and equipment used in the ordinary course of business;

(3) Investments in Comstock or any of its Restricted Subsidiaries;

(4) Investments by Comstock or any of its Restricted Subsidiaries in another Person, if (a) as a result of such Investment (i) such other Person becomes a Restricted Subsidiary or (ii) such other Person is merged or consolidated with or into, or transfers or conveys all or substantially all of its properties and assets to, Comstock or a Restricted Subsidiary and (b) such other Person is primarily engaged in the Oil and Gas Business;

(5) 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;

(6) entry into any hedging arrangements in the ordinary course of business for the purpose of protecting Comstock's or any Restricted Subsidiary's production, purchases and resales against fluctuations in oil or natural gas prices;

(7) entry into any currency exchange contract in the ordinary course of business;

(8) Investments in stock, obligations or securities received in settlement of debts owing to Comstock 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 Comstock or any Restricted Subsidiary, in each case as to debt owing to Comstock or any Restricted Subsidiary that arose in the ordinary course of business of Comstock or any such Restricted Subsidiary;

(9) guarantees of Indebtedness permitted under the "Limitation on Indebtedness and Disqualified Capital Stock" covenant; ~~and~~

(10) investments in Unrestricted Subsidiaries or joint ventures in an aggregate amount not to exceed at any one time outstanding $25,000,000; and

(11~~10~~) other Investments, in an aggregate amount not to exceed at any one time outstanding the greater of (a) $25.0 million and (b) 5% of Adjusted Consolidated Net Tangible Assets.

"*Permitted Liens*" means the following types of Liens:

(1) Liens securing Indebtedness of Comstock ~~or~~and any ~~Restricted Subsidiary that constitutes Priority Credit Facility Debt permitted pursuant to clause (1) of the definition~~

~~of "Permitted Indebtedness";~~Subsidiary Guarantor under the Revolving Credit Agreement in an aggregate principal amount not to exceed $50.0 million at any time outstanding; *provided* that such Liens are subject to the Pari Passu Intercreditor Agreement;

(2) Liens existing as of the Issue Date (excluding Liens securing Indebtedness of Comstock and any Subsidiary Guarantor under the ~~Bank~~Revolving Credit Agreement);

(3) Liens ~~securing the notes or the Subsidiary Guarantees;~~ on any property or assets of Comstock and any Subsidiary Guarantor securing (a) the New 2019 Convertible Notes issued on the Issue Date in this Exchange Offer and Consent Solicitation (and any assumption of obligations guaranteed thereby), the Additional New 2019 Convertible Notes issued in connection with the payment of interest thereon, and the Junior Lien Subsidiary Guarantees in respect thereof and (b) the New 2020 Convertible Notes issued on the Issue Date in this Exchange Offer and Consent Solicitation (and any assumption of obligations guaranteed thereby), the Additional New 2020 Convertible Notes issued in connection with the payment of interest thereon, and the Junior Lien Subsidiary Guarantees in respect thereof;

(4) Liens in favor of Comstock or any Restricted Subsidiary;

(5) 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 Comstock or its Restricted Subsidiaries shall have set aside on its books such reserves as may be required pursuant to GAAP;

(6) 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;

(7) 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);

(8) 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;

(9) 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 Comstock or any of its Restricted Subsidiaries;

(10) any interest or title of a lessor under any capitalized lease or operating lease;

(11) purchase money Liens; *provided*~~, however,~~ that (a) the related purchase money Indebtedness shall not be secured by any property or assets of Comstock or any Restricted Subsidiary other than the property or assets so acquired (including, without limitation, those acquired indirectly through the acquisition of stock or other ownership interests) and any proceeds therefrom, (b) the aggregate principal amount of Indebtedness secured by such Liens it otherwise permitted to be incurred under the applicable Convertible Notes Indenture and does not exceed the cost of the property or assets so acquired and (c) the Liens securing such Indebtedness shall be created within 90 days of such acquisition;

(12) Liens securing obligations under hedging agreements that Comstock 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;

(13) 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;

(14) Liens securing reimbursement obligations with respect to commercial letters of credit which encumber documents and other property or assets relating to such letters of credit and products and proceeds thereof;

(15) Liens encumbering property or assets under construction arising from progress or partial payments by a customer of Comstock or its Restricted Subsidiaries relating to such property or assets;

(16) Liens encumbering deposits made to secure obligations arising from statutory, regulatory, contractual or warranty requirements of Comstock or any of its Restricted Subsidiaries, including rights of offset and set-off;

(17) Liens securing Interest Rate Protection Obligations which Interest Rate Protection Obligations relate to Indebtedness that is secured by Liens otherwise permitted under the applicable Convertible Notes Indenture;

(18) Liens (other than Liens securing Indebtedness) on, or related to, properties or assets to secure all or part of the costs incurred in the ordinary course of business for the exploration, drilling, development or operation thereof;

(19) Liens on pipeline or pipeline facilities which arise by operation of law;

(20) 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;

(21) Liens reserved in oil and gas mineral leases for bonus or rental payments or for compliance with the terms of such leases;

(22) 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, assets or services, and in the aggregate do not materially adversely affect the value of properties and assets of Comstock and the Restricted Subsidiaries, taken as a whole, or materially impair the use of such properties and assets for the purposes for which such properties and assets are held by Comstock or any Restricted Subsidiaries;

(23) Liens securing Non-Recourse Indebtedness; *provided*, *however,* that the related Non- Recourse Indebtedness shall not be secured by any property or assets of Comstock or any Restricted Subsidiary other than the property and assets acquired (including, without limitation, those acquired indirectly through the acquisition of stock or other ownership interests) by Comstock or any Restricted Subsidiary with the proceeds of such Non-Recourse Indebtedness;

(24) Liens on property existing at the time of acquisition thereof by Comstock or any Subsidiary of Comstock and Liens on property or assets 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;

(25) Liens resulting from the deposit of funds or evidences of Indebtedness in trust for the purpose of defeasing Indebtedness of Comstock or any of its Restricted Subsidiaries so long as such deposit and such defeasance are permitted under the covenant described under "—Certain Covenants—Limitation on Restricted Payments;" ~~and~~

(26) Priority Liens to secure the New Senior Secured Notes issued on the Issue Date (and the subsidiary guarantees in respect thereof) and incurred under clause (12) of the definition of "Permitted Indebtedness";

(27) Liens to secure any Permitted Refinancing Indebtedness incurred to renew, refinance, refund, replace, amend, defease or discharge, as a whole or in part, Indebtedness that was previously so secured; *provided* that (a) the new Liens shall be limited to all or part of the same property and assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced and (b) the new Liens have~~Lien has~~ no greater priority relative to the applicable series of New Convertible Notes and the Junior Lien Subsidiary Guarantees, and the holders of the Indebtedness secured by such Liens have no greater intercreditor rights relative to the applicable series of New Convertible Notes and the Junior Lien Subsidiary Guarantees and the Holders thereof, than the original Liens and the related Indebtedness; and

(28) additional Liens of Comstock or any Restricted Subsidiary of Comstock with respect to obligations that do not exceed at any one time outstanding $75,000,000; *provided* that Liens incurred under this clause (28) to secure Additional New Senior Secured Notes incurred under clause (11) of the second paragraph of "—Limitation on Indebtedness and Disqualified Capital Stock" shall be permitted to secure up to $91,875,000 in face amount of Additional New Senior Secured Notes issued under the Senior Secured Notes Indenture.

~~(28) additional Liens incurred in the ordinary course of business of Comstock or any Restricted Subsidiary of Comstock with respect to obligations that do not exceed at any one time outstanding the greater of (a) $75.0 million or (b) 5% of Adjusted Consolidated Net Tangible Assets.~~

Notwithstanding anything in clauses (1) through (~~25~~28) of this definition, the term "Permitted Liens" does 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 or assets that are subject thereto.

"*Permitted Refinancing Indebtedness*" means Indebtedness of Comstock 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 Comstock or any Restricted Subsidiary,; *provided* that (1) if the Indebtedness (including the ~~notes~~New Convertible Notes) being renewed, extended, refinanced, refunded or repurchased is *pari passu* with or subordinated in right of payment to either the ~~notes~~New Convertible Notes or the Junior Lien Subsidiary Guarantees, then such Indebtedness is *pari passu* with or subordinated in right of payment to the ~~notes~~New Convertible Notes or the Junior Lien Subsidiary Guarantees, as the case may be, at least to the same extent as the Indebtedness being renewed, extended, refinanced, refunded or repurchased, (2) 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~~, (3) if the Company or a Subsidiary Guarantor is the issuer of, or otherwise an obligor in respect of the Indebtedness being renewed, refinanced, refunded or repurchased, such Permitted Refinancing Indebtedness is not Incurred by any Restricted Subsidiary that is not the Company or a Subsidiary Guarantor, (~~3~~4) 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 and (~~4~~5) if the Indebtedness being renewed, extended, refinanced, refunded or repurchased by its terms provides that interest is payable only in kind, then such Indebtedness may not permit the payment of scheduled interest in cash; *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 or 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 Comstock as necessary to accomplish such renewal, extension, refinancing, refunding or repurchase, plus the amount of reasonable fees and expenses incurred by Comstock 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.

~~"*Priority Credit Facility Debt*" means, collectively, (1) Indebtedness of Comstock or any Restricted Subsidiary (including, without limitation, Indebtedness under the Bank Credit Agreement) secured by Liens not otherwise permitted under any of clauses (2) through (25), inclusive, of the definition of "Permitted Liens," and (2) other Indebtedness or Disqualified Capital Stock of any Restricted Subsidiary that is not a Subsidiary Guarantor. For purposes of clause (1) 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 Agreement 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."~~

"*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 Issue Date, including, without limitation, all classes and series of preferred or preference stock of such Person.

~~"*Production Payments*" means, collectively, Dollar-Denominated Production Payments and Volumetric Production Payments.~~ "*Priority Lien*" means a Lien granted (or purported to be granted) by Comstock or any Subsidiary Guarantor in favor of the Priority Lien Collateral Agent, at any time, upon any assets or property of Comstock or any Subsidiary Guarantor to secure any Priority Lien Obligations.

"*Priority Lien Cap*" means, as of any date, (a) the principal amount of Priority Lien Obligations (including any interest paid-in-kind) that may be incurred as "Permitted Indebtedness" as of such date, plus (b) the amount of all Secured Swap Obligations, to the extent such Secured Swap Obligations are secured by the Priority Liens, plus (c) the amount of accrued and unpaid interest (excluding any interest paid-in-kind) and outstanding fees, to the extent such Obligations are secured by the Priority Liens. For purposes of this definition, all letters of credit will be valued at the face amount thereof, whether or not drawn.

"*Priority Lien Collateral Agent*" means the Revolving Credit Agreement Agent, or if the Revolving Credit Agreement ceases to exist, on the Junior Lien Intercreditor Agreement the collateral agent or other representative of the holders of the New Senior Secured Notes designated pursuant to the terms of the Priority Lien Documents and the Junior Lien Intercreditor Agreement.

"*Priority Lien Collateral Agreements*" means, collectively, each mortgage, pledge agreement, security agreement, instrument, assignment, deed of trust or other security instrument creating Priority Liens in favor of the Priority Lien Collateral Agent as required by the Revolving Credit Agreement, the Senior Secured Notes Indenture, the Priority Lien Intercreditor Agreements, in each case, as the same may be in effect from time to time.

"*Priority Lien Documents*" means, collectively, the Revolving Credit Agreement Documents and the Senior Secured Note Documents.

"*Priority Lien Excluded Collateral*" has the meaning set forth in the Priority Lien Intercreditor Agreement.

"*Priority Lien Intercreditor Agreement*" means (i) the Amended and Restated Priority Lien Intercreditor Agreement, among the Priority Lien Collateral Agent, Senior Secured Notes Trustee, the Revolving Credit Agreement Agent, Comstock, each other Collateral Grantor, the other parties from time to time party thereto, and American Stock Transfer & Trust Company, LLC in its capacity as the successor trustee under the Old Senior Secured Notes to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Priority Lien Documents and (ii) any replacement thereof.

"*Priority Lien Obligations*" means, collectively, (a) the Revolving Credit Agreement Obligations and (b) the Senior Secured Note Obligations, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding.

"*Priority Lien Security Documents*" means, collectively, the Revolving Credit Agreement Documents and the Senior Secured Note Documents.

"*Production Payments*" means, collectively, Dollar-Denominated Production Payments and Volumetric Production Payments.

"*Proved and Probable Drilling Locations*" means all drilling locations of the Collateral Grantors located in the Haynesville and Bossier shale acreage in the States of Louisiana and Texas that are Proved Reserves or classified, in accordance with the Petroleum Industry Standards, as "Probable Reserves."

~~"*Public Equity Offering*" means an offer and sale of Common Stock (other than Disqualified Stock) of Comstock 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 Comstock).~~ "*Proved Reserves*" means those Hydrocarbons that have been estimated with reasonable certainty, as demonstrated by geological and engineering data, to be economically recoverable from the Oil and Gas Properties by existing producing methods under existing economic conditions.

"*Qualified Capital Stock*" of any Person means any and all Capital Stock of such Person other than Disqualified Capital Stock.

"*Registration Rights Agreement*" means the Registration Rights Agreement substantially in the form attached to each of the Convertible Notes Indentures.

"*Relevant Stock Exchange*" means The New York Stock Exchange or, if the Common Stock (or other security for which a Daily VWAP must be determined) is not then listed on The New York Stock Exchange, the principal other U.S. national or regional securities exchange on which the Common Stock (or such other security) is then listed.

"*Required Junior Lien Debtholders*" means, at any time, the holders of a majority in aggregate principal amount of all Convertible Note Obligations then outstanding, calculated in accordance with the provisions described above under the caption "—Collateral Trust Agreement—Voting". For purposes of this definition, Convertible Note Obligations registered in the name of, or beneficially owned by, Comstock or any Affiliate of Comstock will be deemed not to be outstanding.

"*Required Stockholder Approval*" means the approval by (1) a majority of the issued and outstanding shares of common stock of the amendment to Comstock's restated articles of incorporation to increase the number of shares of Common Stock authorized for issuance in an amount to provide a sufficient number of authorized shares of Common Stock for the issuance of shares upon conversion of the New Convertible Notes and, to the extent necessary, exercise of the New Warrants and (2) a majority of the shares of Common Stock represented at the special meeting and entitled to vote on the issuance of the maximum number of shares of Common Stock that would be issued upon conversion of all of the outstanding New Convertible Notes and, to the extent necessary, exercise of all of the New Warrants.

"*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 Comstock, whether existing on or after the Issue Date, unless such Subsidiary of Comstock is an Unrestricted Subsidiary or is designated as an Unrestricted Subsidiary pursuant to the terms of the Convertible Notes Indenture.

~~"*S&P*" means Standard and Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., or any successor to the rating agency business thereof.~~ "*Revolving Credit Agreement*" means that certain Credit Agreement, dated as of March 4, 2015, among Comstock, the lenders from time to time party thereto and the Revolving Credit Agreement Agent, as amended, restated, modified, renewed, refunded, replaced or refinanced, from time to time.

"*Revolving Credit Agreement Agent*" means Bank of Montreal (or other agent designated in the Revolving Credit Agreement), together with its successors and permitted assigns in such capacity.

"*Revolving Credit Agreement Documents*" means the Revolving Credit Agreement and any other Loan Documents (as defined in the Revolving Credit Agreement).

"*Revolving Credit Agreement Obligations*" means, collectively, (a) the Obligations (as defined in the Revolving Credit Agreement) of Comstock and the Subsidiary Guarantors under the Revolving Credit Agreement Documents, in an aggregate principal amount for all such Obligations not to exceed $50,000,000, plus interest and all fees, costs, charges, penalties and expenses, including legal fees and expenses to the extent authorized under the Revolving Credit Agreement Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding, and (b) the Secured Swap Obligations.

"*Revolving Credit Agreement Secured Parties*" means, collectively, the Lenders (as defined in the Revolving Credit Agreement), the Secured Swap Counterparties and the Revolving Credit Agreement Agent.

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

"*Sale/ Leaseback Transaction*" means, with respect to Comstock or any of its Restricted Subsidiaries, any arrangement with any Person providing for the leasing by Comstock or any of its Restricted Subsidiaries of any principal property, whereby such property has been or is to be sold or transferred by Comstock or any of its Restricted Subsidiaries to such Person.

"*Secured Debt*" means, collectively, the Priority Lien Obligations and the Convertible Note Obligations.

"*Secured Debt Documents*" means, collectively, the Priority Lien Documents and the Convertible Note Documents.

"*Secured Swap Counterparty*" means, with respect to a Lender Provided Hedging Agreement, a counterparty that at the time such Hedging Agreement is entered into is a Lender (as defined in the Revolving Credit Agreement) or an Affiliate of a Lender (including a Hedging Agreement in existence prior to the date hereof or prior to such Person or its Affiliate becoming a Lender); *provided* that, for the avoidance of doubt, the term "Lender Provided Hedging Agreement" shall not include any Hedging Agreement or transactions under any Hedging Agreement entered into after the time that such counterparty ceases to be a Lender or an Affiliate of a Lender.

"*Secured Swap Obligations*" means all obligations of Comstock or any Subsidiary Guarantor under any Lender Provided Hedging Agreement.

"*Security Documents*" means, collectively the Priority Lien Collateral Agreements and the Junior Lien Collateral Agreements.

"*Senior Indebtedness*" means any Indebtedness of Comstock or a Restricted Subsidiary (whether outstanding on the date hereof or hereinafter incurred), unless such Indebtedness is Subordinated Indebtedness.

"*Senior Secured Note Documents*" means the Senior Secured Note Indenture, the Priority Lien Collateral Agreements and any agreement, instrument or other document evidencing or governing the Senior Secured Note Obligations.

"*Senior Secured Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, Comstock or any Subsidiary Guarantor arising under the Senior Secured Notes Indenture, the New Senior Secured Notes, the Additional New Senior Secured Notes, the subsidiary guarantees thereof and the other Senior Secured Note Documents (as defined in the Senior Secured Notes Indenture) (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), 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 and fees that accrue after the commencement by or against Comstock or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"*Senior Secured Notes Indenture*" means the Indenture, dated as of , 2016, by and among Comstock, as issuer, the Subsidiary Guarantors and American Stock Transfer & Trust Company, LLC, as successor trustee, relating to the New Senior Secured Notes.

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

"*Subordinated Indebtedness*" means Indebtedness of Comstock or a Subsidiary Guarantor which is expressly subordinated in right of payment to the ~~notes~~New Junior Secured Notes or the Junior Lien Subsidiary Guarantees, as the case may be.

"*Subsidiary*" means, with respect to any Person, (1) a corporation a majority of whose Voting Stock is at the time owned, directly or indirectly, by such Person, by one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person, or (2) any other Person (other than a corporation), including, without limitation, a joint venture, in which such Person, one or more Subsidiaries of such Person or such Person and one or more Subsidiaries of such Person have, directly or indirectly, at the date of determination thereof, at least majority ownership interest entitled to vote in the election of directors, managers or trustees thereof (or other Person performing similar functions).

"*Subsidiary ~~Guarantee~~*" ~~means any guarantee of the notes by any Subsidiary Guarantor in accordance with the provisions described under "—Subsidiary Guarantees of Notes" and "—Certain Covenants—Limitation on Guarantees by Restricted Subsidiaries."~~ "*~~Subsidiary Guarantor~~ Guarantor*" means (1) Comstock Oil & Gas, LP, (2) Comstock Oil & Gas—Louisiana, LLC, (3) Comstock Oil & Gas GP, LLC, (4) Comstock Oil & Gas Investments, LLC, (5) Comstock Oil & Gas Holdings, Inc., (6) each of Comstock's other Restricted Subsidiaries, if any, executing a supplemental indenture in which such Subsidiary agrees to be bound by the terms of the applicable Convertible Notes Indenture and (7) any Person that becomes a successor guarantor of the ~~notes~~applicable series of New Convertible Notes in compliance with the provisions described under "—Junior Lien Subsidiary Guarantees of New Convertible Notes" and "Certain Covenants~~—Limitation on~~Future Junior Lien Subsidiary Guarantees ~~by Restricted Subsidiaries~~."

~~*"2009 Notes Issue Date"* means October 9, 2009.~~

"*Swap Obligation*" means, with respect to any Subsidiary Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1(a)(47) of the Commodity Exchange Act.

"*Threshold Price*" means, initially, $12.32. The Threshold Price is subject to adjustment in inverse proportion to the adjustments to the Conversion Rate pursuant to the terms of the applicable Convertible Notes Indenture.

"*Trading Day*" means a day on which:

(i) trading in the Common Stock (or other security for which a Daily VWAP must be determined) generally occurs on the Relevant Stock Exchange or, if the Common Stock (or such other security) is not then listed on the Relevant Stock Exchange, on the principal other market on which the Common Stock (or such other security) is then traded; and

(ii) a Daily VWAP for the Common Stock (or other security for which a Daily VWAP must be determined) is available on such securities exchange or market;

provided that if the Common Stock (or other security for which a Daily VWAP must be determined) is not so listed or traded, "Trading Day" means a business day.

"*Unrestricted Subsidiary*" means (1) any Subsidiary of Comstock that at the time of determination will be designated an Unrestricted Subsidiary by the Board of Directors of Comstock as provided below and (2) any Subsidiary of an Unrestricted Subsidiary. The Board of Directors of Comstock may designate any Subsidiary of Comstock as an Unrestricted Subsidiary so long as (a) neither Comstock 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 Comstock 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 the "Limitation on Restricted Payments" covenant; and (d) such designation shall not result in the creation or imposition of any Lien on any of the properties or assets of Comstock or any Restricted Subsidiary (other than any Permitted Lien or any Lien the creation or imposition of which shall have been in compliance with the "Limitation on Liens" covenant); *provided*, *however*, that with respect to clause (a), Comstock or a Restricted Subsidiary may be liable for Indebtedness of an Unrestricted Subsidiary if (i) such liability constituted a Permitted Investment or a Restricted Payment permitted by the "Limitation on Restricted Payments" covenant, in each case at the time of incurrence, or (ii) 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 Comstock shall be evidenced to the applicable Convertible Notes Trustee by filing a ~~Board Resolution~~board resolution with ~~the Trustee~~such trustee giving effect to such designation. If, at any time any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of the Indenture and any Indebtedness of such Subsidiary shall be deemed to be Incurred as of such date. The Board of Directors of Comstock 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) Comstock could incur $1.00 of additional Indebtedness under the first paragraph of the "Limitation on Indebtedness and Disqualified Capital Stock" covenant and (iii) if any of the properties and assets of Comstock 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 the "Limitation on Liens" covenant.

"*Volumetric Production Payments*" means production payment obligations of Comstock 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 Comstock to the extent (1) all of the Capital Stock or other ownership interests in such Restricted Subsidiary, other than directors' qualifying shares mandated by applicable law, is owned directly or indirectly by Comstock or (2) 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 Comstock, 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.

APPENDIX 3: TERMS OF EXISTING INDENTURES TO BE MODIFIED BY THE PROPOSED AMENDMENTS

Terms of the Existing Secured Notes Indenture to be Modified by the Proposed Amendments

The following Sections of the Existing Secured Notes Indenture will be deleted under the Proposed Amendments:

- Subsection (b) of Section 4.04 Certificates and Other Information.

(b) The Company shall deliver to the Trustee and the Collateral Agent, promptly after delivery to the Revolving Credit Agreement Agent or the lenders under the Revolving Credit Agreement or, if no Revolving Credit Agreement is then in effect, upon the reasonable request of the Collateral Agent in form and detail satisfactory to the Collateral Agent or otherwise as required by Section 11.01:

(1) a schedule of all oil, gas, and other mineral production attributable to all material Oil and Gas Properties of the Collateral Grantors, and in any event all such Oil and Gas Properties included in the most recent Engineering Report;

(2) all title or other information received after the Issue Date by the Collateral Grantors which discloses any material defect in the title to any material asset included in the most recent Engineering Report;

(3) (I) as soon as available and in any event within 90 days after each January 1, commencing with January 1, 2015, an annual reserve report as of each December 31 with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by an independent engineering firm of recognized standing acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent) in accordance with accepted industry practices, and (II) within 90 days after each July 1 commencing with July 1, 2015, a reserve report as of each June 30, with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by the Company in accordance with accepted industry practices;

(4) an updated reserve report with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by an independent engineering firm of recognized standing acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent) in accordance with accepted industry practices;

(5) title opinions (or other title reports or title information) and other opinions of counsel, in each case in form and substance acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent), with respect to at least eighty percent (80%) of the PV-9 of the Proved Reserves included in the most recent Engineering Report, for which satisfactory title reports have not been previously delivered to the Revolving Credit Agreement Agent or Collateral Agent as applicable, if any; and

(6) concurrently with the delivery of each Engineering Report hereunder:

(I) a certificate of an Officer (in form and substance reasonably satisfactory to the Collateral Agent in the case of delivery upon the request of the Collateral Agent):

(A) setting forth as of a recent date, a true and complete list of all Hedging Agreements of the Company and each Restricted

Subsidiary, the material terms thereof (including the type, term, effective date, termination date and notional amounts or volumes), the net mark-to-market value therefor, any new credit support agreements relating thereto, any margin required or supplied under any credit support document, and the counterparty to each such agreement; and

(B) comparing aggregate notional volumes of all Hedging Agreements of the Company and each Restricted Subsidiary, which were in effect during such period (other than basis differential hedgings) and the actual production volumes for each of natural gas and crude oil during such period, which certificate shall certify that the hedged volumes for each of natural gas and crude oil did not exceed 100% of actual production or if such hedged volumes did exceed actual production, specify the amount of such excess;

(II) a report, prepared by or on behalf of the Company detailing on a monthly basis for the next twelve month period (A) the projected production of Hydrocarbons by the Company and the Restricted Subsidiaries and the assumptions used in calculating such projections, (B) an annual operating budget for the Company and the Restricted Subsidiaries, and (C) such other information as may be reasonably requested by the Collateral Agent (in the case of delivery upon the request of the Collateral Agent);

(III) an Officer's Certificate, certifying whether the Company is in compliance with the mortgage and title requirements set forth in Section 11.01 and setting forth the actual percentages as to which compliance has been achieved and if the Company is not in compliance the Company shall identify which Oil and Gas Properties are required to be mortgaged and/or as to which adequate title information has not been delivered; and

(7) prompt written notice (and in any event within 30 days prior thereto) of any change (I) in any Collateral Grantor's corporate name or in any trade name used to identify such Person in the conduct of its business or in the ownership of its properties, (II) in the location of any Collateral Grantor's chief executive office or principal place of business, (III) in any Collateral Grantor's identity or corporate structure or in the jurisdiction in which such Person is incorporated or formed, (IV) in any Collateral Grantor's jurisdiction of organization or such Person's organizational identification number in such jurisdiction of organization, and (V) in any Collateral Grantor's federal taxpayer identification number.

- Section 4.07. Limitation on Restricted Payments.

(a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly:

(1) declare or pay any dividend on, or make any other 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 in options, warrants or other rights to purchase Qualified Capital Stock of the Company);

(2) 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);

(3) 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 (excluding any intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries), except in any case out of the net cash proceeds of Permitted Refinancing Indebtedness; or

(4) make any Restricted Investment;

(all such payments or other actions described in these clauses (1) through (4) being collectively referred to as "Restricted Payments"), unless at the time of and after giving effect to such Restricted Payment:

(I) no Default or Event of Default shall have occurred and be continuing;

(II) the Company could Incur $1.00 of additional Indebtedness in accordance with the Fixed Charge Coverage Ratio test set forth in Section 4.09(a); and

(III) the aggregate amount of all Restricted Payments declared or made after January 1, 2015, shall not exceed the sum (without duplication) of the following:

(A) 50% of the Consolidated Net Income of the Company accrued on a cumulative basis during the period beginning on January 1, 2015, 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 is a loss, minus 100% of such loss); plus

(B) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after January 1, 2015, 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

(C) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after January 1, 2015, 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

(D) the aggregate Net Cash Proceeds received after January 1, 2015, 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

(E) 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 January 1, 2015, 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 January 1, 2015.

(b) Notwithstanding the preceding provisions, the Company and its Restricted Subsidiaries may take the following actions so long as (in the case of clauses (3), (4), (5) and (8) of this Section 4.07(b)) no Default or Event of Default shall have occurred and be continuing:

(1) 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 the preceding paragraph (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 the preceding paragraph);

(2) the payment of any dividend payable from a Restricted Subsidiary to the Company or any other Restricted Subsidiary of the Company;

(3) 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 from, a substantially concurrent issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of the Company;

(4) the purchase, 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 issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of the Company;

(5) 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 Notes 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 Notes 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 Notes;

(6) loans made to officers, directors or employees of the Company or any Restricted Subsidiary approved by the Board of Directors 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 (6);

(7) the repurchase of Equity Interests deemed to occur upon the exercise of stock or other equity options to the extent such Equity Interests represent a portion of the exercise price of those stock or other equity options and any repurchase or other acquisition of Equity Interests is made in lieu of or to satisfy withholding taxes in connection with any exercise or exchange of stock options, warrants, incentives or other rights to acquire Equity Interests; and

(8) other Restricted Payments in an aggregate amount not to exceed $35,000,000.

(c) The actions described in clauses (1), (3), (4) and (6) of Section 4.07(b) shall be Restricted Payments that shall be permitted to be made in accordance with Section 4.07(b) but shall reduce the amount that would otherwise be available for Restricted Payments under Section 4.07(a)(III) (provided that any dividend paid pursuant to clause (1) of Section 4.07(b) shall reduce the amount that would otherwise be available under Section 4.07(a)(III) when declared, but not also when subsequently paid pursuant to such clause (1)), and the actions described in clauses (2), (5), (7) and (8) of Section 4.07(b) shall be permitted to be taken in accordance with this clause (c) and shall not reduce the amount that would otherwise be available for Restricted Payments under Section 4.07(a)(III).

(d) The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

- Section 4.08. Limitation on Dividend and Other Payment Restrictions Affecting Subsidiaries.

(a) The Company will not, and will 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:

(1) to pay dividends, in cash or otherwise, or make any other distributions on its Capital Stock, or make payments on any Indebtedness owed, to the Company or any other Restricted

Subsidiary; provided that the priority that any series of preferred stock of a Restricted Subsidiary has in receiving dividends or liquidating distributions before dividends or liquidating distributions are paid in respect of common stock of such Restricted Subsidiary shall not constitute a restriction on the ability to make dividends or distributions on Capital Stock for purposes of this Section 4.08;

(2) to make loans or advances to the Company or any other Restricted Subsidiary; or

(3) to transfer any of its property or assets to the Company or any other Restricted Subsidiary.

(b) The restrictions in Section 4.08(a) are collectively referred to herein as a "Payment Restriction." However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(1) 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;

(2) 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 or assets of the Person, so acquired, provided that such Indebtedness was not Incurred in anticipation of such acquisition;

(3) any instrument governing Indebtedness or Disqualified Capital Stock of a Restricted Subsidiary that is not a Subsidiary Guarantor, provided that (a) such Indebtedness or Disqualified Capital Stock is permitted under Section 4.09 and (b) the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement and this Indenture as in effect on the Issue Date;

(4) the Revolving Credit Agreement as in effect on the Issue Date or any agreement that amends, modifies, supplements, restates, extends, renews, refinances or replaces the Revolving Credit Agreement, provided that the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement as in effect on the Issue Date;

(5) this Indenture, the Notes and the Subsidiary Guarantees; or

(6) the Existing Indentures and any subsidiary guarantees thereof, in each case as in effect on the Issue Date.

- Section 4.09. Limitation on Indebtedness and Disqualified Stock.

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, create, incur, issue, assume, guarantee or in any manner become directly or indirectly liable for the payment of (collectively, "Incur," "Incurrence," "Incurred" and "Incurring" shall have meanings correlative to the foregoing) any Indebtedness (including any Acquired Indebtedness), and the Company will not issue any Disqualified Capital Stock and will not permit any of its Restricted Subsidiaries to issue any Disqualified Capital Stock or Preferred Stock; provided that the Company may Incur

Indebtedness (including Acquired Indebtedness) or issue Disqualified Capital Stock, and any Restricted Subsidiary that is a Subsidiary Guarantor may Incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Capital Stock or Preferred Stock if (1) 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 2.25 to 1.0 and (2) 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 or Preferred Stock is issued or would occur as a consequence of the Incurrence of the additional Indebtedness or the issuance of the Disqualified Capital Stock or Preferred Stock.

(b) The restrictions in Section 4.09(a) will not prohibit the Incurrence of any of the following items of Indebtedness (collectively, "Permitted Indebtedness"):

(1) Indebtedness under the Notes issued on the Issue Date;

(2) Indebtedness outstanding or in effect on the Issue Date (and not repaid or defeased with the proceeds of the offering of the Notes);

(3) (I) 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; (II) obligations under currency exchange contracts entered into in the ordinary course of business; and (III) 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;

(4) the Subsidiary Guarantees (and any assumption of the obligations guaranteed thereby);

(5) the Incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; provided that:

(I) if the Company is the obligor on such Indebtedness and a Subsidiary Guarantor is not the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Note Obligations with respect to the Notes, or if a Subsidiary Guarantor is the obligor on such Indebtedness and neither the Company nor another Subsidiary Guarantor is the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Subsidiary Guarantee of such Subsidiary Guarantor; and

(II) (A) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (B) any sale or other transfer of any such Indebtedness to a Person that is neither the Company nor a Restricted Subsidiary of the Company will be deemed, in each case, to constitute an Incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (5);

(6) Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge, in whole or in part, any Indebtedness (other than intercompany Indebtedness) that was permitted by the Indenture to be incurred under the first paragraph of this covenant or clauses (1) or (2) of this Section 4.09(b) or this clause (6);

(7) Non-Recourse Indebtedness;

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

(9) 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);

(10) Indebtedness under the Revolving Credit Agreement in an aggregate principal amount not in excess of $50,000,000 at any one time outstanding and any guarantee thereof by a Subsidiary Guarantor; and

(11) any additional Indebtedness in an aggregate principal amount not in excess of $75,000,000 at any one time outstanding and any guarantee thereof.

(c) For purposes of determining compliance with this Section 4.09, in the event that an item of Indebtedness meets the criteria of one or more of the categories of Permitted Indebtedness described in clauses (1) through (11) described above or is entitled to be Incurred pursuant to clause (a) of this Section 4.09, the Company may, in its sole discretion, classify such item of Indebtedness in any manner that complies with this Section 4.09 and such item of Indebtedness will be treated as having been Incurred pursuant to 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; provided that all Indebtedness outstanding on the Issue Date under the Revolving Credit Agreement shall be deemed Incurred under Section 4.09(b)(10) and not under Section 4.09(a) or Section 4.09(b)(2).

(d) The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Capital Stock or Preferred Stock in the form of additional shares of the same class of Disqualified Capital Stock or Preferred Stock will not be deemed to be an Incurrence of Indebtedness or an issuance of Disqualified Capital Stock or Preferred Stock for purposes of this covenant. The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount or liquidation preference thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

(e) For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; provided that if such Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the

relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced (plus all accrued interest on the Indebtedness being refinanced and the amount of all expenses and premiums incurred in connection therewith).

(f) Notwithstanding any other provision of this Section 4.09, the maximum amount of Indebtedness that the Company or any Restricted Subsidiary may Incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

- Section 4.11. Limitation on Transactions with Affiliates.

(a) The Company will not, and will not permit any Restricted Subsidiary 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 assets or 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) (each, an "Affiliate Transaction"), unless

(1) 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 those that would be available in a comparable arm's length transaction with unrelated third parties; and

(2) the Company delivers to the Trustee:

(I) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $10,000,000 but no greater than $25,000,000, an Officers' Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this covenant; and

(II) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $25,000,000, an Officers' Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this Section 4.11 and that such Affiliate Transaction or series of Affiliate Transactions has been approved by a majority of the Disinterested Directors of the Company.

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of Section 4.11(a):

(1) 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;

(2) 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;

(3) 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;

(4) the Company's employee compensation and other benefit arrangements;

(5) 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 Indenture; and

(6) any Restricted Payment permitted to be paid pursuant to Section 4.07.

- Section 4.12. Limitation on Liens.

The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness on any of its property or assets, except for Permitted Liens.

- Section 4.16. Future Designation of Restricted and Unrestricted Subsidiaries.

(a) The Board of Directors of the Company may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if:

(1) the Company would be permitted to make (i) a Permitted Investment or (ii) an Investment pursuant to Section 4.07, in either case, in an amount equal to the Fair Market Value of all outstanding Investments owned by the Company and the Restricted Subsidiaries in such Subsidiary at the time of such designation;

(2) such Restricted Subsidiary meets the definition of an "Unrestricted Subsidiary";

(3) the designation would not constitute or cause (with or without the passage of time) a Default or Event of Default and no Default or Event of Default would be in existence following such designation; and

(4) the Company delivers to the Trustee a certified copy of a resolution of the Board of Directors of Company giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.07.

(b) If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Company and the Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under Section 4.07 or under one or more clauses of the definition of Permitted Investments, as determined by the Company.

(c) If, at any time, any Unrestricted Subsidiary designated as such would fail to meet the preceding requirements as an Unrestricted Subsidiary, then such Subsidiary will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary will be deemed to be Incurred by a Restricted Subsidiary as of such date and, if such Indebtedness is not permitted to be Incurred as of such date under the covenant set forth under Section 4.09, the Company or the applicable Restricted Subsidiary will be in default of such covenant.

(d) The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary if:

(1) the Company and the Restricted Subsidiaries could Incur the Indebtedness which is deemed to be Incurred upon such designation under Section 4.09, equal to the total Indebtedness of such Subsidiary calculated on a pro forma basis as if such designation had occurred on the first day of the four-quarter reference period;

(2) the designation would not constitute or cause a Default or Event of Default; and

(3) the Company delivers to the Trustee a certified copy of a resolution of the Board of Directors of the Company giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions, including the Incurrence of Indebtedness under Section 4.09.

- Section 4.17. Suspended Covenants.

(a) During any period that the Notes have a rating equal to or higher than BBB- (or the equivalent) by S&P and Baa3 (or the equivalent) by Moody's ("Investment Grade Ratings") and no Default or Event of Default has occurred and is continuing (such period, a "Covenant Suspension Period"), the Company and the Restricted Subsidiaries will not be subject to the following Sections (collectively, the "Suspended Covenants"):

(1) Section 4.07;

(2) Section 4.08;

(3) Section 4.09;

(4) Section 4.11;

(5) Section 4.10; and

(6) Section 5.01(a)(2).

(b) In the event that the Company and the Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the preceding paragraph and either S&P or Moody's subsequently withdraws its rating or downgrades its rating of the Notes below the applicable Investment Grade Rating, or a Default or Event of Default occurs and is continuing, then the Company and its Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants, and compliance with the Suspended Covenants with respect to Restricted Payments made after the time of such withdrawal, downgrade, Default or Event of Default will be calculated in accordance with the covenant described under Section 4.07 as though such covenant had been in effect during the entire period of time from the Issue Date.

(c) During any Covenant Suspension Period, the Board of Directors of the Company may not designate any of the Company's Subsidiaries as Unrestricted Subsidiaries pursuant to this Indenture. The Company shall give the Trustee written notice of the commencement of any Covenant Suspension Period promptly, and in any event not later than 5 Business Days, after the commencement thereof. In the absence of such notice, the Trustee shall assume the Suspended Covenants apply and are in full force and effect. The Company shall give the Trustee written notice of the termination of any

Covenant Suspension Period not later than 5 Business Days after the occurrence thereof. After any such notice of the termination of any Covenant Suspension Period, the Trustee shall assume the Suspended Covenants apply and are in full force and effect.

- Section 4.19. Limitation on Certain Agreements.

The Company shall not permit any Collateral Grantor to enter into any agreement that requires the proceeds received from any sale of Collateral to be applied to repay, redeem, defease or otherwise acquire or retire any Indebtedness of any Person, other than (i) the Notes, (ii) any other Pari Passu Obligations or (iii) otherwise as may be permitted or required by this Indenture, the Pari Passu Intercreditor Agreement and the Collateral Agreements, including with respect to any Permitted Collateral Liens; provided that subject to Section 4.09, any such agreement may be entered into to the extent that it permits such proceeds to be applied to Pari Passu Obligations prior to or instead of such other Indebtedness.

- Section 4.20. 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 (1) 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 (2) the Company or such Restricted Subsidiary receives proceeds from such Sale/Leaseback Transaction at least equal to the Fair Market Value thereof 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 11.01. Collateral Agreements; Additional Collateral.

(a) In order to secure the due and punctual payment of the Note Obligations, on the Issue Date, simultaneously with the execution and delivery of this Indenture, the Subsidiary Guarantors have executed the Collateral Agreements granting to the Collateral Agent for the benefit of the Secured Parties (in accordance with the Pari Passu Intercreditor Agreement) a first-priority perfected Lien in the Collateral.

(b) The Company shall promptly deliver, and to cause each of the other Collateral Grantors to deliver, but in each case not later than the date that is 60 days following the Issue Date, to further secure the Pari Passu Obligations, deeds of trust, Mortgages, chattel mortgages, security agreements, financing statements and other Collateral Agreements in form and substance satisfactory to the Collateral Agent for the purpose of granting, confirming, and perfecting first-priority liens or security interests in (1) prior to the occurrence of a default under the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the Issue Date) or, if no Revolving Credit Agreement is then in effect, a Default under this Indenture, (A) at least eighty percent (80%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties constituting Proved Reserves, (B) after the occurrence of a default under the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the Issue Date) or, if no Revolving Credit Agreement is then in effect, a Default under this Indenture, at least ninety-five percent (95%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties, (2) all of the equity interests of the Company or any Subsidiary Guarantor in any other Subsidiary Guarantor now owned or hereafter acquired by the Company or any Subsidiary Guarantor, and (3) all property of the Collateral Grantors of the type described in the Security Agreement. If no Engineering Report is delivered pursuant to Section 4.02(b), the Company shall deliver to the Collateral Agent semi-annually on or before April 1 and October 1 in each calendar year an Officers' Certificate certifying that as of the date of such certificate, (i) no

Default has occurred and is continuing and (ii) at least eighty percent (80%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties constituting Proved Reserves.

(c) In connection with each delivery of an Engineering Report, the Company shall review the Engineering Report and the list of current Mortgaged Properties to ascertain whether the Mortgaged Properties represent at least eighty percent (80%) of the PV-9 of the Oil and Gas Properties constituting Proved Reserves evaluated in the most recently completed Engineering Report after giving effect to exploration and production activities, acquisitions, dispositions and production. In the event that the Mortgaged Properties do not represent at least such required percentages, then the Company shall, and shall cause its Restricted Subsidiaries to, promptly grant to the Collateral Agent as security for the Pari Passu Obligations a first-priority perfected Lien on additional Oil and Gas Properties not already subject to a Lien created by Collateral Agreements such that after giving effect thereto, the Mortgaged Properties will represent at least such required percentages. All such Liens will be created and perfected by and in accordance with the provisions of deeds of trust, security agreements and financing statements or other Collateral Agreements, all in form and substance reasonably satisfactory to the Collateral Agent and in sufficient executed (and acknowledged where necessary or appropriate) counterparts for recording purposes. In order to comply with the foregoing, if any Restricted Subsidiary places a Lien on its Oil and Gas Properties and such Subsidiary is not a Subsidiary Guarantor, then it shall become a Subsidiary Guarantor and comply. To the extent that any Oil and Gas Properties constituting Collateral are disposed of after the date of any applicable Engineering Report or certificate delivered pursuant to clause (b) of this Section 11.01, any Proved Reserves attributable to such Oil and Gas Properties shall be deemed excluded from such Engineering Report or certificate for the purpose of determining whether such minimum Mortgage requirement is met after giving effect to such release.

(d) The Company also agrees to promptly deliver, or to cause to be promptly delivered, to the extent not already delivered, whenever requested by the Collateral Agent in its sole and absolute discretion (1) favorable title information (including, if reasonably requested by the Collateral Agent, title opinions) acceptable to the Collateral Agent with respect to any Collateral Grantor's Oil and Gas Properties constituting at least eighty percent (80%) of the PV-9 of the Oil and Gas Properties constituting Proved Reserves, and demonstrating that such Collateral Grantor has good and defensible title to such properties and interests, free and clear of all Liens (other than Permitted Liens) and covering such other matters as the Collateral Agent may reasonably request and (2) favorable opinions of counsel satisfactory to the Collateral 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.

(e) If (1) a Collateral Grantor acquires any asset or property of a type that is required to constitute Collateral pursuant to the terms of this Indenture and such asset or property is not automatically subject to a first-priority perfected Lien in favor of the Collateral Agent, (2) a Subsidiary of the Company that is not already a Subsidiary Guarantor is required to become a Subsidiary Guarantor pursuant to Section 4.13 or (3) any Collateral Grantor creates any additional Lien upon any Oil and Gas Properties or any other assets or properties to secure any Pari Passu Obligations or Junior Lien Obligations (or takes additional actions to perfect any existing Lien on Collateral), then such Collateral Grantor or such other Subsidiary shall, as soon as practicable after the acquisition of the applicable asset or property, the occurrence of the event requiring such Subsidiary to become a Subsidiary Guarantor or the creation of any such additional Lien or taking of any such additional perfection action (and, in any event, within 10 Business Days after such acquisition, event or creation), (i) grant to the Collateral Agent a first-priority perfect Lien in all assets and property of

such Collateral Grantor or such other Subsidiary that are required to, but do not already, constitute Collateral, (ii) deliver any certificates to the Collateral Agent in respect thereof and (iii) take all other appropriate actions as necessary to ensure the Collateral Agent has a first-priority perfect Lien therein.

(f) In addition and not by way of limitation of the foregoing, in the case of the Company or any Subsidiary Guarantor granting a Lien in favor of the Collateral Agent upon any assets having a present value in excess of $10,000,000 located in a new jurisdiction, the Company or Subsidiary Guarantor will at its own expense, promptly obtain and furnish to the Collateral Agent all such opinions of legal counsel as the Collateral Agent may reasonably request in connection with any such security or instrument.

(g) Commencing on a date no later than 60 days after the Issue Date, the Company and its Restricted Subsidiaries shall keep and maintain each deposit account and each securities account with a financial institution reasonably acceptable to the Collateral Agent and subject to an Account Control Agreement, other than deposit accounts holding in the aggregate less than $10,000,000.

(h) The Company shall cause every Subsidiary Guarantor to make all filings (including filings of continuation statements and amendments to Uniform Commercial Code financing statements in the United States (or the applicable political subdivision, territory or possession thereof) that may be necessary to continue the effectiveness of such Uniform Commercial Code financing statements) and take all other actions as are reasonably necessary or required by the Collateral Agreements to maintain (at the sole cost and expense of the Subsidiary Guarantors) the security interest created by the Collateral Agreements in the Collateral as a first-priority perfected Lien.

(i) All references to a "first-priority perfected Lien" in this Section 11.01 shall be understood to be subject to the terms of the Pari Passu Intercreditor Agreement and the Permitted Collateral Liens, if any.

(j) The Company shall, and shall cause every other Collateral Grantor to, from time to time take the actions required by Section 4.18.

- Section 11.04. No Impairment of the Security Interests.

The Company shall not, and shall not permit any other Collateral Grantor to take any action, or knowingly omit to take any action, which action or omission would have the result of materially impairing the validity, perfection or priority of the security interests in the Collateral created by the Collateral Agreements (except as permitted in this Indenture, the Pari Passu Intercreditor Agreement or the Collateral Agreements, including any action that would result in a Permitted Collateral Lien).

The following definition will be added to Section 1.01 of the Existing Secured Notes Indenture (which term is currently defined in Section 4.09, which section is otherwise being deleted):

- "Incur," "Incurrence," "Incurred" and "Incurring" shall have meanings correlative to create, incur, issue, assume, guarantee or in any manner become directly or indirectly liable for the payment of.

The following definitions will be deleted from Section 1.01 of the Existing Secured Notes Indenture:

- "*Account Control Agreement*" each Account Control Agreement executed and delivered by the Company pursuant to this Indenture, in form and substance satisfactory to the parties thereto.

- "*Acquired Indebtedness*" means Indebtedness of a Person (1) existing at the time such Person becomes a Restricted Subsidiary or (2) assumed in connection with acquisitions of properties or assets 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 or assets from such Person.

- "*Consolidated Fixed Charge Coverage Ratio*" means, for any period, the ratio on a pro forma basis of: (1) 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, to (2) Consolidated Interest Expense for such period; provided that (i) the Consolidated Fixed Charge Coverage Ratio shall be calculated on a pro forma basis assuming 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 4.09 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 or assets 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, (ii) 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 4.09 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, (iii) 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 4.09 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, (iv) notwithstanding clauses (ii) and (iii) of this proviso, 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, (v) in making such calculation, Consolidated Interest Expense shall exclude interest attributable to Dollar-Denominated Production Payments, and (vi) if after the first day of the period referred to in clause (1) 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.

- "*Discharge of Revolving Credit Agreement Obligations*" means, except to the extent otherwise provided in the Pari Passu Intercreditor Agreement, payment in full, in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) of all Revolving Credit Agreement Obligations and, with respect to letters of credit outstanding under the Revolving Credit Agreement Obligations, delivery of cash collateral or backstop letters of credit in respect thereof in a manner consistent with the Revolving Credit Agreement and otherwise reasonably satisfactory to the Revolving Credit Agreement Agent, and termination of and payment in full in cash of, all Secured Swap Obligations, in each case after or concurrently with the termination of all commitments to extend credit thereunder and the termination of all commitments of the Revolving Credit Agreement Secured Parties under the Revolving Credit Agreement Documents; provided that the Discharge of Revolving Credit Agreement Obligations shall not be deemed to have occurred if such payments are made with the proceeds of other Revolving Credit Agreement Obligations that constitute an exchange or replacement for or a refinancing of such Revolving Credit Agreement Obligations.

- "*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 resolution of the Board of Directors under this Indenture, 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.

- "*Engineering Report*" means the Initial Engineering Report and each engineering report delivered pursuant to Section 4.04(b)(3) or (b)(4).

- "*Initial Engineering Report*" means the engineering report dated as of December 31, 2014, prepared by Lee Keeling & Associates, Inc.

- "*Mortgaged Properties*" means any property owned by a Collateral Grantor that is subject to the Liens existing and to exist under the terms of the Mortgages.

- "*Permitted Investments*" means any of the following:

  (1) Investments in Cash Equivalents;

  (2) Investments in property, plant and equipment used in the ordinary course of business;

  (3) Investments in the Company or any of its Restricted Subsidiaries;

  (4) Investments by the Company or any of its Restricted Subsidiaries in another Person, if (a) as a result of such Investment (i) such other Person becomes a Restricted Subsidiary or (ii) such other Person is merged or consolidated with or into, or transfers or conveys all or substantially all of its properties and assets to, the Company or a Restricted Subsidiary and (b) such other Person is primarily engaged in the Oil and Gas Business;

  (5) 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;

(6) 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;

(7) entry into any currency exchange contract in the ordinary course of business;

(8) 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;

(9) guarantees of Indebtedness permitted under Section 4.09;

(10) investments in Unrestricted Subsidiaries or joint ventures in an aggregate amount not to exceed at any one time outstanding $15,000,000; and

(11) other Investments, in an aggregate amount not to exceed at any one time outstanding the greater of (a) $25,000,000 and (b) 5% of Adjusted Consolidated Net Tangible Assets.

- Subsection (25) of the definition of "*Permitted Liens*";

(25) Junior Liens to secure Junior Lien Obligations (a) Incurred under clause (6) of the definition of "Permitted Indebtedness" to refinance, replace, defease or discharge, as a whole or in part, any Existing Unsecured Notes, together with any Permitted Refinancing Indebtedness permitted by clause (6) of the definition of "Permitted Indebtedness" in respect thereof, (b) Incurred in accordance with the Fixed Charge Coverage Ratio test set forth under Section 4.09(a), together with any Permitted Refinancing Indebtedness permitted by clause (6) of the definition of "Permitted Indebtedness" in respect thereof, or (c) incurred under clause (10) of the definition of "Permitted Indebtedness"; provided that Liens incurred under clauses (b) and (c) of this clause (25) do not secure obligations in excess of $200,000,000 in the aggregate;

- "*Preferred Stock*," as applied to the Capital Stock of any Person, means Capital Stock of such Person of any class or classes (however designated) that ranks 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.

- "*Proved Developed Non-Producing Reserves*" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and "Developed Non-Producing Reserves."

- "*Proved Developed Producing Reserves*" shall mean oil and gas reserves that in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and "Developed Producing Reserves".

- "*Proved Developed Reserves*" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and one of the following: (1) "Developed Producing Reserves" or (2) "Developed Non-Producing Reserves."

- "*Proved Reserves*" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and one of the following: (1) "Developed Producing Reserves", (2) "Developed Non-Producing Reserves" or (3) "Undeveloped Reserves".

- "*PV-9*" means, with respect to any Proved Developed Reserves expected to be produced, the net present value, discounted at 9% per annum, of the future net revenues expected to accrue to the Collateral Grantors' collective interests in such reserves during the remaining expected economic lives of such reserves, calculated by the Revolving Credit Agreement Agent (or, if no Revolving Credit Agreement is then in effect, the Collateral Agent) in its sole and absolute discretion; provided that the PV-9 associated with Proved Developed Non-Producing Reserves shall comprise no more than 25% of total PV-9.

- "*Restricted Investment*" means (without duplication) (1) the designation of a Subsidiary as an Unrestricted Subsidiary in the manner described in the definition of "Unrestricted Subsidiary" and (2) any Investment other than a Permitted Investment.

The following provisions of the Existing Secured Notes Indenture will be amended, as shown below (stricken text indicates the portion of such provision that will be eliminated and underlined text indicates language that will be added to such provision):

- Definition of "Investment" under Section 1.01:

"*Investment*" means, with respect to any Person, any direct or indirect advance, loan, guarantee of Indebtedness or other extension of credit or capital contribution by such Person to (by means of any transfer of cash or other property or assets to others or any payment for property, assets 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 (1) 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, (2) Interest Rate Protection Obligations entered into in the ordinary course of business <u>otherwise as permitted hereunder</u> ~~or as required by any Permitted Indebtedness or any Indebtedness Incurred in compliance with the "Limitation on Indebtedness and Disqualified Capital Stock" covenant~~, 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 (3) endorsements of negotiable instruments and documents in the ordinary course of business. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Restricted Subsidiary that were not sold or disposed of.

- Section 1.02 Other Definitions.

Term	Defined in Section
"Act"	9.07
~~"Affiliate Transaction"~~	~~4.11~~
"Appendix"	2.01
"Asset Sale Offer"	4.10
"Asset Sale Offer Amount"	3.08
"Asset Sale Offer Notice"	3.08
"Asset Sale Offer Period"	3.08
"Base Indenture"	1.01
"Change of Control Offer"	4.15
"Change of Control Payment"	4.15
"Change of Control Payment Date"	4.15
"Covenant Defeasance"	8.03
~~"Covenant Suspension Period"~~	~~4.17~~
"Discharge"	8.08
"Event of Default"	6.01
"Excess Proceeds"	4.10
~~"Incur"~~	~~4.09~~
~~"Investment Grade Rating"~~	~~4.17~~
"Legal Defeasance"	8.02
"Paying Agent"	2.03
~~"Payment Default"~~	~~6.01~~
~~"Payment Restriction"~~	~~4.08~~
~~"Permitted Consideration"~~	~~4.10~~
~~"Permitted Indebtedness"~~	~~4.09~~
"Purchase Date"	3.08
"Register"	2.03
"Registrar"	2.03
~~"Restricted Payments"~~	~~4.07~~
"Successor Guarantor"	5.01
"Surviving Entity"	5.01
~~"Suspended Covenants"~~	~~4.17~~

- Section 4.10. Limitation on Asset Sales.

(a) ~~The Company will not, and will not permit any Restricted Subsidiary to, consummate any Asset Sale unless:~~

~~(1) 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 assets and property subject to such Asset Sale; and~~

~~(2) 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 Notes) or liabilities of any Subsidiary Guarantor that made such Asset Sale (other than liabilities of a Subsidiary Guarantor that are by their terms subordinated to such Subsidiary Guarantor's Subsidiary Guarantee), in each case as a result of which the Company and its remaining Restricted Subsidiaries are no longer liable for such liabilities (the "Permitted Consideration");~~

~~provided that the Company and its Restricted Subsidiaries shall be permitted to receive assets and property other than Permitted Consideration, so long as the aggregate Fair Market Value of all such assets and property other than Permitted Consideration received from Asset Sales since the Issue Date and held by the Company or any Restricted Subsidiary at any one time shall not exceed 10% of Adjusted Consolidated Net Tangible Assets.~~

(b) 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

(1) purchase, repay or prepay Pari Passu Obligations or other Indebtedness of the Company or any Subsidiary Guarantor secured by Permitted Collateral Liens (and, to the extent required pursuant to the terms of the Revolving Credit Agreement (as in effect on the Issue Date) in the case of revolving obligations, to correspondingly reduce commitments with respect thereto); or

(2) 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); provided that if such Asset Sale includes Oil and Gas Properties, after giving effect to such Asset Sale, the Company is in compliance with the Collateral requirements of this Indenture.

(c) Any Net Available Cash from an Asset Sale not applied in accordance with clause (b) of this Section 4.10 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 will be required to make an offer (the "Asset Sale Offer") to all Holders of Notes in accordance with Section 3.08 and all holders of other Indebtedness that is pari passu with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds; provided to the extent such Excess Proceeds were received in respect of the sale or transfer of assets that constituted Collateral, an Asset Sale Offer will be made solely to the holders of Pari Passu Obligations. The offer price in any Asset Sale Offer will be equal to 100% of principal amount plus accrued and unpaid interest, if any, to the Purchase Date (subject to the right of Holders of record on the relevant record date to receive interest due on an interest payment date that is on or prior to the Purchase Date), and will be payable in cash. If the aggregate principal amount of Notes tendered by Holders thereof exceeds the amount of available Excess Proceeds allocated for repurchases of Notes pursuant to the Asset Sale Offer, then such Excess Proceeds will be allocated pro rata according to the principal amount of the Notes tendered and the Trustee will select the Notes to be purchased in accordance with this Indenture. To the extent that any portion of the amount of Excess Proceeds remains after compliance with the second sentence of this clause (c) and provided that all

Holders of Notes have been given the opportunity to tender their Notes for purchase as described in Section 4.10(d), the Company and its Restricted Subsidiaries may use such remaining amount for purposes permitted by this Indenture and the amount of Excess Proceeds will be reset to zero.

(d) The Company will 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 Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions relating to the Asset Sale Offer, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 4.10 by virtue of such compliance.

- Section 5.01. Merger, Consolidation, or Sale of Assets.

(a) The Company will not, in any single transaction or 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 of the properties and assets of the Company and its Restricted Subsidiaries on a consolidated basis to any Person or group of Affiliated Persons, and the Company will 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 the sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the properties and assets 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 effect thereto:

(1) 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 and assets 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 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 a supplemental indenture to this Indenture executed and delivered to the Trustee, in form satisfactory to the Trustee, and pursuant to agreements reasonably satisfactory to the Trustee and the Collateral Agent, as applicable, all the obligations of the Company under the Notes, this Indenture and the other Note Documents to which the Company is a party, and, in each case, such Note Documents shall remain in full force and effect;

(2) 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 an obligation of the Company or any of its Restricted Subsidiaries in connection with or as a result of such transaction as having been incurred at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(3) ~~except in the case of the consolidation or merger of any Restricted Subsidiary with or into the Company or another Restricted Subsidiary, either:~~

~~(I) 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 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 Indenture) could Incur $1.00 of additional Indebtedness under Section 4.09(a); or~~

~~(II)~~ ~~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 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 Fixed Charge Coverage Ratio of the Company (or the Surviving Entity if the Company is not the continuing obligor under this Indenture) will be equal to or greater than the Fixed Charge Coverage Ratio of the Company immediately before such transaction or transactions;~~

(4) if the Company is not the continuing obligor under this Indenture, then each Subsidiary Guarantor, unless it is the Surviving Entity, shall have by supplemental indenture to this Indenture confirmed that its Subsidiary Guarantee of the Notes shall apply to the Surviving Entity's obligations under this Indenture and the Notes;

(5) any Collateral owned by or transferred to the Surviving Entity shall (i) continue to constitute Collateral under this Indenture and the Collateral Agreements and (ii) be subject to a Pari Passu Lien in favor of the Collateral Agent for the benefit of the holders of the Pari Passu Obligations;

(6) the Surviving Entity shall take such action (or agree to take such action) as may be reasonably necessary to cause any property or assets that constitute Collateral owned by or transferred to the Surviving Entity to be subject to the Pari Passu Liens in the manner and to the extent required under the Collateral Agreements and shall deliver an opinion of counsel as to the enforceability of any amendments, supplements or other instruments with respect to the Collateral Agreements to be executed, delivered, filed and recorded, as applicable, and such other matters as the Trustee or Collateral Agent, as applicable, may reasonably request; and

(7) the Company (or the Surviving Entity if the Company is not the continuing obligor under this Indenture) shall have delivered to the Trustee, in form and substance reasonably satisfactory to the Trustee, an Officers' Certificate and an Opinion of Counsel each stating that such consolidation, merger, transfer, lease or other disposition and any supplemental indenture in respect thereto comply with the requirements under this Indenture and that the requirements of this paragraph have been satisfied.

(b) A Subsidiary Guarantor may not sell or otherwise dispose of, in one or more related transactions, all or substantially all of its properties or assets to, or consolidate with or merge with or into (whether or not such Subsidiary Guarantor is the surviving Person) another Person, other than with respect to a Subsidiary Guarantor, the Company or another Subsidiary Guarantor, unless:

(1) immediately after giving effect to such transaction or series of transactions, no Default or Event of Default exists;

(2) either:

(I) (A) such Subsidiary Guarantor is the surviving Person or (B) the Person acquiring the properties or assets in any such sale or other disposition or the Person formed by or surviving any such consolidation or merger is a Person organized and existing under the laws of the United States of America, any state thereof or the District of Columbia (such Subsidiary Guarantor or such Person, as the case may be, being herein called the "Successor Guarantor") and the Successor Guarantor (if other than such Subsidiary Guarantor) unconditionally assumes all the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee, this Indenture and all other Note Documents pursuant to a supplemental indenture in form reasonably satisfactory to the Trustee and such other agreements as are reasonably satisfactory to the Trustee and the Collateral Agent; or

(II) with respect to a Subsidiary Guarantor, such transaction or series of transactions does not violate Section 4.10;

(3) any Collateral owned by or transferred to the Successor Guarantor shall (i) continue to constitute Collateral under this Indenture and the Collateral Agreements and (ii) be subject to a Pari Passu Lien in favor of the Collateral Agent for the benefit of the holders of the Pari Passu Obligations;

(4) the Successor Guarantor shall take such action (or agree to take such action) as may be reasonably necessary to cause any property or assets that constitute Collateral owned by or transferred to the Successor Guarantor to be subject to the Pari Passu Liens in the manner and to the extent required under the Collateral Agreements and shall deliver an opinion of counsel as to the enforceability of any amendments, supplements or other instruments with respect to the Collateral Agreements to be executed, delivered, filed and recorded, as applicable, and such other matters as the Trustee or Collateral Agent, as applicable, may reasonably request; and

(5) the Company delivers to the Trustee an Officers' Certificate and opinion of counsel, each stating that such sale or other disposition or merger or consolidation and such supplemental indenture and each such amendment comply with this covenant.

- Section 6.01. Events of Default.

Each of the following is an "Event of Default":

(a) default in any payment of interest with respect to the Notes when due, which default continues for 30 days;

(b) default in the payment when due (at maturity, upon optional redemption, upon declaration of acceleration or otherwise) of the principal of, or premium, if any, on, the Notes;

(c) failure by the Company to comply with the provisions described under Section ~~4.10,~~ 4.15 or 5.01;

(d) (1) except with respect to Section 4.03, failure by the Company or any of the Restricted Subsidiaries for 60 days after notice to the Company by the Trustee or the Holders of at least 25%

in aggregate principal amount of the Notes then outstanding voting as a single class to comply with any covenant or agreement (other than a default referred to in clauses (a), (b) and (c) above) contained in this Indenture, the Collateral Agreements or the Notes, or (2) failure by the Company for 120 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with Section 4.03;

(e) ~~default under the Revolving Credit Agreement, if that default:~~

~~(1) is caused by a failure to pay principal of, or interest or premium, if any, on, any Revolving Credit Agreement Obligation prior to the expiration of the grace period, if any, provided in the Revolving Credit Agreement on the date of such default; or~~

~~(2) permits the Revolving Credit Agreement Agent or any Revolving Credit Agreement Secured Parties to accelerate all or any part of the Revolving Credit Agreement Obligations prior to their Stated Maturity,~~

~~provided that if any such default is cured or waived, or the Discharge of Revolving Credit Agreement Obligations occurs, within a period of 30 days from the occurrence of such default, such Event of Default and any consequential acceleration of the Notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;~~

(f) ~~default (other than a default referred to in clause (e) above) under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Company or any of the Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of the Restricted Subsidiaries), whether such Indebtedness or guarantee now exists or is created after the Issue Date, if that default:~~

~~(1) is caused by a failure to pay principal of, or interest or premium, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "Payment Default"); or~~

~~(2) results in the acceleration of such Indebtedness prior to its Stated Maturity,~~

~~and, in either case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates $25,000,000 or more; provided that if any such default is cured or waived or any such acceleration rescinded, or such Indebtedness is repaid, within a period of 60 days from the continuation of such default beyond the applicable grace period or the occurrence of such acceleration, as the case may be, such Event of Default and any consequential acceleration of the Notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;~~

~~failure by the Company or any of the Restricted Subsidiaries to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of $25,000,000, which judgments are not paid, discharged or stayed for a period of 60 days;~~

(g) ~~the occurrence of the following:~~

~~(1) except as permitted by the Note Documents, any Collateral Agreement establishing the Pari Passu Liens ceases for any reason to be enforceable; provided that it will not be an~~

~~Event of Default under this clause (g)(1) if the sole result of the failure of one or more Collateral Agreements to be fully enforceable is that any Pari Passu Lien purported to be granted under such Collateral Agreements on Collateral, individually or in the aggregate, having a fair market value of not more than $10,000,000, ceases to be an enforceable and perfected first-priority Lien, subject only to the payment priorities in favor of the holders of Revolving Credit Agreement Obligations pursuant to the terms of the Pari Passu Intercreditor Agreement and subject to Permitted Collateral Liens; provided, further, that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period;~~

~~(2) except as permitted by the Note Documents, any Pari Passu Lien purported to be granted under any Collateral Agreement on Collateral, individually or in the aggregate, having a fair market value in excess of $10,000,000, ceases to be an enforceable and perfected first-priority Lien, subject only to the payment priorities in favor of the holders of Revolving Credit Agreement Obligations pursuant to the terms of the Pari Passu Intercreditor Agreement and subject to Permitted Collateral Liens; provided that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period; and~~

~~(3) the Company or any other Collateral Grantor, or any Person acting on behalf of any of them, denies or disaffirms, in writing, any obligation of the Company or any other Collateral Grantor set forth in or arising under any Collateral Agreement establishing Pari Passu Liens;~~

(h) except as permitted by this Indenture, any Subsidiary Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Subsidiary Guarantor, or any Person duly acting on behalf of any such Subsidiary Guarantor, denies or disaffirms its obligations under its Subsidiary Guarantee;

(i) the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, pursuant to or within the meaning of Bankruptcy Law:

(1) commences a voluntary case,

(2) consents in writing to the entry of an order for relief against it in an involuntary case,

(3) consents in writing to the appointment of a Custodian of it or for all or substantially all of its property,

(4) makes a general assignment for the benefit of its creditors, or

(5) admits in writing it generally is not paying its debts as they become due; or

(j) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(1) is for relief against the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, in an involuntary case;

(2) appoints a Custodian (x) of the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, or (y) for all or substantially all of the property of the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary; or

(3) orders the liquidation of the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days.

Effect of Deleted Sections

The Proposed Amendments will provide that failure to comply with the terms of any of the foregoing deleted sections or subsections of the Existing Secured Notes Indenture shall no longer constitute a Default or an Event of Default under such Existing Secured Notes Indenture, and shall no longer have any other consequence under the Existing Secured Notes Indenture. The Proposed Amendments will also amend the Existing Secured Notes Indenture to provide that provisions in the Existing Secured Notes Indenture that authorize action by the Company or any Subsidiary Guarantor when permitted by a deleted section or which is to be done in accordance with a deleted section, shall be deemed to permit such action (unless prohibited by such deleted section or performed in a way consistent with such section), and, otherwise, references in the Existing Secured Notes Indenture to deleted provisions shall also no longer have any effect or consequence under the Existing Secured Notes Indenture.

Terms of the Existing 2020 Notes Indenture and the Existing 2019 Notes Indenture to be Modified by the Proposed Amendments

The following Sections of each of the Existing 2020 Notes Indenture and the Existing 2019 Notes Indenture will be deleted under the Proposed Amendments:

- Section 9.10 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 in options, warrants or other rights to purchase Qualified Capital Stock of the Company);

(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 (excluding any intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries), 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) above being collectively referred to as "Restricted Payments"), unless at the time of and after giving effect to the proposed Restricted Payment:

(1) no Default or Event of Default shall have occurred and be continuing;

(2) the Company could incur $1.00 of additional Indebtedness in accordance with Section 9.12(a) hereof; and

(3) the aggregate amount of all Restricted Payments declared or made after January 1, 2004 shall not exceed the sum (without duplication) of the following:

(A) 50% of the Consolidated Net Income of the Company accrued on a cumulative basis during the period beginning on January 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

(B) the aggregate Net Cash Proceeds, or the Fair Market Value of Property other than cash, received after January 1, 2004 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

(C) the aggregate Net Cash Proceeds, or the Fair Market Value of Property other than cash, received after January 1, 2004 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

(D) the aggregate Net Cash Proceeds received after January 1, 2004 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

(E) 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 January 1, 2004 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 January 1, 2004.

(b) Notwithstanding paragraph (a) above, the Company and its Restricted Subsidiaries may take the following actions so long as (in the case of clauses (3), (4), (5) and (7) below) no Default or Event of Default shall have occurred and be continuing:

(1) 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);

(2) the payment of any dividend payable from a Restricted Subsidiary to the Company or any other Restricted Subsidiary of the Company;

(3) 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;

(4) 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;

(5) 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 Notes 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 Notes 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 Notes;

(6) 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 (6); and

(7) other Restricted Payments in an aggregate amount not to exceed $10,000,000.

The actions described in clauses (1), (3), (4) and (6) 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 (1) 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 (1)), and the actions described in clauses (2), (5) and (7) 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) The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

(d) 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 Indenture, such Restricted Payment shall be deemed to have been made in compliance with this 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 9.12 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), 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 Subsidiary 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 2.25 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.

(b) Notwithstanding the prohibitions of Section 9.12(a), the Company and its Restricted Subsidiaries may incur any of the following items of Indebtedness (collectively, "Permitted Indebtedness"):

(1) 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 Agreement at such time less the sum of all repayments of principal of Priority Credit Facility Debt made pursuant to Section 9.17 hereof and (b) 25% of Adjusted Consolidated Net Tangible Assets; provided, however, that Indebtedness and Disqualified Capital Stock of Restricted
Subsidiaries that are not Subsidiary Guarantors shall not at any time constitute more than 50% of all Priority Credit Facility Debt otherwise permitted under this clause (1);

(2) Indebtedness under the Notes (excluding any Additional Notes);

(3) Indebtedness outstanding or in effect on the Issue Date (and not repaid or defeased with the proceeds of the offering of the Notes);

(4) 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;

(5) the Subsidiary Guarantees (and any assumption of the obligations guaranteed thereby);

(6) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; provided, however, that:

(a) if the Company is the obligor on such Indebtedness and a Subsidiary Guarantor is not the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Notes, or if a Subsidiary Guarantor is the obligor on such Indebtedness and neither the Company nor another Subsidiary Guarantor is the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Subsidiary Guarantee of such Subsidiary Guarantor; and

(b) (i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (ii) any sale or other transfer of any such Indebtedness to a Person that is neither the Company nor a Restricted Subsidiary of the Company will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);

(7) Permitted Refinancing Indebtedness and any guarantee thereof;

(8) Non-Recourse Indebtedness;

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

(10) 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

(11) any additional Indebtedness in an aggregate principal amount not in excess of $75,000,000 at any one time outstanding and any guarantee thereof.

(c) For purposes of determining compliance with this Section 9.12, in the event that an item of Indebtedness meets the criteria of one or more of the categories of Permitted Indebtedness described in paragraphs (b)(1) through (b)(11) above or is entitled to be incurred pursuant to Section 9.12(a), 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 to 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; provided that all Indebtedness outstanding on the Issue Date under the [Bank][1] Credit Agreement shall be deemed incurred under paragraph (b)(1) above and not under paragraph (b)(3) above.

(d) The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this Section 9.12. The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount or liquidation preference thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

(e) For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced (plus all accrued interest on the Indebtedness being refinanced and the amount of all expenses and premiums incurred in connection therewith).

[1] Due to a scrivener's error, the bracketed word was omitted from Section 9.12 of the Existing 2019 Notes Indenture.

(f) 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 9.12 in addition to the amount of Indebtedness which it guarantees.

(g) For purposes of this Section 9.12, 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.

(h) Notwithstanding any other provision of this Section 9.12, the maximum amount of Indebtedness that the Company or any Restricted Subsidiary may incur pursuant to this Section 9.12 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The
principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

• Section 9.14 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 (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 9.17 hereof.

• Section 9.15 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 Issue Date, 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 Notes 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 Notes are directly secured equally and ratably with the obligation or liability secured by such Lien.

• Section 9.18 Limitation on Transactions with Affiliates.

(a) 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) (each, an “Affiliate Transaction”), unless:

(1) 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; and

(2) the Company delivers to the Trustee:

(a) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $10,000,000 but no greater than $25,000,000, an Officers' Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this Section 9.18; and

(b) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $25,000,000, an Officers' Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this Section 9.18 and that such Affiliate Transaction or series of Affiliate Transactions has been approved by a majority of the Disinterested Directors of Comstock.

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of Section 9.18(a):

(1) 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;

(2) 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;

(3) 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,

(4) the Company's employee compensation and other benefit arrangements;

(5) 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 Indenture; and

(6) any Restricted Payment permitted to be paid pursuant Section 9.10.

• Section 9.19 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: (a) to 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"). However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(1) 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;

(2) 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;

(3) any instrument governing Indebtedness or Disqualified Capital Stock of a Restricted Subsidiary that is not a Subsidiary Guarantor, provided that (a) such Indebtedness or Disqualified Capital Stock is permitted under Section 9.12 and (b) the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Bank Credit Agreement and the Indenture as in effect on the Issue Date;

(4) the Bank Credit Agreement as in effect on the Issue Date or any agreement that amends, modifies, supplements, restates, extends, renews, refinances or replaces the Bank Credit Agreement, provided that the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Bank Credit Agreement as in effect on the Issue Date;

(5) this Indenture, the Notes and the Subsidiary Guarantees; or

(6) [Existing 2020 Notes Indenture: the indenture governing the Company's existing 8 3/8% Senior Notes due 2017, 7 3/4% Senior Notes due 2019, and any subsidiary guarantees thereof, in each case as in effect on the Issue Date.] [Existing 2019 Notes Indenture: the indenture governing the Company's existing 6 7/8% Senior Notes due 2012, 8 3/8% Senior Notes due 2017 and any subsidiary guarantees thereof, in each case as in effect on the Issue Date.]

- Section 9.20 Limitation on Sale and Leaseback Transactions.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, enter into any Sale/Leaseback Transaction unless (1) 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 (2) the Company or such Restricted Subsidiary receives proceeds from such Sale/Leaseback Transaction at least equal to the Fair Market Value thereof 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.

The following definitions will be deleted from Section 2.01 of the Existing 2020 Notes Indenture and the Existing 2019 Notes Indenture:

- "*Acquired Indebtedness*" means Indebtedness of a Person (1) existing at the time such Person becomes a Restricted Subsidiary or (2) 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.

- "*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.

- "*Consolidated Fixed Charge Coverage Ratio*" means, for any period, the ratio on a pro forma basis of (1) 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, to (2) Consolidated Interest Expense for such period; provided, however, that (i) 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 9.12(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, (ii) 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 9.12(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, (iii) 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 9.12(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, (iv) notwithstanding clauses (ii) and (iii) 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, (v) in making such calculation, Consolidated Interest Expense shall exclude interest attributable to Dollar-Denominated Production Payments, and (vi) if after the first day of the period referred to in clause (1) 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 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:

  (1) net after-tax extraordinary gains or losses (less all fees and expenses relating thereto);

  (2) net after-tax gains or losses (less all fees and expenses relating thereto) attributable to Asset Sales;

  (3) 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 are attributable to net income (or net loss) of such Person during such period or during any prior period);

  (4) 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;

  (5) dividends paid in Qualified Capital Stock;

  (6) income resulting from transfers of assets received by the Company or any Restricted Subsidiary from an Unrestricted Subsidiary;

  (7) Consolidated Exploration Expenses and any write-downs or impairments of non-current assets; and

  (8) the cumulative effect of a change in accounting principles.

- "*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).

- "*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.

- "*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 (1) if the Indebtedness (including the Notes) being renewed, extended, refinanced, refunded or repurchased is pari passu with or subordinated in right of payment to either the Notes or the Subsidiary Guarantees, then such Indebtedness is pari passu with or

subordinated in right of payment to the Notes or the Subsidiary Guarantees, as the case may be, at least to the same extent as the Indebtedness being renewed, extended, refinanced, refunded or repurchased, (2) 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 (3) 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.

- "*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 Issue Date, including, without limitation, all classes and series of preferred or preference stock of such Person.

- "*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.

The following provisions of the Existing 2020 Notes Indenture and the Existing 2019 Notes Indenture will be amended, as shown below (stricken text indicates the portion of such provision that will be eliminated and underlined text indicates language that will be added to such provision):

- Definition of "*Bank Credit Agreement*" under Section 2.1:

"*Bank Credit Agreement*" means that certain Third Amended and Restated Credit Agreement dated as of November 30, 2010 among the Company, 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, JP Morgan Chase Bank, N.A. 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 9.12)~~ 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.

- Definition of "*Investment*" under Section 2.1:

"*Investment*" means, with respect to any Person, any direct or indirect advance, loan, guarantee of Indebtedness or other extension of credit or capital contribution by such Person 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 (1) 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, (2) Interest Rate Protection Obligations entered into in the ordinary course of business or as permitted hereunder ~~required by any Permitted Indebtedness or any Indebtedness incurred in compliance with Section 9.12 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 (3) endorsements of negotiable instruments and documents in the ordinary course of business. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Restricted Subsidiary that were not sold or disposed of.

- Subsection (1) of the definition of "Permitted Liens" under Section 2.1:

(1) Liens securing Indebtedness of the Company or any Restricted Subsidiary that constitutes Priority Credit Facility Debt ~~permitted pursuant to clause (1) of the definition of "Permitted Indebtedness"~~;

- Definition of "Priority Credit Facility Debt" under Section 2.1:

"*Priority Credit Facility Debt*" means, collectively, (1) Indebtedness of the Company or any Restricted Subsidiary (including, without limitation, Indebtedness under the Bank Credit Agreement) secured by Liens not otherwise permitted under any of clauses (2) through (25), inclusive, of the definition of "Permitted Liens," and (2) other Indebtedness or Disqualified Capital Stock of any Restricted Subsidiary that is not a Subsidiary Guarantor. ~~For purposes of clause (1) 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 Agreement 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."~~

- Definition of "*Unrestricted Subsidiary*" under Section 2.1:

"Unrestricted Subsidiary" means (1) 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 (2) 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; and (c) such

designation ~~as an Unrestricted Subsidiary would be permitted under Section 9.10 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 9.15 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 (i) such liability constituted a Permitted Investment~~ or a Restricted Payment permitted by Section 9.10 hereof, in each case~~ at the time of incurrence, or (ii) 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. If at any time any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of the Indenture and any Indebtedness of such Subsidiary shall be deemed to be Incurred as of such date. 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 under Section 9.12(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 9.15 hereof~~.

- Section 2.2 Other Definitions.

Term	Defined in
~~"Affiliate Transaction"~~	~~9.18(a)~~
"Agent Members"	3.2(b)
"Change of Control Notice"	9.16(c)
"Change of Control Offer"	9.16(a)
"Change of Control Purchase Date"	9.16(c)
"Change of Control Purchase Price"	9.16(a)
"Excess Proceeds"	9.17(b)
"Funding Guarantor"	12.5
"Global Note"	3.2(a)
"Investment Grade Ratings"	9.21
"Offer Amount"	9.17(c)
"Offer Period"	9.17(c)
"Paying Agent"	3.4
~~"Payment Restriction"~~	~~9.19~~
"Permitted Consideration"	9.17(a)
~~"Permitted Indebtedness"~~	~~9.12(b)~~
"Prepayment Offer"	9.17(b)
"Prepayment Offer Notice"	9.17(c)
"Purchase Date"	9.17(c)
"Register"	3.4
"Registrar"	3.4
~~"Restricted Payment"~~	~~9.10(a)~~
"Reversion Date"	9.21
"Surviving Entity"	7.1(a)
"Suspended Covenants"	9.21
"Suspension Date"	9.21
"Suspension Period"	9.21

- Section 5.1 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 Notes 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 Notes, 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 VII hereof, the failure to make or consummate a Change of Control Offer in accordance with the provisions of Section 9.16 or the failure to make or consummate a Prepayment Offer in accordance with the provisions of Section 9.17; or

(d) the Company or any Subsidiary Guarantor shall fail to comply with the provisions of Section 9.9 for a period of 90 days after written notice of such failure stating that it is a "notice of default" hereunder 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 Notes then Outstanding); or

(e) the Company or any Subsidiary Guarantor shall fail to perform or observe any other term, covenant or agreement contained in the Notes, any Subsidiary Guarantee or the Indenture (other than a default specified in subparagraph (a), (b), (c) or (d) above) for a period of 60 days after written notice of such failure stating that it is a "notice of default" hereunder 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 Notes then Outstanding; or

(f) ~~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 Notes) or any Subsidiary 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 Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed, provided that the aggregate principal amount of such Indebtedness, together with the aggregate principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, shall exceed $50,000,000; or~~

(g) any Subsidiary Guarantee shall for any reason cease to be, or be asserted by the Company or any Subsidiary Guarantor, as applicable, not to be, in full force and effect (except pursuant to the release of any such Subsidiary Guarantee in accordance with this Indenture); or

(h) ~~failure by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary to pay final judgments or orders rendered against the Company or any Subsidiary Guarantor or any other Restricted Subsidiary aggregating in excess of $50,000,000 (net of any amounts covered by insurance with a reputable and creditworthy insurance company that has not disclaimed liability)~~

~~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~~

(i) 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 Subsidiary 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 Subsidiary Guarantor or any other Restricted Subsidiary bankrupt or insolvent, or approving a petition seeking reorganization, arrangement, adjustment or composition of the Company or any Subsidiary 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 Subsidiary 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

(j) the commencement by the Company or any Subsidiary 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 Subsidiary 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 Subsidiary 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 Subsidiary 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 Subsidiary Guarantor or any other Restricted Subsidiary in furtherance of any such action.

- Section 7.1 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 effect 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 the Indenture executed and delivered to the Trustee, in form satisfactory to the Trustee, all the obligations of the Company under the Notes and the Indenture, and, in each case, the 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, either~~

~~(i) 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 the Indenture) could incur $1.00 of additional Indebtedness under Section 9.12(a) hereof; or~~

~~(ii) 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 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 Fixed Charge Coverage Ratio of the Company (or the Surviving Entity if Comstock is not the continuing obligor under the Indenture) will be equal to or greater than the Fixed Charge Coverage Ratio of the Company immediately before such transaction or transactions;~~

(d) if the Company is not the continuing obligor under the Indenture, then each Subsidiary Guarantor, unless it is the Surviving Entity, shall have by supplemental indenture confirmed that its Subsidiary Guarantee of the Notes shall apply to the Surviving Entity's obligations under the Indenture and the Notes;

(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 9.15 hereof; and

(f) the Company (or the Surviving Entity if the Company is not the continuing obligor under the 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 the Indenture and (ii) an Opinion of Counsel stating that the requirements of Section 7.1(a) hereof have been satisfied.

- Section 9.21 Covenant Suspension.

Following any day (a "Suspension Date") that (a) the Notes have a rating equal to or higher than BBB- (or the equivalent) by S&P and a rating equal to or higher than Baa3 (or the equivalent) by Moody's ("Investment Grade Ratings"), (b) follows a date on which the Notes do not have Investment Grade Ratings, and (c) no Default or Event of Default has occurred and is continuing under this Indenture, the Company and its Restricted Subsidiaries shall not be subject to the covenants described in Sections ~~7.1(c), 9.10, 9.12, 9.14,~~ 9.17~~, 9.18 and 9.19~~ (~~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 Notes 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 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 9.10 will be made as though the covenants described under Section 9.10 had been in effect since the Issue Date and throughout the Suspension Period.~~ During any Suspension Period, the Board of Directors of the Company may not designate any of the Company's Subsidiaries as Unrestricted Subsidiaries pursuant to this Indenture. [The Company shall give the Trustee prompt written notification upon the occurrence of a Suspension Date or a Reversion Date.][2]

Effect of Deleted Sections

The Proposed Amendments will provide that failure to comply with the terms of any of the foregoing deleted sections or subsections of the Existing 2020 Notes Indenture and the Existing 2019 Notes Indenture shall no longer constitute a Default or an Event of Default under such Existing 2020 Notes Indenture or such Existing 2019 Notes Indenture, as applicable, and shall no longer have any other consequence under the respective Existing Indenture. The Proposed Amendments will also amend the Existing 2020 Notes Indenture and the Existing 2019 Notes Indenture to provide that provisions in the Existing 2020 Notes Indenture and the Existing 2019 Notes Indenture that authorize action by the Company or any Subsidiary Guarantor when permitted by a deleted section or which is to be done in accordance with a deleted section, shall be deemed to permit such action (unless prohibited by such deleted section or performed in a way consistent with such section), and, otherwise, references in the Existing 2020 Notes Indenture and the Existing 2019 Notes Indenture to deleted provisions shall also no longer have any effect or consequence under such Existing Indenture.

[2] Bracketed language will be added to Section 9.21 of the Existing 2019 Notes Indenture under the Proposed Amendments. Bracketed language is already contained in Section 9.21 of the Existing 2020 Notes Indenture.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

FINANCIAL STATEMENTS INDEX

Financial Statements (Unaudited):

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS
(Unaudited)

	June 30, 2016	December 31, 2015
	(In thousands)	
ASSETS		
Cash and Cash Equivalents	$ 67,412	$ 134,006
Accounts Receivable:		
Oil and gas sales	16,075	15,241
Joint interest operations	2,387	3,552
Derivative Financial Instruments	—	1,446
Assets Held for Sale	42,542	—
Other Current Assets	2,339	1,993
Total current assets	130,755	156,238
Property and Equipment:		
Unproved oil and gas properties	76,391	84,144
Oil and gas properties, successful efforts method	3,768,602	4,332,222
Other	19,532	19,521
Accumulated depreciation, depletion and amortization	(2,949,175)	(3,397,467)
Net property and equipment	915,350	1,038,420
Other Assets	1,121	1,192
	$ 1,047,226	$ 1,195,850
LIABILITIES AND STOCKHOLDERS' DEFICIT		
Accounts Payable	$ 46,601	$ 57,276
Accrued Liabilities	40,220	38,444
Total current liabilities	86,821	95,720
Long-term Debt	1,145,190	1,249,330
Deferred Income Taxes	6,510	1,965
Reserve for Future Abandonment Costs	15,972	20,093
Total liabilities	1,254,493	1,367,108
Commitments and Contingencies		
Stockholders' Deficit:		
Common stock — $0.50 par, 50,000,000 shares authorized, 12,504,562 and 9,544,035 shares outstanding at June 30, 2016 and December 31, 2015, respectively	6,253	4,772
Additional paid-in capital	518,905	504,670
Accumulated deficit	(732,425)	(680,700)
Total stockholders' deficit	(207,267)	(171,258)
	$ 1,047,226	$ 1,195,850

The accompanying notes are an integral part of these statements.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
	(In thousands, except per share amounts)			
Revenues:				
Natural gas sales	$ 25,727	$ 26,188	$ 50,874	$ 46,757
Oil sales	14,988	51,124	26,004	97,077
Total oil and gas sales	40,715	77,312	76,878	143,834
Operating expenses:				
Production taxes	1,327	3,807	2,513	6,781
Gathering and transportation	4,025	3,260	8,390	6,113
Lease operating	12,988	17,827	25,948	32,963
Exploration	—	23,040	7,753	65,269
Depreciation, depletion and amortization	36,029	90,573	74,865	182,462
General and administrative	5,663	7,176	11,238	15,142
Impairment of oil and gas properties	1,742	1,984	24,460	2,387
Net loss on sales and exchange of oil and gas properties	1,647	111,830	907	111,830
Total operating expenses	63,421	259,497	156,074	422,947
Operating loss	(22,706)	(182,185)	(79,196)	(279,113)
Other income (expenses):				
Net gain on extinguishment of debt	56,196	7,267	89,576	4,532
Gain on derivative financial instruments	18	627	674	627
Other income	314	356	595	643
Interest expense	(28,882)	(33,807)	(58,826)	(54,561)
Total other income (expenses)	27,646	(25,557)	32,019	(48,759)
Income (loss) before income taxes	4,940	(207,742)	(47,177)	(327,872)
(Provision for) benefit from income taxes	(88)	72,674	(4,548)	114,302
Net income (loss)	$ 4,852	$ (135,068)	$ (51,725)	$ (213,570)
Net income (loss) per share — basic and diluted	$ 0.41	$ (14.64)	$ (4.82)	$ (23.18)
Weighted average shares outstanding — basic and diluted	11,557	9,224	10,729	9,215

The accompanying notes are an integral part of these statements.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF STOCKHOLDERS' DEFICIT
For the Six Months Ended June 30, 2016
(Unaudited)

	Common Stock (Shares)	Common Stock – Par Value	Additional Paid-in Capital	Accumulated Deficit	Total
			(In thousands)		
Balance at January 1, 2016	9,544	$ 4,772	$504,670	$ (680,700)	$(171,258)
Stock-based compensation	232	116	2,377	—	2,493
Restricted stock used for tax withholdings	(42)	(21)	(292)	—	(313)
Stock issued in exchange for debt	2,771	1,386	12,150	—	13,536
Net loss	—	—	—	(51,725)	(51,725)
Balance at June 30, 2016	12,505	$ 6,253	$518,905	$ (732,425)	$(207,267)

The accompanying notes are an integral part of these statements.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	Six Months Ended June 30,	
	2016	2015
	(In thousands)	
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	$ (51,725)	$(213,570)
Adjustments to reconcile net loss to net cash provided by (used for) operating activities:		
Net loss on sales and exchange of oil and gas properties	907	111,830
Deferred income taxes	4,519	(114,785)
Leasehold impairments and other exploration costs	7,753	65,269
Impairment of oil and gas properties	24,460	2,387
Depreciation, depletion and amortization	74,865	182,462
Gain on derivative financial instruments	(674)	(627)
Settlements of derivative financial instruments	2,120	—
Net gain on extinguishment of debt	(89,576)	(4,532)
Amortization of debt discount, premium and issuance costs	2,533	2,564
Stock-based compensation	2,493	3,982
Excess income taxes from stock-based compensation	—	1,903
Decrease in accounts receivable	331	17,125
Decrease (increase) in other current assets	(346)	7,600
Decrease in accounts payable and accrued liabilities	(8,864)	(37,370)
Net cash provided by (used for) operating activities	(31,204)	24,238
CASH FLOWS FROM INVESTING ACTIVITIES:		
Capital expenditures	(33,654)	(197,263)
Proceeds from asset sales	2,067	—
Net cash used for investing activities	(31,587)	(197,263)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Borrowings	—	740,000
Payments to retire debt	(3,397)	(420,288)
Debt and equity issuance costs	(93)	(16,115)
Tax withholdings related to restricted stock	(313)	(526)
Excess income taxes from stock-based compensation	—	(1,903)
Net cash provided by (used for) financing activities	(3,803)	301,168
Net increase (decrease) in cash and cash equivalents	(66,594)	128,143
Cash and cash equivalents, beginning of period	134,006	2,071
Cash and cash equivalents, end of period	$ 67,412	$ 130,214

The accompanying notes are an integral part of these statements.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

June 30, 2016
(Unaudited)

(1) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES —

Basis of Presentation

In management's opinion, the accompanying unaudited consolidated financial statements contain all adjustments necessary to present fairly the financial position of Comstock Resources, Inc. and subsidiaries ("Comstock" or the "Company") as of June 30, 2016, the related results of operations for the three and six months ended June 30, 2016 and 2015, and cash flows for the six months ended June 30, 2016 and 2015. Net loss and comprehensive loss are the same in all periods presented. All adjustments are of a normal recurring nature unless otherwise disclosed.

The accompanying unaudited consolidated financial statements have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission. Certain information and disclosures normally included in annual financial statements prepared in accordance with accounting principles generally accepted in the United States have been omitted pursuant to those rules and regulations, although Comstock believes that the disclosures made are adequate to make the information presented not misleading. These unaudited consolidated financial statements should be read in conjunction with the financial statements and notes thereto included in Comstock's Annual Report on Form 10-K for the year ended December 31, 2015 and its current report on Form 8-K dated August 1, 2016.

The results of operations for the three and six months ended June 30, 2016 are not necessarily an indication of the results expected for the full year.

These unaudited consolidated financial statements include the accounts of Comstock and its wholly-owned and controlled subsidiaries.

On July 19, 2016, the Company announced a one-for-five (1:5) reverse split of its issued and outstanding common stock which became effective on July 29, 2016. All amounts disclosed in these financial statements have been adjusted to give effect to the effect of this reverse stock split in all periods.

Property and Equipment

The Company follows the successful efforts method of accounting for its oil and gas properties. Costs incurred to acquire oil and gas leasehold are capitalized.

At June 30, 2016, the Company reflected certain of its natural gas properties located in South Texas as assets held for sale in the accompanying consolidated balance sheet. The Company engaged financial advisors in February 2016 to sell the properties. At June 30, 2016, these assets were reflected on the balance sheet at $42.5 million, representing their estimated net realizable value on a sale less costs to sell. The Company has recognized an impairment charge of $20.8 million during the six months ended June 30, 2016 to adjust the carrying value of these assets to their net realizable value. The impairment, which is a Level 3 fair value measurement, was computed using a discounted cash flow valuation approach which is consistent with the Company's methodology for determining impairments of its proved oil and gas properties. The asset retirement obligation related to these properties of $3.4 million is included in accrued liabilities at June 30, 2016. In June 30, 2015, Comstock entered into an agreement to sell certain of its oil and gas properties located in and near Burleson County, Texas to a third party. This sale closed on July 22, 2015 with an effective date of May 1, 2015 and the Company received net proceeds from this sale of $102.5 million in the third quarter of 2015. The Company recognized a loss on this sale of $111.8 million in the three months and six months ended June 30, 2015 operating results.

Results of operations for the properties that were sold or are being held for sale were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
	(In thousands)			
Total oil and gas sales	$ 1,728	$ 14,208	$ 3,528	$ 22,755
Total operating expenses(1)	(1,712)	(18,616)	(3,399)	(72,977)
Operating income (loss)	$ 16	$ (4,408)	$ 129	$ (50,222)

(1) Includes direct operating expenses, depreciation, depletion and amortization and exploration expense. Excludes interest expense, general and administrative expenses and depreciation, depletion and amortization expense subsequent to the date the assets were designated as held for sale.

In January 2016, the Company exchanged certain oil and gas properties with another operator in a non-monetary exchange. Under the exchange, the Company received 3,637 net acres in DeSoto Parish, Louisiana, prospective for the Haynesville shale, including four producing wells (3.5 net). The Company exchanged 2,547 net acres in Atascosa County, Texas, including seven producing wells (5.3 net) for the Haynesville shale properties. The Company recognized a gain of $0.7 million on this transaction which is included in the net loss on sales and exchange of oil and gas properties for the six months ended June 30, 2016. The Company also sold certain oil and gas properties during the first six months of 2016 for total proceeds of $2.1 million. The Company recognized a loss of $1.6 million on these divestitures.

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 oil and gas properties and amortized on an equivalent unit-of-production basis. The Company recognized impairment charges in exploration expense and $23.0 million during the three months ended June 30, 2015 and $7.8 million and $63.5 million during the six months ended June 30, 2016 and 2015, respectively, related to certain leases that the Company currently does not plan to develop. No unproved impairments were recognized during the three months ended June 30, 2016.

The Company also assesses the need for an impairment of the capitalized costs for its proved oil and gas properties on a property basis. Reductions to management’s oil and natural gas price outlooks in 2016 and 2015 resulted in indications of impairment of certain of the Company’s properties. Accordingly, the Company recognized additional impairments of its oil and gas properties of $1.7 million and $2 million for the three months ended June 30, 2016 and 2015, respectively, and $3.7 million and $2.4 million for the six months ended June 30, 2016 and 2015, respectively, to reduce the carrying value of these properties to their estimated fair value.

The Company determines the fair values of its oil and gas properties using a discounted cash flow model and proved and risk adjusted probable reserves. Undrilled acreage can also be valued based on sales transactions in comparable areas. Significant Level 3 assumptions associated with the calculation of discounted future cash flows included in the cash flow model include management’s outlook for oil and natural gas prices, production costs, capital expenditures, and future production as well as estimated proved reserves and risk-adjusted probable reserves. Management’s oil and natural gas price outlook is developed based on third-party longer-term price forecasts as of each measurement date. The expected future net cash flows are discounted using an appropriate discount rate in determining a property’s fair value.

It is reasonably possible that the Company’s estimates of undiscounted future net cash flows attributable to its oil and gas properties may change in the future. The primary factors that may affect estimates of future cash flows include future adjustments, both positive and negative, to proved and appropriate risk-adjusted probable oil and gas reserves, results of future drilling activities, future prices for oil and natural gas, and increases or decreases in production and capital costs. As a result of these changes, or if in the future the Company does not have access to sufficient capital to develop any undrilled reserves used in its assessment, there may be further impairments in the carrying values of these or other properties.

Accrued Liabilities

Accrued liabilities at June 30, 2016 and December 31, 2015 consist of the following:

	As of June 30, 2016	As of December 31, 2015
	(In thousands)	
Accrued interest	$26,892	$ 29,075
Accrued drilling costs	2,005	5,306
Accrued ad valorem taxes	2,400	—
Asset retirement obligation of assets held for sale	3,442	—
Other accrued liabilities	5,481	4,063
	$40,220	$ 38,444

Reserve for Future Abandonment Costs

Comstock's asset retirement obligations relate to future plugging and abandonment expenses on its oil and gas properties and related facilities disposal. The following table summarizes the changes in Comstock's total estimated liability for such obligations during the six months ended June 30, 2016 and 2015:

	Six Months Ended June 30,	
	2016	2015
	(In thousands)	
Future abandonment costs — beginning of period	$ 20,093	$ 14,900
Accretion expense	496	401
New wells placed on production	2	262
Assets held for sale	(3,442)	(628)
Liabilities settled and assets disposed of	(1,177)	—
Future abandonment costs — end of period	$ 15,972	$ 14,935

Derivative Financial Instruments and Hedging Activities

Comstock periodically uses swaps, floors and collars to hedge oil and natural gas prices and interest rates. Swaps are settled monthly based on differences between the prices specified in the instruments and the settlement prices of futures contracts. 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 or amounts hedged. 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 cap. All of the Company's derivative financial instruments are used for risk management purposes and, by policy, none are held for trading or speculative purposes. Comstock minimizes credit risk to counterparties of its derivative financial instruments through formal credit policies, monitoring procedures, and diversification. All of Comstock's derivative financial instruments are with parties that are lenders under its bank credit facility. The Company is not required to provide any credit support to its counterparties other than cross collateralization with the assets securing its bank credit facility. None of the Company's derivative financial instruments involve payment or receipt of premiums.

As of June 30, 2016, the Company had no outstanding commodity derivatives. The Company had derivative financial instruments outstanding on June 30, 2015 that hedged production for the subsequent twelve month

period. None of the Company's derivative contracts were designated as cash flow hedges. The Company recognized cash settlements and changes in the fair value of its derivative financial instruments as a single component of other income (expenses). The Company recognized gains of $18,000 and $0.7 million related to the change in fair value of its natural gas swap agreements during the three months and six months ended June 30, 2016, respectively. The Company recognized a gain of $0.6 million related to the change in fair value of its natural gas swap agreements during the three and six months ended June 30, 2015. Cash settlements on the Company's natural gas derivative financial instruments were receipts of $1.1 million and $2.1 million for the three months and six months ended June 30, 2016, respectively. The Company had no cash settlements from derivative financial instruments in the first six months of 2015.

Stock-Based Compensation

Comstock accounts for employee stock-based compensation under the fair value method. Compensation cost is measured at the grant date based on the fair value of the award and is recognized over the award vesting period. During the three months ended June 30, 2016 and 2015, the Company recognized $1.2 million and $2.1 million, respectively, of stock-based compensation expense within general and administrative expenses related to awards of restricted stock and performance stock units to its employees and directors. For the six months ended June 30, 2016 and 2015, the Company recognized $2.5 million and $4.0 million, respectively, of stock-based compensation expense within general and administrative expenses.

During the six months ended June 30, 2016, the Company granted 229,618 shares of restricted stock with a grant date fair value of $1.3 million, or $5.45 per share, to its employees. The fair value of each restricted share on the date of grant was equal to its market price. As of June 30, 2016, Comstock had 354,974 shares of unvested restricted stock outstanding at a weighted average grant date fair value of $15.25 per share. Total unrecognized compensation cost related to unvested restricted stock grants of $4.4 million as of June 30, 2016 is expected to be recognized over a period of 2.1 years.

During the six months ended June 30, 2016, the Company granted 60,013 performance share units ("PSUs") with a grant date fair value of $0.4 million, or $7.00 per unit, to its employees. As of June 30, 2016, Comstock had 134,627 PSUs outstanding at a weighted average grant date fair value of $22.09 per unit. The number of shares of common stock to be issued related to the PSUs is based on the Company's stock price performance as compared to its peers which could result in the issuance of anywhere from zero to 269,253 shares of common stock. Total unrecognized compensation cost related to these grants of $1.7 million as of June 30, 2016 is expected to be recognized over a period of 1.7 years.

As of June 30, 2016, Comstock had outstanding options to purchase 11,730 shares of common stock at a weighted average exercise price of $166.10 per share. All of the stock options were exercisable and there were no unrecognized compensation costs related to the stock options as of June 30, 2016. No stock options were granted or exercised during the six months ended June 30, 2016.

Income Taxes

Deferred income taxes are provided to reflect the future tax consequences or benefits of differences between the tax basis of assets and liabilities and their reported amounts in the financial statements using enacted tax rates. The deferred tax provision in the first six months of 2016 related to an increase in the Company's deferred income tax liability resulting from state tax law changes enacted during the period. In recording deferred income tax assets, the Company considers whether it is more likely than not that some portion or all of its deferred income tax assets will be realized in the future. The ultimate realization of deferred income tax assets is dependent upon the generation of future taxable income during the periods in which those deferred income tax assets would be deductible. The Company believes that after considering all the available objective evidence, historical and prospective, with greater weight given to historical evidence, management is not able to determine that it is more likely than not that all of its deferred tax assets will be realized and, therefore, has recorded an a valuation allowance of $17.9 million and $4.9 million against its net federal deferred tax assets and

state deferred tax assets (net of the federal tax benefit), respectively, during the six months ended June 30, 2016. The Company will continue to assess the valuation allowance against deferred tax assets considering all available information obtained in future reporting periods.

The following is an analysis of consolidated income tax expense (benefit):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
	(In thousands)			
Current provision	$ 15	$ 420	$ 29	$ 483
Deferred provision (benefit)	73	(73,094)	4,519	(114,785)
Provision for (benefit from) income taxes	$ 88	$ (72,674)	$4,548	$(114,302)

The difference between the Company's effective tax rate and the 35% federal statutory rate is caused by valuation allowances on deferred taxes and state taxes. The impact of these items varies based upon the Company's projected full year loss and the jurisdictions that are expected to generate the projected losses. The difference between the Company's customary rate of 35% and the effective tax rate on the loss before income taxes is due to the following:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
	(In thousands)			
Tax at statutory rate	35.0%	35.0%	35.0%	35.0%
Tax effect of:				
Valuation allowance on deferred tax assets	(22.1)	(3.2)	(48.5)	(2.1)
State income taxes net of federal benefit	(11.8)	3.4	4.2	2.1
Other	0.7	(0.2)	(0.3)	(0.1)
Effective tax rate	1.8%	35.0%	(9.6)%	34.9%

The Company's federal income tax returns for the years subsequent to December 31, 2011, remain subject to examination. The Company's income tax returns in major state income tax jurisdictions remain subject to examination for the year ended December 31, 2008 and for various periods subsequent to December 31, 2010. A state tax return in one state jurisdiction is currently under review. The Company has evaluated the preliminary findings in this jurisdiction and believes it is more likely than not that the ultimate resolution of these matters will not have a material effect on the Company's financial statements. The Company currently believes that all other significant filing positions are highly certain and that all of its other significant income tax positions and deductions would be sustained under audit or the final resolution would not have a material effect on the consolidated financial statements. Therefore, the Company has not established any significant reserves for uncertain tax positions.

Future use of the Company's federal and state net operating loss carryforwards may be limited in the event that a cumulative change in the ownership of Comstock's common stock by more than 50% occurs within a three-year period. Such a change in ownership could result in a substantial portion of Comstock's net operating loss carryforwards being eliminated or becoming restricted, and the Company may need to recognize an additional valuation allowance reflecting the restricted use of these net operating loss carryforwards in the period when such an ownership change occurred. In October 2015, the Company established a rights plan to deter ownership changes that would trigger this limitation.

Fair Value Measurements

The Company holds or has held certain items that are required to be measured at fair value. These include cash and cash equivalents held in bank accounts and derivative financial instruments in the form of oil and natural gas price swap agreements. Fair value is defined as the price that would be received to sell an asset or

paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. A three-level hierarchy is followed for disclosure to show the extent and level of judgment used to estimate fair value measurements:

Level 1 — Inputs used to measure fair value are unadjusted quoted prices that are available in active markets for the identical assets or liabilities as of the reporting date.

Level 2 — Inputs used to measure fair value, other than quoted prices included in Level 1, are either directly or indirectly observable as of the reporting date through correlation with market data, including quoted prices for similar assets and liabilities in active markets and quoted prices in markets that are not active. Level 2 also includes assets and liabilities that are valued using models or other pricing methodologies that do not require significant judgment since the input assumptions used in the models, such as interest rates and volatility factors, are corroborated by readily observable data from actively quoted markets for substantially the full term of the financial instrument.

Level 3 — Inputs used to measure fair value are unobservable inputs that are supported by little or no market activity and reflect the use of significant management judgment. These values are generally determined using pricing models for which the assumptions utilize management's estimates of market participant assumptions.

The Company's valuation of cash and cash equivalents is a Level 1 measurement. The Company's natural gas price swap agreements are not traded on a public exchange. Their value is determined utilizing a discounted cash flow model based on inputs that are readily available in public markets and, accordingly, the valuation of these swap agreements is categorized as a Level 2 measurement. There were no price swap agreements outstanding as of June 30, 2016.

As of June 30, 2016, the Company's financial assets and liabilities accounted for at fair value consisted of cash and cash equivalents of $67.4 million, a Level 1 measurement. As of June 30, 2016, the Company's other financial instruments, comprised solely of its fixed rate debt, had a carrying value of $1.1 billion and a fair value of $730.2 million. The fair market value of the Company's fixed rate debt was based on quoted prices as of June 30, 2016, a Level 2 measurement.

Earnings Per Share

Basic earnings per share is determined without the effect of any outstanding potentially dilutive stock options or PSUs and diluted earnings per share is determined with the effect of outstanding stock options and PSUs that are potentially dilutive. Unvested share-based payment awards containing nonforfeitable rights to dividends are considered to be participatory securities and are included in the computation of basic and diluted earnings per share pursuant to the two-class method. PSUs represent the right to receive a number of shares of the Company's common stock that may range from zero to up to two times the number of PSUs granted on the award date based on the achievement of certain performance measures during a performance period. The number of potentially dilutive shares related to PSUs is based on the number of shares, if any, which would be issuable at the end of the respective period, assuming that date was the end of the contingency period. The treasury stock method is used to measure the dilutive effect of PSUs. Basic and diluted income (loss) per share for the three months and six ended June 30, 2016 and 2015 were determined as follows:

	Three Months Ended June 30,					
	2016			2015		
	Income	Shares	Per Share	Loss	Shares	Per Share
	(In thousands, except per share amounts)					
Net income (loss)	$4,852			$(135,068)		
Income allocable to unvested stock grants	(143)			—		
Basic and diluted net income (loss) attributable to common stock	$4,709	11,557	$0.41	$(135,068)	9,224	$(14.64)

	Six Months Ended June 30,					
	2016			2015		
	Loss	Shares	Per Share	Loss	Shares	Per Share
	(In thousands, except per share amounts)					
Basic and Diluted net loss attributable to common stock	$(51,725)	10,729	$(4.82)	$(213,570)	9,215	$(23.18)

At June 30, 2016 and December 31, 2015, 354,974 and 314,060 shares of restricted stock, respectively, are included in common stock outstanding as such shares have a nonforfeitable right to participate in any dividends that might be declared and have the right to vote on matters submitted to the Company's stockholders. Weighted average shares of unvested restricted stock outstanding during the three months and six months ended June 30, 2016 and 2015 were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
	(In thousands)			
Unvested restricted stock	350	309	332	271

Options to purchase common stock and PSUs that were outstanding and that were excluded as anti-dilutive from the determination of diluted earnings per share are as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
	(In thousands except per share/unit data)			
Weighted average stock options	12	21	12	22
Weighted average exercise price per share	$166.10	$164.75	$166.10	$164.75
Weighted average performance share units	135	134	138	122
Weighted average grant date fair value per unit	$ 22.10	$ 45.65	$ 22.10	$ 45.65

For the three and six months ended June 30, 2016 and 2015, the excluded options that were anti-dilutive were at exercise prices in excess of the average stock price. Except for the three months ended June 30, 2016, all unvested PSUs were anti-dilutive to earnings and excluded from weighted average shares used in the computation of earnings per share in the periods presented due to the net loss in those periods.

Supplementary Information With Respect to the Consolidated Statements of Cash Flows

For the purpose of the consolidated statements of cash flows, the Company 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 cash payments made for interest and income taxes:

	Six Months Ended June 30,	
	2016	2015
	(In thousands)	
Interest payments	$58,476	$31,836
Income tax payments	$ —	$ 11

The Company capitalizes interest on its unevaluated oil and gas property costs during periods when it is conducting exploration activity on this acreage. No interest was capitalized during the six months ended June 30, 2016. The Company capitalized interest of $0.9 million for the six months ended June 30, 2015 which reduced interest expense.

Recent Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2014-09, *Revenue from Contracts with Customers (Topic 606)* ("ASU 2014-09"), which supersedes nearly all existing revenue recognition guidance under existing generally accepted accounting principles. This new standard is based upon the principal that revenue is recognized to depict the transfer of goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. ASU 2014-09 also requires additional disclosure about the nature, amount, timing and uncertainty of revenue and cash flows arising from customer contracts. ASU 2014-09 is effective for annual and interim periods beginning after December 15, 2017. Early adoption is permitted beginning with periods after December 15, 2016 and entities have the option of using either a full retrospective or modified approach to adopt ASU 2014-09. The Company is currently evaluating the new guidance and has not determined the impact this standard may have on its financial statements or decided upon the method of adoption.

In August 2014, the FASB issued ASU No. 2014-15, *Presentation of Financial Statements — Going Concern (Subtopic 205-40): Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern* ("ASU 2014-15"). ASU 2014-15 provides guidance about management's responsibility to evaluate whether there is substantial doubt about an entity's ability to continue as a going concern and sets rules for how this information should be disclosed in the financial statements. ASU 2014-15 is effective for annual periods ending after December 15, 2016 and interim periods thereafter. Early adoption is permitted. The Company has elected to not adopt ASU 2014-15 early and does not expect adoption of ASU 2014-15 to have any impact on its consolidated financial condition or results of operations.

In February 2016, the FASB issued ASU No. 2016-02, *Leases*, ("ASU 2016-02"). ASU 2016-02 requires lessees to put most leases on their balance sheets, but recognize lease costs in their financial statements in a manner similar to accounting for leases prior to ASC 2016-02. ASU 2016-02 is effective for annual periods ending after December 15, 2018 and interim periods thereafter. Early adoption is permitted. The Company is currently evaluating the new guidance and has not determined the impact this standard may have on its financial statements or decided upon the method of adoption.

In March 2016, the FASB issued ASU No. 2016-09, *Improvements to Employee Share-Based Payment Accounting*, ("ASU 2016-09"). ASU 2016-09 will change how companies account for certain aspects of share-based payments, including recognizing the income tax effects of awards in the income statement when the awards vest or are settled. ASC 2016-09 revises guidance on employers' accounting for employee's use of shares to satisfy the employer's statutory income tax withholding obligation and the treatment of forfeitures. ASU 2016-09 is effective for annual periods ending after December 15, 2016 and interim periods thereafter. Early adoption is permitted, but all guidance must be adopted in the same period. The Company is currently evaluating the new guidance and has not determined the impact this standard may have on its financial statements or decided upon the method of adoption.

(2) STOCKHOLDERS' EQUITY —

On March 24, 2016, the Company received a notification from the New York Stock Exchange (the "NYSE") notifying the Company that it was not in compliance with the NYSE's continued listing standards. The Company is considered below criteria established by the NYSE as a result of the Company's average stock price trading below $1.00 per share and its average market capitalization being less than $50.0 million, in each case over a consecutive 30 trading-day period. The Company has submitted and the NYSE has accepted a business plan to regain compliance with the NYSE's continued listing standards. Comstock may regain compliance with the NYSE's stock price standard at any time during a six-month cure period commencing on receipt of the NYSE notification if its common stock has a closing stock price of at least $1.00 and an average closing stock price of at least $1.00 over the 30 trading-day period ending on the last trading day of that month or the last trading day of the cure period. The Company must regain compliance with respect to its market capitalization within eighteen months of receipt of the NYSE notification. Failure to regain compliance with the NYSE's continued listing

standards within the applicable time periods will result in the commencement of suspension and delisting procedures. On July 29, 2016, Comstock completed a one-for-five (1:5) reverse split of its common stock to address the minimum stock price requirement.

At the Company's 2016 annual meeting of stockholders, the stockholders approved an amendment to the Company's restated articles of incorporation to increase the authorized shares of common stock to 50 million shares (such number adjusted for the one-for-five (1:5) reverse stock split).

(3) LONG-TERM DEBT —

At June 30, 2016, long-term debt was comprised of:

	(In thousands)
7 ¾ % Senior Notes due 2019:	
Principal	$ 288,516
Premium, net of amortization	2,325
Debt issue costs, net of amortization	(2,464)
9 ½ % Senior Notes due 2020:	
Principal	174,607
Discount, net of amortization	(4,008)
Debt issue costs, net of amortization	(1,913)
10% Senior Secured Notes due 2020:	
Principal	700,000
Debt issue costs, net of amortization	(11,873)
	$ 1,145,190

In March 2015, Comstock issued $700.0 million of 10% senior secured notes (the "Secured Notes") which are due on March 15, 2020. Interest on the Secured Notes is payable semi-annually on each March 15 and September 15. Net proceeds from the issuance of the Secured Notes of $683.8 million were used to retire the Company's bank credit facility and for general corporate purposes. Comstock also has outstanding (i) $288.5 million of 7 ¾% senior notes (the "2019 Notes") which are due on April 1, 2019 and bear interest which is payable semi-annually on each April 1 and October 1 and (ii) $174.6 million of 9 ½% senior notes (the "2020 Notes") which are due on June 15, 2020 and bear interest which is payable semi-annually on each June 15 and December 15. The Secured Notes are secured on a first-priority basis equally and ratably with the Company's revolving credit facility described below, subject to payment priorities in favor of the revolving credit facility by the collateral securing the revolving credit facility, which consists of, among other things, at least 80% of the Company's and its subsidiaries' oil and gas properties. The Secured Notes, the 2019 Notes and the 2020 Notes are general obligations of Comstock and are guaranteed by all of Comstock's subsidiaries. Such subsidiary guarantors are 100% owned and all of the guarantees are full and unconditional and joint and several obligations. There are no restrictions on the ability of Comstock to obtain funds from its subsidiaries through dividends or loans. As of June 30, 2016, Comstock had no material assets or operations which are independent of its subsidiaries.

During the six months ended June 30, 2016, Comstock has retired $87.5 million in principal amount of the 2019 Notes and $19.8 million of the 2020 Notes in exchange in the aggregate for the issuance of 2,748,403 shares of common stock and $3.5 million in cash. A gain of $89.6 million was recognized on the exchanges and purchases of the 2019 Notes and the 2020 Notes during the six months ended June 30, 2016 for the difference between the market value of the stock on the closing date of the exchanges and sales and the net carrying value of the debt and the related net premium and net debt issuance costs. The gain is included in the net gain on extinguishment of debt, which is reported as a component of other income (loss). During the six months ended June 30, 2015, the Company purchased $16.8 million in principal amount of the 2020 Notes for $7.8 million. The gain of $8.2 million recognized on the purchase of the 2020 Notes and the loss resulting from the write-off of deferred loan costs associated with the Company's bank credit facility of $3.7 million are included in the net gain on extinguishment of debt.

Comstock has a $50.0 million revolving credit facility with Bank of Montreal and Bank of America, N.A. The revolving credit facility is a four year credit commitment that matures on March 4, 2019. Indebtedness under the revolving credit facility is guaranteed by all of the Company's subsidiaries and is secured by substantially all of Comstock's and its subsidiaries' assets. Borrowings under the revolving credit facility bear interest, at Comstock's option, at either (1) LIBOR plus 2.5% or (2) the base rate (which is the higher of the administrative agent's prime rate, the federal funds rate plus 0.5% or 30 day LIBOR plus 1.0%) plus 1.5%. A commitment fee of 0.5% per annum is payable quarterly on the unused credit line. The revolving credit facility contains covenants that, among other things, restrict the payment of cash dividends and repurchases of common stock, limit the amount of additional debt that Comstock may incur and limit the Company's ability to make certain loans, investments and divestitures. The only financial covenants are the maintenance of a current ratio of at least 1.0 to 1.0 and the maintenance of an asset coverage ratio of proved developed reserves to total debt outstanding under the revolving credit facility of at least 2.5 to 1.0. The Company was in compliance with these covenants as of June 30, 2016.

(4) COMMITMENTS AND 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. 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.

The Company has entered into natural gas transportation and treating agreements through July 2019. Maximum commitments under these transportation agreements as of June 30, 2016 totaled $5.3 million.

(5) SUBSEQUENT EVENTS —

On August 1, 2016 the Company filed with the Securities and Exchange Commission a registration statement on Form S-4 and commenced an exchange offer (the "Exchange Offer") of new secured notes, and in certain instances warrants, in exchange for all of the Company's Secured Notes, 2019 Notes and 2020 Notes. The Company is offering to exchange (i) new senior secured notes and warrants for the $700.0 million principal amount of the Secured Notes and (ii) second lien convertible notes for $463.1 million principal amount of the 2019 Notes and 2020 Notes. The new notes would contain the same interest rates and maturity dates as the existing notes but would in certain circumstances and terms allow the Company to pay the interest in-kind and with respect to the new second lien notes, subject to the Company obtaining stockholder approval, be convertible into shares of the Company's common stock.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
Comstock Resources, Inc.

We have audited the accompanying consolidated balance sheets of Comstock Resources, Inc. and subsidiaries as of December 31, 2014 and 2015, and the related consolidated statements of operations, comprehensive income (loss), stockholders' equity (deficit) and cash flows for each of the three years in the period ended December 31, 2015. 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 the standards of the Public Company Accounting Oversight Board (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 audits provide 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, 2014 and 2015, and the consolidated results of their operations and their cash flows for each of the three years in the period ended December 31, 2015, in conformity with accounting principles generally accepted in the United States.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Comstock Resources, Inc.'s internal control over financial reporting as of December 31, 2015, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated February 26, 2016 expressed an unqualified opinion thereon.

/s/ ERNST & YOUNG LLP

Dallas, Texas
February 26, 2016,
except for Notes 1, 6, 7 and 11 as to the effect of
the reverse stock split, as to which the date is August 1, 2016.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS
As of December 31, 2014 and 2015

	December 31, 2014	December 31, 2015
	(In thousands)	
ASSETS		
Cash and Cash Equivalents	$ 2,071	$ 134,006
Accounts Receivable:		
Oil and gas sales	32,849	15,241
Joint interest operations	16,192	3,552
Derivative Financial Instruments	—	1,446
Other Current Assets	10,105	1,993
Total current assets	61,217	156,238
Property and Equipment:		
Unevaluated oil and gas properties	201,459	84,144
Oil and gas properties, successful efforts method	4,282,088	4,332,222
Other	19,630	19,521
Accumulated depreciation, depletion and amortization	(2,305,008)	(3,397,467)
Net property and equipment	2,198,169	1,038,420
Other Assets	5,160	1,192
	$ 2,264,546	$ 1,195,850
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Accounts Payable	$ 117,329	$ 57,276
Accrued Expenses	44,842	38,444
Total current liabilities	162,171	95,720
Long-term Debt	1,060,654	1,249,330
Deferred Income Taxes Payable	154,547	1,965
Reserve for Future Abandonment Costs	14,900	20,093
Other Non-Current Liabilities	2,002	—
Total liabilities	1,394,274	1,367,108
Commitments and Contingencies		
Stockholders' Equity (Deficit):		
Common stock—$0.50 par, 15,000,000 shares authorized, 9,371,683 and 9,544,035 shares issued and outstanding at December 31, 2014 and 2015, respectively	4,686	4,772
Additional paid-in capital	499,177	504,670
Accumulated earnings (deficit)	366,409	(680,700)
Total stockholders' equity (deficit)	870,272	(171,258)
	$ 2,264,546	$ 1,195,850

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, 2013, 2014 and 2015

	2013	2014	2015
	(In thousands, except per share amounts)		
Natural gas sales	$ 188,453	$165,461	$ 109,753
Oil sales	231,837	389,770	142,669
Total oil and gas sales	420,290	555,231	252,422
Operating expenses:			
Production taxes	14,524	23,797	10,286
Gathering and transportation	17,245	12,897	14,298
Lease operating	52,844	60,283	64,502
Exploration	33,423	19,403	70,694
Depreciation, depletion and amortization	337,134	378,275	321,323
General and administrative, net	34,767	32,379	23,541
Impairment of oil and gas properties	652	60,268	801,347
Loss on sale of oil and gas properties	2,033	—	112,085
Total operating expenses	492,622	587,302	1,418,076
Operating loss	(72,332)	(32,071)	(1,165,654)
Other income (expenses):			
Gain on sale of marketable securities	7,877	—	—
Gain (loss) from derivative financial instruments	(8,388)	8,175	2,676
Net gain (loss) on extinguishment of debt	(17,854)	—	78,741
Other income	1,059	727	1,275
Interest expense	(73,242)	(58,631)	(118,592)
Total other income (expenses)	(90,548)	(49,729)	(35,900)
Loss from continuing operations before income taxes	(162,880)	(81,800)	(1,201,554)
Benefit from income taxes	56,157	24,689	154,445
Loss from continuing operations	(106,723)	(57,111)	(1,047,109)
Income from discontinued operations, net of income taxes	147,752	—	—
Net income (loss)	$ 41,029	$ (57,111)	$(1,047,109)
Net income (loss) per share:			
Basic and diluted —loss from continuing operations	$ (11.09)	$ (6.20)	$ (113.53)
—income from discontinued operations	15.36	—	—
—net income (loss)	$ 4.27	$ (6.20)	$ (113.53)
Dividends per common share	$ 1.88	$ 2.50	$ —
Basic and diluted weighted average shares outstanding	9,311	9,309	9,223

The accompanying notes are an integral part of these statements.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
For the Years Ended December 31, 2013, 2014 and 2015

	2013	2014	2015
		(In thousands)	
Net income (loss)	$41,029	$(57,111)	$(1,047,109)
Other comprehensive income (loss):			
Realized gains on marketable securities reclassified to gain on sale of marketable securities, net of a benefit from income taxes of $2,757 in 2013	(5,120)	—	—
Unrealized gains on marketable securities, net of a provision for income taxes of $377 in 2013	702	—	—
Other comprehensive loss	(4,418)	—	—
Total comprehensive income (loss)	$36,611	$(57,111)	$(1,047,109)

The accompanying notes are an integral part of these statements.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)
For the Years Ended December 31, 2013, 2014 and 2015

	Common Shares	Common Stock-Par Value	Additional Paid-in Capital	Accumulated Earnings (Deficit)	Accumulated Other Comprehensive Income	Total
				(In thousands)		
Balance at December 31, 2012	9,682	$ 4,841	$499,958	$ 424,317	$ 4,418	$ 933,534
Stock-based compensation	3	2	12,783	—	—	12,785
Tax withholdings related to stock grants	(22)	(11)	(1,669)	—	—	(1,680)
Excess income taxes from stock-based compensation	—	—	(2,016)	—	—	(2,016)
Repurchases of common stock	(127)	(64)	(9,168)	—	—	(9,232)
Net income	—	—	—	41,029	—	41,029
Other comprehensive loss	—	—	—	—	(4,418)	(4,418)
Dividends paid	—	—	—	(17,997)	—	(17,997)
Balance at December 31, 2013	9,536	4,768	499,888	447,349	—	952,005
Stock-based compensation	62	31	10,666	—	—	10,697
Tax withholdings related to stock grants	(26)	(13)	(2,336)	—	—	(2,349)
Excess income taxes from stock-based compensation	—	—	(1,055)	—	—	(1,055)
Repurchases of common stock	(200)	(100)	(7,986)	—	—	(8,086)
Net loss	—	—	—	(57,111)	—	(57,111)
Dividends paid	—	—	—	(23,829)	—	(23,829)
Balance at December 31, 2014	9,372	4,686	499,177	366,409	—	870,272
Stock-based compensation	188	94	8,055	—	—	8,149
Tax withholdings related to stock grants	(16)	(8)	(518)	—	—	(526)
Excess income taxes from stock-based compensation	—	—	(2,044)	—	—	(2,044)
Net loss	—	—	—	(1,047,109)	—	(1,047,109)
Balance at December 31, 2015	9,544	$ 4,772	$504,670	$ (680,700)	$ —	$ (171,258)

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, 2013, 2014 and 2015

	2013	2014	2015
CASH FLOWS FROM OPERATING ACTIVITIES:		*(In thousands)*	
Net income (loss)	$ 41,029	$ (57,111)	$(1,047,109)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Income from discontinued operations	(147,752)	—	—
Loss (gain) on sale of assets	(5,844)	—	112,085
Deferred income taxes	(56,291)	(24,677)	(155,249)
Dry hole costs, leasehold impairments and other exploration costs	32,984	19,003	70,694
Impairment of oil and gas properties	652	60,268	801,347
Depreciation, depletion and amortization	337,134	378,275	321,323
(Gain) loss on derivative financial instruments	8,388	(8,175)	(2,676)
Cash settlements of derivative financial instruments	2,293	9,145	1,230
Net loss (gain) on extinguishment of debt	17,854	—	(78,741)
Amortization of debt discount, premium and issuance costs	6,074	4,097	5,144
Stock-based compensation	12,785	10,697	8,149
Excess income taxes from stock-based compensation	2,016	1,055	2,044
Decrease (increase) in accounts receivable	(12,674)	2,221	30,248
Decrease (increase) in other current assets	3,459	(7,366)	8,112
Increase (decrease) in accounts payable and accrued expenses	26,887	13,552	(46,515)
Net cash provided by continuing operations	268,994	400,984	30,086
Net cash used for discontinued operations	(7,715)	—	—
Net cash provided by operating activities	261,279	400,984	30,086
CASH FLOWS FROM INVESTING ACTIVITIES:			
Capital expenditures	(422,244)	(634,787)	(264,210)
Proceeds from sales of oil and gas properties	174	—	102,485
Proceeds from sales of marketable securities	13,392	—	—
Net cash used for continuing operations	(408,678)	(634,787)	(161,725)
Cash flow from investing activities of discontinued operations:			
Capital expenditures	(101,037)	—	—
Proceeds from sale of oil and gas properties	823,072	—	—
Net cash provided by discontinued operations	722,035	—	—
Net cash provided by (used for) investing activities	313,357	(634,787)	(161,725)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Borrowings	305,000	370,750	790,000
Principal payments on debt	(835,000)	(100,000)	(507,655)
Costs related to extinguishment of debt	(12,471)	—	—
Debt issuance costs	(2,744)	(2,524)	(16,201)
Tax withholding related to stock grants	(1,680)	(2,349)	(526)
Repurchases of common stock	(9,232)	(8,086)	—
Excess income taxes from stock-based compensation	(2,016)	(1,055)	(2,044)
Dividends paid	(17,997)	(23,829)	—
Net cash provided by (used for) financing activities	(576,140)	232,907	263,574
Net increase (decrease) in cash and cash equivalents	(1,504)	(896)	131,935
Cash and cash equivalents, beginning of the year	4,471	2,967	2,071
Cash and cash equivalents, end of the year	$ 2,967	$ 2,071	$ 134,006

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. and subsidiaries 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 Resources, Inc. and its subsidiaries are engaged in oil and natural gas exploration, development and production, and the acquisition of producing oil and natural gas properties. The Company's operations are primarily focused in Texas, Louisiana and Mississippi. The consolidated financial statements include the accounts of Comstock Resources, Inc. and its wholly owned or controlled subsidiaries (collectively, "Comstock" or the "Company"). All significant intercompany accounts and transactions have been eliminated in consolidation. The Company accounts for its undivided interest in oil and gas properties using the proportionate consolidation method, whereby its share of assets, liabilities, revenues and expenses are included in its financial statements.

The Company's Board of Directors has authorized a one-for-five (1:5) reverse split of its issued and outstanding common stock which became effective on July 29, 2016. All amounts disclosed in these financial statements have been adjusted to give effect to the effect of this reverse stock split in all periods.

Reclassifications

Certain reclassifications have been made to prior periods' financial statements, consisting primarily of reclassifications of the presentation of debt issuance costs as a reduction in long term debt and presentation of current deferred income taxes as non-current due to the early adoption of new accounting standards.

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 analyses could have a significant impact on the future results of operations.

Concentration of Credit Risk and Accounts Receivable

Financial instruments that potentially subject the Company to a concentration of credit risk consist principally of cash and cash equivalents, accounts receivable and derivative financial instruments. The Company 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 ratings. Substantially all of the Company's accounts receivable are due from either purchasers of oil and gas or participants in oil and gas wells for which the Company 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. The Company's policy is to assess the collectability of its receivables based upon their age, the credit quality of the purchaser or participant and the potential for revenue offset. The Company has not had any significant credit losses in the past and believes its accounts receivable are fully collectible. Accordingly, no allowance for doubtful accounts has been provided.

Marketable Securities

During 2013, the Company sold 600,000 shares of Stone Energy Corporation common stock for proceeds of $13.4 million. Realized gains before income taxes of $7.9 million on these sales during 2013 are included in gain on sale of marketable securities in the consolidated statements of operations.

Other Current Assets

Other current assets at December 31, 2014 and 2015 consist of the following:

	As of December 31,	
	2014	2015
	(In thousands)	
Settlements receivable on derivative financial instruments	$ 7,890	$ —
Pipe and oil field equipment inventory	1,379	1,198
Other	836	795
	$10,105	$1,993

Fair Value Measurements

Certain accounts within the Company's consolidated balance sheets are required to be measured at fair value on a recurring basis. These include cash equivalents held in bank accounts and derivative financial instruments in the form of oil and natural gas price swap agreements. Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. A three-level hierarchy is followed for disclosure to show the extent and level of judgment used to estimate fair value measurements:

Level 1 – Inputs used to measure fair value are unadjusted quoted prices that are available in active markets for the identical assets or liabilities as of the reporting date.

Level 2 – Inputs used to measure fair value, other than quoted prices included in Level 1, are either directly or indirectly observable as of the reporting date through correlation with market data, including quoted prices for similar assets and liabilities in active markets and quoted prices in markets that are not active. Level 2 also includes assets and liabilities that are valued using models or other pricing methodologies that do not require significant judgment since the input assumptions used in the models, such as interest rates and volatility factors, are corroborated by readily observable data from actively quoted markets for substantially the full term of the financial instrument.

Level 3 – Inputs used to measure fair value are unobservable inputs that are supported by little or no market activity and reflect the use of significant management judgment. These values are generally determined using pricing models for which the assumptions utilize management's estimates of market participant assumptions.

The Company's cash and cash equivalents valuation is based on Level 1 measurements. The Company's oil and natural gas price swap agreements were not traded on a public exchange, and their value is determined utilizing a discounted cash flow model based on inputs that are readily available in public markets and, accordingly, the valuation of these swap agreements is categorized as a Level 2 measurement.

The following table summarizes financial assets accounted for at fair value as of December 31, 2015:

	Carrying Value Measured at Fair Value at December 31, 2015	Level 1	Level 2
		(In thousands)	
Assets measured at fair value on a recurring basis:			
Cash and cash equivalents	$ 134,006	$134,006	$ —
Derivative financial instruments	1,446	—	1,446
Total assets	$ 135,452	$134,006	$1,446

At December 31, 2015, the Company had natural gas price swap agreements covering approximately 1.8 Bcf of natural gas to be produced in 2016 with a fair value of $1.4 million. The Company has recognized an asset for this amount and has recognized a corresponding gain representing the change in fair value of its natural gas swaps as a component of other income (expense). The Company had no derivative financial instruments outstanding at December 31, 2014.

The following table presents the carrying amounts and estimated fair value of the Company's long-term debt as of December 31, 2014 and 2015:

	2014	2015
	(In thousands)	
Fixed rate debt:		
Principal amount	$700,000	$1,270,457
Discount or premium	(4,555)	(1,457)
Carrying value	$695,445	$1,269,000
Fair Value	$453,000	$ 428,767
Variable rate debt:		
Carrying value	$375,000	$ —
Fair value	$375,000	$ —

The fair market value of the Company's fixed rate debt was based on quoted prices as of December 31, 2014 and 2015, a Level 2 measurement. The fair value of the floating rate debt outstanding at December 31, 2014 approximated its carrying value, a Level 2 measurement.

Property and Equipment

The Company follows the successful efforts method of accounting for its oil and gas properties. Costs incurred to acquire oil and gas leasehold are capitalized. Acquisition costs for proved oil and 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 one barrel of oil for six thousand cubic feet of natural gas. This conversion ratio is not based on the price of oil or natural gas, and there may be a significant difference in price between an equivalent volume of oil versus natural gas. Amortization is calculated at the field level. The estimated future costs of dismantlement, restoration, plugging and abandonment of oil and gas properties and related facilities disposal are capitalized when asset retirement obligations are incurred and amortized as part of depreciation, depletion and amortization 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. Unproved oil and gas properties are periodically assessed for impairment on a property by property basis, and any impairment in value is charged to exploration expense. During 2013, 2014 and 2015, impairment charges of $33.0 million, $0.5 million and $68.9 million, respectively, were recognized in exploration expense related to certain leases that the Company no longer expects to drill on. Exploratory drilling costs are initially capitalized as unproved property but charged to expense if and when the well is determined not to have found commercial quantities of proved oil and gas reserves. Exploratory drilling costs are evaluated within a one-year period after the completion of drilling.

The Company periodically assesses the need for an impairment of the costs capitalized for its evaluated oil and gas properties on a property or cost center basis. If impairment is indicated based on undiscounted expected future cash flows attributable to the property, then a provision for impairment is recognized to the extent that net capitalized costs exceed the estimated fair value of the property. The Company determines the fair values of its oil and gas properties using a discounted cash flow model and proved and risk-adjusted probable reserves. Undrilled acreage is valued based on sales transactions in comparable areas. At December 31, 2015, the Company excluded probable undeveloped reserves from its impairment analysis given the Company's limited capital resources available for future drilling activities. Significant Level 3 assumptions associated with the calculation of discounted future cash flows included in the cash flow model include management's outlook for oil and natural gas prices, production costs, capital expenditures, and future production as well as estimated proved reserves and risk-adjusted probable reserves. Management's oil and natural gas price outlook is developed based on third-party longer-term price forecasts as of each measurement date. The expected future net cash flows are discounted using an appropriate discount rate in determining a property's fair value. The oil and natural gas prices used for determining asset impairments will generally differ from those used in the standardized measure of discounted future net cash flows because the standardized measure requires the use of an average price based on the first day of each month of the preceding year and is limited to proved reserves.

In 2015, reductions to management's oil and natural gas price outlook resulted in indications of impairment of the Company's oil properties in South Texas and Mississippi, and certain of its natural gas properties in Texas and Louisiana. The following table presents the fair value and impairments recorded by the Company in the third quarter and fourth quarter of 2015, as well as the average oil price per barrel and gas price per thousand cubic feet over the life of the properties and the applicable discount rates utilized in the Company's assessments:

	Fair Value	Impairment	Management's Price Outlook		Annual Discount Rate
	(In thousands)		Oil *(Per barrel)*	Gas *(Per Mcf)*	
Impairments recorded at September 30, 2015:					
Oil properties	$330,257	$ 405,308	$ 73.70	$ 4.04	10%-20%
Natural gas properties	$ 61,625	$ 139,406	$ 75.91	$ 3.91	10%-20%
Impairments recorded at December 31, 2015:					
Oil properties	$ 3,030	$ 16,036	$ 73.48		10%-20%
Natural gas properties	$123,926	$ 238,210	$ 70.76	$ 3.74	10%-20%

In the aggregate we recognized impairments of $801.3 million related to our evaluated oil and gas properties in 2015. In 2014, the Company recognized impairment charges of $60.3 million on certain of its oil and gas properties which had a fair value of $18.0 million.

It is reasonably possible that the Company's estimates of undiscounted future net cash flows attributable to its oil and gas properties may change in the future. The primary factors that may affect estimates of future cash flows include future adjustments, both positive and negative, to proved and appropriate risk-adjusted probable and possible oil and gas reserves, results of future drilling activities, future prices for oil and natural gas, and increases or decreases in production and capital costs. As a result of these changes, there may be further

impairments in the carrying values of these or other properties. Specifically, as part of the impairment review performed at December 31, 2015, the Company observed that a decline in excess of 30% in its future cash flow estimates for its Eagleville field in South Texas could result in an additional impairment being recorded in an amount that could be at least $130.0 million.

Other property and equipment consists primarily of gas gathering systems, computer equipment, furniture and fixtures and an airplane which are depreciated over estimated useful lives ranging from three to 31 ½ years on a straight-line basis. In January 2015, the Company purchased a 20% interest in an airplane that previously had been owned 80% by the Company and 20% by two executive officers of the Company. The purchase price for the 20% interest of $1.7 million was based on the then fair market value of the airplane determined by a third party. This related party transaction was approved by the Company's audit committee and board of directors.

Other Assets

Other assets primarily consist of deferred costs associated with the Company's bank credit facility. These costs are amortized over the life of the bank credit facility on a straight-line basis which approximates the amortization that would be calculated using an effective interest rate method.

Accrued Expenses

Accrued expenses at December 31, 2014 and 2015 consist of the following:

	As of December 31,	
	2014	2015
	(In thousands)	
Accrued drilling costs	$26,269	$ 5,306
Accrued interest payable	9,011	29,075
Accrued rig termination fees	2,600	—
Other	6,962	4,063
	$44,842	$38,444

Reserve for Future Abandonment Costs

The Company's asset retirement obligations relate to future plugging and abandonment costs of its oil and gas properties and related facilities disposal. The Company records a liability in the period in which an asset retirement obligation is incurred, in an amount equal to the estimated fair value of the obligation that is capitalized. Thereafter, this liability is accreted up to the final retirement cost. Accretion of the discount is included as part of depreciation, depletion and amortization in the accompanying consolidated statements of operations.

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

	2014	2015
	(In thousands)	
Reserve for Future Abandonment Costs at beginning of the year	$14,534	$14,900
New wells placed on production	1,480	310
Changes in estimates and timing	(1,796)	4,927
Liabilities settled and assets disposed of	(153)	(717)
Accretion expense	835	673
Reserve for Future Abandonment Costs at end of the year	$14,900	$20,093

Stock-based Compensation

The Company has stock-based employee compensation plans under which stock awards, comprised of restricted stock and performance share units, are issued to employees and non-employee directors. The Company follows the fair value based method in accounting for equity-based compensation. Under the fair value based method, compensation cost is measured at the grant date based on the fair value of the award and is recognized on a straight-line basis over the award vesting period. Excess taxes on stock-based compensation are recognized as an adjustment to additional paid-in capital and as a part of cash flows from financing activities.

Segment Reporting

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

Derivative Financial Instruments and Hedging Activities

The Company accounts for derivative financial instruments (including certain derivative instruments embedded in other contracts) as either an asset or liability measured at its fair value. Changes in the fair value of derivatives are recognized currently in earnings unless specific hedge accounting criteria are met. The Company estimates fair value based on a discounted cash flow model. 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. 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

The Company has one major purchaser of its oil production that represented 36%, 35% and 25% of its total oil and gas sales in 2013, 2014 and 2015, respectively. The Company also has one major purchaser of its natural gas production that represented 51%, 53% and 52% of its total oil and gas sales in 2013, 2014 and 2015, respectively. The loss of any of these purchasers would not have a material adverse effect on the Company as there is an available market for its oil and natural gas production from other purchasers.

Revenue Recognition and Gas Balancing

Comstock utilizes the sales method of accounting for oil and natural gas revenues whereby revenues are recognized at the time of delivery based on the amount of oil or natural gas sold to purchasers. Revenue is typically recorded in the month of production based on an estimate of the Company's share of volumes produced and prices realized. The amount of oil or natural gas sold may differ from the amount to which the Company is entitled based on its revenue interests in the properties. The Company did not have any significant imbalance positions at December 31, 2014 or 2015. Sales of oil and natural gas generally occur at the wellhead. When sales of oil and gas occur at locations other than the wellhead, the Company accounts for costs incurred to transport the production to the delivery point as operating expenses.

General and Administrative Expenses

General and administrative expenses are reported net of reimbursements of overhead costs that are received from working interest owners of the oil and gas properties operated by the Company of $11.9 million, $13.2 million and $13.9 million in 2013, 2014 and 2015, respectively.

Income Taxes

The Company 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 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 the change in rate is enacted.

Earnings Per Share

Basic earnings per share is determined without the effect of any outstanding potentially dilutive stock options and diluted earnings per share is determined with the effect of outstanding stock options that are potentially dilutive. Unvested share-based payment awards containing nonforfeitable rights to dividends are considered to be participatory securities and included in the computation of basic and diluted earnings per share pursuant to the two-class method. Performance share units ("PSUs") represent the right to receive a number of shares of the Company's common stock that may range from zero to up to three times the number of PSUs granted on the award date based on the achievement of certain performance measures during a performance period. The number of potentially dilutive shares related to PSUs is based on the number of shares, if any, which would be issuable at the end of the respective period, assuming that date was the end of the contingency period. The treasury stock method is used to measure the dilutive effect of PSUs.

Basic and diluted earnings per share for 2013, 2014 and 2015 were determined as follows:

	2013			2014			2015		
	Income (Loss)	Shares	Per Share	Loss	Shares	Per Share	Loss	Shares	Per Share
				(In thousands except per share data)					
Net Loss From Continuing Operations	$(106,723)			$ (57,111)			$(1,047,109)		
Loss (Income) Allocable to Unvested Stock Grants	3,424			(595)			—		
Basic and Diluted Net Loss From Continuing Operations Attributable to Common Stock	$(103,299)	9,311	$ (11.09)	$(57,706)	9,309	$ (6.20)	$(1,047,109)	9,223	$(113.53)
Net Income From Discontinued Operations	$ 147,752								
Income Allocable to Unvested Stock Grants	(4,742)								
Basic and Diluted Net Income From Discontinued Operations Attributable to Common Stock	$ 143,010	9,311	$ 15.36						

Basic and diluted per share amounts are the same for each of the years ended December 31, 2013, 2014, and 2015 due to the net loss from continuing operations reported during each of those years.

At December 31, 2013, 2014 and 2015, 303,178, 241,505 and 314,060 shares of unvested restricted stock, respectively, are included in common stock outstanding as such shares have a nonforfeitable right to participate in any dividends that might be declared and have the right to vote. Weighted average shares of unvested restricted stock included in common stock outstanding were as follows:

	2013	2014	2015
	(In thousands)		
Unvested restricted stock	309	238	293

All stock options and PSUs were anti-dilutive to earnings and excluded from weighted average shares used in the computation of earnings per share due to the net loss from continuing operations in each period.

Options to purchase common stock and PSUs that were outstanding and that were excluded as anti-dilutive from determination of diluted earnings per share were as follows:

	2013	2014	2015
	(In thousands except per share data)		
Weighted average anti-dilutive stock options	26	23	20
Weighted average exercise price	$164.50	$164.50	$164.75
Weighted average performance share units	51	100	136
Weighted average grant date fair value per unit	$104.60	$99.40	$35.35

Supplementary Information With Respect to the Consolidated Statements of Cash Flows

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

Cash payments made for interest and income taxes for the years ended December 31, 2013, 2014 and 2015, respectively, were as follows:

	2013	2014	2015
		(In thousands)	
Cash Payments:			
Interest payments	$83,560	$62,812	$94,177
Income tax payments	$ 769	$ 682	$ 77

The Company capitalizes interest on its unevaluated oil and gas property costs during periods when it is conducting exploration activity on this acreage. The Company capitalized interest of $4.7 million, $10.2 million and $0.9 million in 2013, 2014 and 2015, respectively, which reduced interest expense and increased the carrying value of its unevaluated oil and gas properties.

Discontinued West Texas Operations

In May 2013, the Company sold its oil and gas properties in the Delaware Basin located in Reeves County in West Texas which it acquired in December 2011 and certain other undeveloped leases in West Texas (the “West Texas Properties”) to a third party. The Company received proceeds of $823.1 million and realized a gain of $230.0 million which is reflected as a component of income from discontinued operations in 2013. As a result of this divestiture, the consolidated financial statements and the related notes thereto present the results of the Company’s West Texas Properties as discontinued operations. No general and administrative cost incurred by Comstock was allocated to discontinued operations during the periods presented. Unless indicated otherwise, the amounts presented in the accompanying notes to the consolidated financial statements relate to the Company’s continuing operations.

Income from discontinued operations is comprised of the following:

	Year Ended December 31, 2013 (In thousands)
Revenues:	
Oil and gas sales	$ 25,125
Costs and expenses:	
Production taxes	1,120
Gathering and transportation	501
Lease operating	9,853
Depletion, depreciation and amortization	8,649
Interest expense(1)	6,346
Total costs and expenses	26,469
Gain on sale	230,008
Income from discontinued operations before income taxes	228,664
Income tax expense:	
Current	(2,218)
Deferred	(78,694)
Total income tax expense	(80,912)
Net income from discontinued operations	$ 147,752

(1) Interest expense was allocated to discontinued operations based on the ratio of the net assets of discontinued operations to our consolidated net assets plus long-term debt. Interest expense is net of capitalized interest of $2,010 for the year ended December 31, 2013.

Recent accounting pronouncements

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2014-09, *Revenue from Contracts with Customers (Topic 606)* ("ASU 2014-09"), which supersedes nearly all existing revenue recognition guidance under existing generally accepted accounting principles. This new standard is based upon the principal that revenue is recognized to depict the transfer of goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. ASU 2014-09 also requires additional disclosure about the nature, amount, timing and uncertainty of revenue and cash flows arising from customer contracts. ASU 2014-09 is effective for annual and interim periods beginning after December 15, 2017. Early adoption is permitted beginning with periods after December 15, 2016 and entities have the option of using either a full retrospective or modified approach to adopt ASU 2014-09. The Company is currently evaluating the new guidance and has not determined the impact this standard may have on its financial statements or decided upon the method of adoption.

In August 2014, the FASB issued ASU No. 2014-15, *Presentation of Financial Statements—Going Concern (Subtopic 205-40): Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern* ("ASU 2014-15"). ASU 2014-15 provides guidance about management's responsibility to evaluate whether there is substantial doubt about an entity's ability to continue as a going concern and sets rules for how this information should be disclosed in the financial statements. ASU 2014-15 is effective for annual periods ending after December 15, 2016 and interim periods thereafter. Early adoption is permitted. The Company does not expect adoption of ASU 2014-15 to have any impact on its consolidated financial condition, results of operations or cash flows.

In April 2015, the FASB issued ASU No. 2015-03, *Interest-Imputation of Interest, Simplifying the Presentation of Debt Issuance Costs* ("ASU 2015-03"). ASU 2015-03 requires that debt issuance costs related to a recognized debt liability be presented in the balance sheet as a direct deduction from the carrying amount of that debt liability. ASU 2015-03 is effective for annual periods beginning after December 15, 2015 and interim periods thereafter. Early adoption is permitted. The Company has elected to early adopt ASU 2015-03 and accordingly $9.8 million of debt issuance costs have been reclassified from long term assets to long term debt in our consolidated balance sheet as of December 31, 2014.

In November 2015, the FASB issued ASU No. 2015-17, *Balance Sheet Classification of Deferred Taxes* ("ASU 2015-17"). ASU 2015-17 requires that all deferred tax assets and liabilities be classified as non-current. ASU 2015-17 also discontinues allocation of valuation allowances between current and noncurrent tax assets. ASU 2015-17 is effective for annual periods beginning after December 15, 2016 and interim periods thereafter. Early adoption is permitted. The Company has elected to retrospectively early adopt ASU 2015-17. The effect of this change did not have a material impact on the Company's consolidated financial condition.

Subsequent Events

In January 2016, the Company completed an acreage swap with another operator which increased its Haynesville shale acreage by 3,637 net acres in DeSoto Parish, Louisiana including four producing wells (3.5 net). The Company exchanged 2,547 net acres in Atascosa County, Texas including seven producing wells (5.3 net) for the Haynesville shale properties. The swap was an equal value exchange that required no cash outlays.

In February 2016, the Company issued approximately 0.9 million shares of common stock in exchange for $40.0 million in principal amount of the Company's 7 ¾% Senior Notes due 2019.

(2) Acquisitions and Dispositions of Oil and Gas Properties

During 2013, the Company acquired oil and gas leases in Burleson County, Texas for $67.4 million. The Burleson County, Texas acquisition included one producing well and approximately 21,000 net acres which are prospective for oil in the Eagle Ford shale formation. During 2014, the Company commenced drilling operations on these properties and acquired additional interests in certain leases in Burleson County, Texas for approximately $33.9 million. The acquisition included approximately 9,000 net undeveloped acres and an additional 30% working interest in one producing well. Prior to the sale, during 2015, the Company acquired additional acreage, drilled an additional four wells and completed a total of 8 wells on this acreage at a cost of $77.0 million. In 2015, the Company completed the sale of these properties for net proceeds of $102.5 million and recognized a net loss on sale of $112.1 million. Results of operations for these properties were as follows:

	Year Ended December 31,	
	2014	2015
	(In thousands)	
Total oil and gas sales	$ 10,542	$ 18,036
Total operating expenses(1)	(23,260)	(66,251)
Operating loss	$(12,718)	$(48,215)

(1) Includes direct operating expenses, depreciation, depletion and amortization and exploration expense. Excludes interest expense and general and administrative expenses.

During 2013, the Company acquired oil and gas leases in Mississippi and Louisiana for $53.3 million. The Mississippi and Louisiana acquisition included approximately 51,000 net acres that are prospective for oil in the Tuscaloosa Marine shale formation.

In 2012, the Company entered into a participation agreement with Kohlberg Kravis Roberts & Co L.P. (together with its affiliates, "KKR") providing for the participation of KKR in Comstock's future development of

certain of its Eagle Ford shale properties in South Texas. Under the terms of the participation agreement, KKR has the right to participate for one-third of Comstock's working interest in wells drilled on the Company's acreage comprising its Eagleville field in exchange for KKR paying $25,000 per acre for the net acreage being acquired and one-third of the wells costs. Each well that KKR participates in is intended to earn KKR approximately one-third of the Company's working interest in approximately 80 acres. The Company received $51.5 million and $28.7 million for acreage and facility costs for new wells drilled subsequent to the closing in 2013 and 2014, respectively. There were no wells drilled under the joint venture in 2015.

In connection with acquisitions of producing oil and gas properties, the Company estimates the value of proved properties based on estimated future net cash flows and discounts them using a market-based rate that the Company determined appropriate at the acquisition date for the various proved reserve categories. Due to the unobservable nature of the inputs, the fair values of the proved oil and gas properties are considered Level 3 fair value measurements.

(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 the Company for its oil and gas property acquisition, development and exploration activities:

Capitalized Costs

	As of December 31,	
	2014	2015
	(In thousands)	
Unproved properties	$ 201,459	$ 84,144
Proved properties:		
Leasehold costs	1,006,839	982,915
Wells and related equipment and facilities	3,275,249	3,349,307
Accumulated depreciation depletion and amortization	(2,298,450)	(3,389,786)
	$ 2,185,097	$ 1,026,580

Costs Incurred

	For the Years Ended December 31,		
	2013	2014	2015
		(In thousands)	
Property Acquisitions:			
Unproved property acquisitions	$ 130,113	$ 91,960	$ 12,972
Proved property acquisitions	6,471	2,400	—
Development costs	341,970	440,848	221,265
Exploration costs	439	52,080	12,265
	$ 478,993	$ 587,288	$ 246,502

(4) Long-term Debt

Long-term debt is comprised of the following:

	As of December 31, 2014	2015
	(In thousands)	
Bank credit facility	$ 375,000	$ —
7 ¾% senior notes due 2019:		
Principal	400,000	376,090
Premium, net of amortization	4,984	3,583
Debt issuance costs, net of amortization	(5,266)	(3,787)
9 ½% senior notes due 2020:		
Principal	300,000	194,367
Discount, net of amortization	(9,539)	(5,040)
Debt issuance costs, net of amortization	(4,525)	(2,396)
10% senior secured notes due 2020:		
Principal	—	700,000
Debt issuance costs, net of amortization	—	(13,487)
	$ 1,060,654	$ 1,249,330

The premium and discount on the senior notes are being amortized over the life of the senior notes using the effective interest rate method. Issuance costs are amortized over the life of the senior notes on a straight-line basis which approximates the amortization that would be calculated using an effective interest rate method.

The following table summarizes Comstock's principal amount of debt as of December 31, 2015 by year of maturity:

	2016	2017	2018	2019	2020	Thereafter	Total
				(In thousands)			
Bank credit facility	$ —	$ —	$ —	$ —	$ —	$ —	$ —
7 ¾% senior notes	—	—	—	376,090	—	—	376,090
9 ½% senior notes	—	—	—	—	194,367	—	194,367
10% senior secured notes	—	—	—	—	700,000	—	700,000
	$ —	$ —	$ —	$ 376,090	$ 894,367	$ —	$ 1,270,457

In March 2015, Comstock issued $700.0 million of 10% senior secured notes (the "Secured Notes") which are due on March 15, 2020. Interest on the Secured Notes is payable semi-annually on each March 15 and September 15. Net proceeds from the issuance of the Secured Notes of $683.8 million were used to retire the Company's bank credit facility and for general corporate purposes. Comstock also has outstanding (i) $376.1 million of 7 ¾% senior notes (the "2019 Notes") which are due on April 1, 2019 and bear interest which is payable semi-annually on each April 1 and October 1 and (ii) $194.4 million of 9 ½% senior notes (the "2020 Notes") which are due on June 15, 2020 and bear interest which is payable semi-annually on each June 15 and December 15. The Secured Notes are secured on a first priority basis equally and ratably with the Company's revolving credit facility described below, subject to payment priorities in favor of the revolving credit facility by the collateral securing the revolving credit facility, which consists of, among other things, at least 80% of the Company's and its subsidiaries' oil and gas properties. The Secured Notes, the 2019 Notes and 2020 Notes are general obligations of Comstock and are guaranteed by all of Comstock's subsidiaries. Such subsidiary guarantors are 100% owned and all of the guarantees are full and unconditional and joint and several obligations.

There are no restrictions on the Company's ability to obtain funds from its subsidiaries through dividends or loans. As of December 31, 2015, the Company had no material assets or operations which are independent of its subsidiaries.

During 2015, Comstock purchased $23.9 million in principal amount of the 2019 Notes and $105.6 million in principal amount of the 2020 Notes for an aggregate purchase price of $42.7 million. The gain of $82.4 million recognized on the purchase of the 2019 Notes and 2020 Notes and the loss resulting from the write-off of deferred loan costs associated with Comstock's prior bank credit facility of $3.7 million are included in the net gain on extinguishment of debt, which is reported as a component of other income (expense).

In connection with the issuance of the Secured Notes, Comstock entered into a $50.0 million revolving credit facility with Bank of Montreal and Bank of America, N.A. The revolving credit facility is a four year commitment that matures on March 4, 2019. Indebtedness under the revolving credit facility is secured by substantially all of the Company's and its subsidiaries' assets and is guaranteed by all of its subsidiaries. Borrowings under the revolving credit facility bear interest at Comstock's option at either (1) LIBOR plus 2.5% or (2) the base rate (which is the higher of the administrative agent's prime rate, the federal funds rate plus 0.5% or 30 day LIBOR plus 1.0%) plus 1.5%. A commitment fee of 0.5% per annum is payable quarterly on the unused credit line. The revolving credit facility contains covenants that, among other things, restrict the payment of cash dividends and repurchases of common stock, limit the amount of consolidated debt that we may incur and limit the Company's ability to make certain loans, investments and divestitures. The only financial covenants are the maintenance of a current ratio of at least 1.0 to 1.0 and the maintenance of an asset coverage ratio of proved developed reserves to debt outstanding under the revolving credit facility of at least 2.5 to 1.0. The Company was in compliance with these covenants as of December 31, 2015.

(5) Commitments and Contingencies

Commitments

The Company rents office space and other facilities under noncancelable operating leases. Rent expense for the years ended December 31, 2013, 2014 and 2015 was $1.4 million, $1.5 million and $1.5 million, respectively. Minimum future payments under the leases at December 31, 2015 are as follows:

	(In thousands)
2016	1,994
2017	2,021
2018	2,060
2019	1,560
2020	1,560
Thereafter	1,560
	$ 10,755

As of December 31, 2015, the Company had commitments for contracted drilling rigs of $1.6 million through May 2016.

The Company has entered into natural gas transportation and treating agreements through July 2019. Maximum commitments under these transportation agreements as of December 31, 2015 totaled $6.4 million.

Contingencies

From time to time, the Company 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. The Company does not believe the

resolution of these matters will have a material effect on the Company's financial position, results of operations or cash flows and no material amounts are accrued relative to these matters at December 31, 2014 or 2015.

(6) Stockholders' Equity

The authorized capital stock of Comstock consists of 15 million shares of common stock, $0.50 par value per share, 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, 2014 or 2015.

The Company paid dividends to its common stockholders of $18.0 million and $23.8 million in 2013 and 2014, respectively. During 2013, the Board of Directors also approved an open market share repurchase plan to repurchase up to $100.0 million of its common stock on the open market. The Company made open market purchases of 126,219 shares and 200,000 shares with an aggregate cost of $9.2 million and $8.1 million in 2013 and 2014, respectively. The Company did not purchase any shares of its common stock in 2015.

On October 1, 2015, the Company entered into a net operating loss carryforwards ("NOLs") rights plan (the "Rights Plan") with American Stock Transfer & Trust Company, LLC, as rights agent. In connection with the adoption of the Rights Plan, the board of directors of the Company declared a dividend of one preferred share purchase right ("Right") for each outstanding share of the Company's common stock. The dividend was payable on October 16, 2015 to stockholders of record as of the close of business on October 12, 2015. In addition, one Right automatically attached to each share of common stock issued between the record date and the date when the Rights become exercisable.

The Rights Plan was adopted in an effort to prevent potential significant limitations under Section 382 of the Internal Revenue Code of 1986, as amended (the "Code"), on Comstock's ability to utilize its current NOLs to reduce its future tax liabilities. If Comstock experiences an "ownership change," as defined in Section 382 of the Code, the Company's ability to fully utilize its NOLs on an annual basis will be substantially limited, and the timing of the usage of the NOLs could be substantially delayed, which could accordingly significantly impair the value of those benefits. The Rights Plan works by imposing a significant penalty upon any person or group that acquires 4.9% or more of the Company's outstanding common stock without the approval of the board of directors (an "Acquiring Person"). The Rights Plan also gives discretion to the Board to determine that someone is an Acquiring Person even if they do not own 4.9% or more of the outstanding common stock but do own 4.9% or more in value of the Company's outstanding stock, as determined pursuant to Section 382 of the Code and the regulations promulgated thereunder. Stockholders who currently own 4.9% or more of the Company's common stock will not trigger the Rights unless they acquire additional shares, subject to certain exceptions set forth in the Rights Plan. In addition, the Board has established procedures to consider requests to exempt certain acquisitions of the Company's securities from the Rights Plan if the board of directors determines that doing so would not limit or impair the availability of the NOLs or is otherwise in the best interests of the Company.

(7) Stock-based Compensation

The Company grants restricted shares of common stock and performance share units to key employees and directors as part of their compensation under the 2009 Long-term Incentive Plan. Future awards of stock options, restricted stock grants or other equity awards under the 2009 Long-term Incentive Plan are available with up to 191,569 shares of common stock.

During 2013, 2014 and 2015, the Company had $12.8 million, $10.7 million and $8.1 million, respectively, in stock-based compensation expense which is included in general and administrative expenses. The excess income taxes associated with stock-based compensation recognized in additional paid in capital were $2.0 million, $1.1 million and $2.0 million for the years ended December 31, 2013, 2014 and 2015, respectively.

Stock Options

At December 31, 2015, the Company had options outstanding to purchase 11,730 shares of common stock at $166.10 per share. The stock options have a weighted average life of 1 year.

The following table summarizes information related to stock option activity under the Company's incentive plans for the year ended December 31, 2015:

	Number of Options	Weighted Average Exercise Price
Outstanding at January 1, 2015	23,030	$164.50
Expired or forfeited	(11,300)	$162.90
Outstanding at December 31, 2015	11,730	$166.10
Exercisable at December 31, 2015	11,730	$166.10

There were no stock option exercises in 2013, 2014 or 2015. No stock option has been granted since 2008 and all compensation cost related to stock options has been recognized. Stock options outstanding at December 31, 2014 and 2015 had no intrinsic value based on the closing price for the Company's common stock at those dates.

Restricted Stock

The fair value of restricted stock grants is amortized over the vesting period, generally one to four years, using the straight-line method. Total compensation expense recognized for restricted stock grants was $9.8 million, $7.3 million and $6.0 million for the years ended December 31, 2013, 2014 and 2015, respectively. The fair value of each restricted share on the date of grant is equal to the fair market price of a share of the Company's stock.

A summary of restricted stock activity for the year ended December 31, 2015 is presented below:

	Number of Restricted Shares	Weighted Average Grant Price
Outstanding at January 1, 2015	241,505	$ 99.55
Granted	202,074	$ 26.70
Vested	(115,349)	$ 111.15
Forfeitures	(14,170)	$ 74.25
Outstanding at December 31, 2015	314,060	$ 49.55

The per share weighted average fair value of restricted stock grants in 2013, 2014 and 2015 was $82.20, $101.20 and $26.70, respectively. Total unrecognized compensation cost related to unvested restricted stock of $5.1 million as of December 31, 2015 is expected to be recognized over a period of 1.8 years. The fair value of restricted stock which vested in 2013, 2014 and 2015 was $7.0 million, $10.0 million and $3.7 million, respectively.

Performance Share Units

The Company issues PSUs as part of its long-term equity incentive compensation. PSU awards can result in the issuance of common stock to the holder if certain performance criteria is met during a performance period. The performance periods consist of one year, two years and three years, respectively. The performance criteria

for the PSUs are based on the Company's annualized total stockholder return ("TSR") for the performance period as compared with the TSR of certain peer companies for the performance period. The costs associated with PSUs are recognized as general and administrative expense over the performance periods of the awards.

The fair value of PSUs was measured at the grant date using a stochastic process method utilizing the Geometric Brownian Motion Model ("GBM Model"). A stochastic process is a mathematically defined equation that can create a series of outcomes over time. These outcomes are not deterministic in nature, which means that by iterating the equations multiple times, different results will be obtained for those iterations. In the case of the Company's PSUs, the Company cannot predict with certainty the path its stock price or the stock prices of its peers will take over the future performance periods. By using a stochastic simulation, the Company can create multiple prospective total return pathways, statistically analyze these simulations, and ultimately make inferences to the most likely path the total return will take. As such, because future stock returns are stochastic, or probabilistic with some direction in nature, the stochastic method, specifically the GBM Model, is deemed an appropriate method by which to determine the fair value of the PSUs. Significant assumptions used in this simulation include the Company's expected volatility and a risk-free interest rate based on U.S. Treasury yield curve rates with maturities consistent with the vesting periods, as well as the volatilities for each of the Company's peers. Assumptions regarding volatility included the historical volatility of each company's stock and the implied volatilities of publicly traded stock options. For the PSUs granted in 2014, the valuation inputs included a risk free interest rate of 0.6% and a range of volatilities of 38% to 70%. For the PSUs granted in 2015, the valuation inputs included a risk free rate of 1.1% and a range of volatilities of 37% to 65%.

In 2014, the Company granted 37,792 PSUs with a grant date fair value of $3.7 million, or $99.05 per unit. In 2015, the Company granted 94,250 PSUs with a grant date fair value of $0.7 million, or $7.30 per unit. No PSUs were awarded in 2013. The fair value of PSUs is amortized over the vesting period of one to three years, using the straight-line method. Total compensation expense recognized for PSUs was $3.0 million, $3.4 million and $2.1 million for the years ended December 31, 2013, 2014 and 2015, respectively.

A summary of PSU activity for the year ended December 31, 2015 is presented below:

	Number of PSUs	Weighted Average Grant Price
Outstanding at January 1, 2015	74,614	$ 99.40
Granted	94,250	$ 7.30
Unearned or forfeited	(34,943)	$ 96.35
Outstanding at December 31, 2015	133,921	$ 35.35

The number of awards assumes a one multiplier. The final number of shares of common stock issued may vary depending upon the performance multiplier, and can result in the issuance of zero to 280,035 shares of common stock based on the achieved performance ranges from zero to two. As of December 31, 2015, there was $2.0 million of total unrecognized expense related to PSUs, which is being amortized through December 31, 2017.

(8) Retirement Plan

The Company has a 401(k) profit sharing plan which covers all of its employees. At its discretion, Comstock may match the employees' contributions to the plan. Matching contributions to the plan were $702,000, $834,000 and $888,000 for the years ended December 31, 2013, 2014 and 2015, respectively.

(9) Income Taxes

The following is an analysis of the consolidated income tax benefit from continuing operations:

	2013	2014	2015
		(In thousands)	
Current	$ 134	$ (12)	$ 804
Deferred	(56,291)	(24,677)	(155,249)
	$(56,157)	$(24,689)	$(154,445)

Deferred income taxes are provided to reflect the future tax consequences or benefits of differences between the tax basis of assets and liabilities and their reported amounts in the financial statements using enacted tax rates. The difference between the Company's effective tax rate and the 35% federal statutory rate is caused by non-deductible stock compensation, state taxes and the establishment of a valuation allowance on deferred taxes. The impact of these items varies based upon the Company's full year loss and the jurisdictions that are expected to generate the projected losses.

In recording deferred income tax assets, the Company considers whether it is more likely than not that some portion or all of its deferred income tax assets will be realized in the future. The ultimate realization of deferred income tax assets is dependent upon the generation of future taxable income during the periods in which those deferred income tax assets would be deductible. The Company believes that after considering all the available objective evidence, historical and prospective, with greater weight given to historical evidence, management is not able to determine that it is more likely than not that all of its deferred tax assets will be realized. As a result, in 2015 the Company established an additional valuation allowance of $775.3 million, with a tax effect of $271.4 million for its estimated U.S. federal net operating loss carryforwards and other U.S. federal tax assets and an additional valuation allowance of $215.5 million, with a tax effect of $11.2 million, for its estimated Louisiana state net operating loss carryforwards that are not expected be utilized due to uncertainty of generating taxable income prior to the expiration of the respective U.S. federal and Louisiana state carry-over periods.

The difference between the Company's customary rate of 35% and the effective tax rate on income from continuing operations is due to the following:

	2013	2014	2015
		(In thousands)	
Tax benefit at statutory rate	$(57,008)	$(28,630)	$(420,544)
Tax effect of:			
Nondeductible compensation	1,545	756	539
State taxes, net of federal tax benefit	(10,902)	(5,108)	(17,502)
Valuation allowance on deferred tax assets	10,103	8,086	282,869
Other	105	207	193
Total	$(56,157)	$(24,689)	$(154,445)

	2013	2014	2015
Statutory rate	35.0%	35.0%	35.0%
Tax effect of:			
Nondeductible compensation	(0.9)	(0.9)	—
State taxes, net of federal tax benefit	6.7	6.2	1.4
Valuation allowance on deferred tax assets	(6.2)	(9.9)	(23.5)
Other	(0.1)	(0.2)	—
Effective tax rate	34.5%	30.2%	12.9%

The tax effects of significant temporary differences representing the net deferred tax liability at December 31, 2014 and 2015 were as follows:

	2014	2015
	(In thousands)	
Deferred tax assets:		
Property and equipment	$ —	$ 49,116
Net operating loss carryforwards	126,026	255,231
Alternative minimum tax carryforward	20,435	20,435
Other	7,854	8,201
	154,315	332,983
Valuation allowance on deferred tax assets	(46,639)	(329,508)
Deferred tax assets	107,676	3,475
Deferred tax liabilities:		
Property and equipment	(259,222)	—
Unrealized hedging income	—	(506)
Other	(3,001)	(4,934)
Deferred tax liabilities	(262,223)	(5,440)
Net deferred tax liability	$(154,547)	$ (1,965)

At December 31, 2015, Comstock had the following carryforwards available to reduce future income taxes:

Types of Carryforward	Years of Expiration Carryforward	Amount
		(In thousands)
Net operating loss—U.S. federal	2017 – 2035	$ 558,718
Net operating loss—Louisiana	2020 – 2035	$ 1,147,689
Alternative minimum tax credits	Unlimited	$ 20,435

As of December 31, 2015, the Company had $558.7 million in U.S. federal net operating loss carryforwards. The utilization of $34.7 million of the U.S. federal net operating loss carryforward is limited to approximately $1.1 million per year pursuant to a prior change of control of an acquired company. Accordingly, as of December 31, 2014, a valuation allowance of $23.0 million, with a tax effect of $8.0 million, has been established for the estimated U.S. federal net operating loss carryforwards that will not be utilized as a result of the change in control. As of December 31, 2015, the Company had also established a valuation allowance of $775.3 million, with a tax effect of $271.4 million, against its other U.S. federal net operating loss carryforwards that are not subject to a change in control and other U.S. federal tax assets due to the uncertainty of generating future taxable income prior to the expiration of the carry-over period. In addition, as of December 31, 2015, the Company established a valuation allowance of $957.7 million, with a tax effect of $49.8 million, against its Louisiana state net deferred tax assets due to the uncertainty of generating taxable income in the state of Louisiana prior to the expiration of the carry-over period. As of December 31, 2014, the Company had a valuation allowance of $742.2 million, with a tax effect of $38.6 million, against its Louisiana state deferred tax assets.

Future use of the Company's federal and state net operating loss carryforwards may be limited in the event that a cumulative change in the ownership of Comstock's common stock by more than 50% occurs within a three-year period. Such a change in ownership could result in a substantial portion of Comstock's net operating loss carryforwards being eliminated or becoming restricted, and the Company may need to recognize an additional valuation allowance reflecting the restricted use of the net operating loss carryforwards in the period when such an ownership change occurred. The Company established a rights plan on October 1, 2015 to deter ownership changes that would trigger this limitation.

The Company's federal income tax returns for the years subsequent to December 31, 2011 remain subject to examination. The Company's income tax returns in major state income tax jurisdictions remain subject to examination for the year ended December 31, 2008 and various periods subsequent to December 31, 2010. State tax returns in one state jurisdiction are currently under review. The Company currently believes that resolution of these matters will not have a material impact on its financial statements. The Company currently believes that its significant filing positions are highly certain and that all of its other significant income tax filing positions and deductions would be sustained upon audit or the final resolution would not have a material effect on the consolidated financial statements. Therefore, the Company has not established any significant reserves for uncertain tax positions. Interest and penalties resulting from audits by tax authorities have been immaterial and are included in the provision for income taxes in the consolidated statements of operations.

(10) Derivative Financial Instruments and Hedging Activities

Comstock periodically uses swaps, floors and collars to hedge oil and natural gas prices and interest rates. Swaps are settled monthly based on differences between the prices specified in the instruments and the settlement prices of futures contracts. 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 or amounts hedged. 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 cap.

All of the Company's derivative financial instruments are used for risk management purposes and by policy none are held for trading or speculative purposes. Comstock minimizes credit risk to counterparties of its derivative financial instruments through formal credit policies, monitoring procedures, and diversification. All of Comstock's derivative financial instruments are with parties that are lenders under its bank credit facility. The Company is not required to provide any credit support to its counterparties other than cross collateralization with the assets securing its bank credit facility. None of the Company's derivative financial instruments involve payment or receipt of premiums.

During 2013 and 2014, the Company hedged 2,160,000 barrels and 2,438,000 barrels, respectively, of its oil production at an average NYMEX West Texas Intermediate oil price of $98.67 per barrel and $96.56 per barrel, respectively. During 2015, the Company hedged 1,800,000 Mmbtu of its gas production at an average NYMEX Henry Hub natural gas price of $3.20 per Mmbtu.

As of December 31, 2015, the Company had the following outstanding commodity derivatives:

Commodity and Derivative Type	Weighted-Average Contract Price	Contract Volume (Mmbtu)	Contract Period
Natural Gas Swap Agreements	$ 3.20 per Mmbtu	1,800,000	Jan. 2016 – June 2016

None of the derivative contracts were designated as cash flow hedges. The Company recognizes cash settlements and changes in the fair value of its derivative financial instruments as a single component of other income (expenses).

The gain (loss) on derivative financial instruments was a loss of $8.4 million, a gain of $8.2 million and a gain of $2.7 million for the years ended December 31, 2013, 2014 and 2015, respectively. Cash settlements received on derivative financial instruments were $2.3 million, $9.1 million and $1.2 million for the years ended

December 31, 2013, 2014 and 2015, respectively. The estimated fair value of the Company's derivative financial instruments, which equaled their carrying value, was an asset of $1.4 million as of December 31, 2015 which was reflected as a current asset based on estimated settlement dates.

(11) Supplementary Quarterly Financial Data (Unaudited)

	2014				
	First	Second	Third	Fourth	Total
	(In thousands, except per share data)				
Total oil and gas sales	$ 141,909	$ 155,723	$ 144,983	$ 112,616	$ 555,231
Operating income (loss)	$ 20,228	$ 27,729	$ 263	$ (80,291)	$ (32,071)
Net income (loss)	$ 1,165	$ 1,898	$ (1,903)	$ (58,271)	$ (57,111)
Income (loss) per share:					
Basic and diluted	$ 0.11	$ 0.19	$ (0.22)	$ (6.31)	$ (6.20)

	2015				
	First	Second	Third	Fourth	Total
	(In thousands, except per share data)				
Total oil and gas sales	$ 66,522	$ 77,312	$ 61,360	$ 47,228	$ 252,422
Operating loss	$ (96,928)	$ (182,185)	$ (596,026)	$ (290,515)	$ (1,165,654)
Net income (loss)	$ (78,502)	$ (135,068)	$ (544,996)	$ (288,543)	$ (1,047,109)
Income (loss) per share:					
Basic and diluted	$ (8.53)	$ (14.64)	$ (59.05)	$ (31.26)	$ (113.53)

Basic and diluted per share amounts are the same for each of the quarters and for the years ended where a net loss was reported.

Results of operations include the following non-routine items of income (expense), which are presented before the effect of income taxes:

	2014				
	First	Second	Third	Fourth	Total
	(In thousands)				
Impairments of unproved oil and gas properties	$ —	$ —	$ —	$ (487)	$ (487)
Impairments of proved oil and gas properties	$ —	$ (256)	$ (15)	$ (59,997)	$ (60,268)

	2015				
	First	Second	Third	Fourth	Total
	(In thousands)				
Gain (loss) on sale of oil and gas properties	$ —	$ (111,830)	$ 52	$ (307)	$ (112,085)
Net gain (loss) on extinguishment of debt	$ (2,735)	$ 7,267	$ 51,054	$ 23,155	$ 78,741
Impairments of unproved oil and gas properties	$ (40,432)	$ (23,040)	$ (5,090)	$ (385)	$ (68,947)
Impairments of proved oil and gas properties	$ (403)	$ (1,984)	$ (544,714)	$ (254,246)	$ (801,347)

(12) Oil and Gas Reserves Information (Unaudited)

Set forth below is a summary of the changes in Comstock's net quantities of oil and natural gas reserves for its continuing operations for each of the three years in the period ended December 31, 2015:

	2013		2014		2015	
	Oil (MBbls)	Natural Gas (MMcf)	Oil (MBbls)	Natural Gas (MMcf)	Oil (MBbls)	Natural Gas (MMcf)
Proved Reserves:						
Beginning of year	18,899	437,445	21,976	452,653	20,854	495,266
Revisions of previous estimates	28	23,321	(2,182)	3,998	(5,096)	(41,437)
Extensions and discoveries	5,363	47,581	5,373	78,383	231	168,539
Sales of minerals in place	—	—	—	—	(3,671)	(5,096)
Production	(2,314)	(55,694)	(4,313)	(39,768)	(3,089)	(47,676)
End of year	21,976	452,653	20,854	495,266	9,229	569,596
Proved Developed Reserves:						
Beginning of year	8,389	362,426	13,914	344,278	16,247	324,598
End of year	13,914	344,278	16,247	324,598	9,229	311,130

The downward revisions in 2015 were primarily related to the decline in oil and natural gas prices. In 2015 price-related revisions were downward revisions of 4,958 MBbls of oil and 77,659 MMcf of natural gas.

The proved oil and gas reserves utilized in the preparation of the financial statements were estimated by Lee Keeling and Associates, independent petroleum consultants, 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 the Company's reserves are located onshore in the continental United States of America.

The following table sets forth the standardized measure of discounted future net cash flows relating to proved reserves at December 31, 2014 and 2015:

	2014	2015
	(In thousands)	
Cash Flows Relating to Proved Reserves:		
Future Cash Flows	$ 3,891,953	$1,763,146
Future Costs:		
Production	(1,260,580)	(705,146)
Development and Abandonment	(571,200)	(362,874)
Future Income Taxes	(192,600)	(1,231)
Future Net Cash Flows	1,867,573	693,895
10% Discount Factor	(776,913)	(321,756)
Standardized Measure of Discounted Future Net Cash Flows	$ 1,090,660	$ 372,139

The standardized measure of discounted future net cash flows at the end of 2014 and 2015 was determined based on the simple average of the first of month market prices for oil and natural gas for each year. Prices were $92.55 per barrel of oil and $3.96 per Mcf of natural gas for 2014 and $46.88 per barrel of oil and $2.34 per Mcf of natural gas for 2015. Prices used in determining quantities of oil and natural gas reserves and future cash inflows from oil and natural gas reserves represent prices received at the Company's sales point. These prices

have been adjusted from posted or index prices for both location and quality differences. 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.

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, 2013, 2014 and 2015:

	2013	2014	2015
		(In thousands)	
Standardized Measure, Beginning of Year	$ 641,325	$ 807,217	$1,090,660
Net change in sales price, net of production costs	43,117	5,911	(751,774)
Development costs incurred during the year which were previously estimated	187,643	344,590	157,390
Revisions of quantity estimates	48,411	(40,993)	(111,454)
Accretion of discount	81,434	105,400	114,427
Changes in future development and abandonment costs	(157,207)	(10,909)	14,901
Changes in timing and other	80,348	(19,028)	(44,439)
Extensions and discoveries	291,582	163,559	56,216
Sales of minerals in place	—	—	(43,694)
Sales, net of production costs	(335,677)	(458,254)	(163,336)
Net changes in income taxes	(73,759)	193,167	53,242
Standardized Measure, End of Year	$ 807,217	$1,090,660	$ 372,139

Table of Contents

Comstock Resources, Inc.

OFFER TO EXCHANGE AND CONSENT SOLICITATION

Senior Secured Toggle Notes due 2020 and
Warrants For Shares of Common Stock

for

Any and All 10% Senior Secured Notes due 2020
(CUSIP Nos. 205768 AK0 and U2038J AC1)

and

7 ¾% Convertible Secured PIK Notes due 2019

for

Any and All 7 ¾% Senior Notes due 2019
(CUSIP No. 205768 AH7)

and

9 ½% Convertible Secured PIK Notes due 2020

for

Any and All 9 ½% Senior Notes due 2020
(CUSIP No. 205768 AJ3)

PROSPECTUS

August 31, 2016

We have not authorized any dealer, salesperson or other person to give any information or represent anything to you other than the information contained in this prospectus. You may not rely on unauthorized information or representations.

This prospectus does not offer to sell or ask for offers to buy any of the securities in any jurisdiction where it is unlawful, where the person making the offer is not qualified to do so, or to any person who can not legally be offered the securities.

The information in this prospectus is current only as of the date on its cover, and may change after that date. For any time after the cover date of this prospectus, we do not represent that our affairs are the same as described or that the information in this prospectus is correct, nor do we imply those things by delivering this prospectus or selling securities to you.

Until November 29, 2016 all dealers that effect transactions in these securities, whether or not participating in the Exchange Offer may be required to deliver a prospectus.

Requests for assistance in connection with the tender of your old notes pursuant to the Exchange Offer may be directed to the Information and Exchange Agent:

D.F. King & Co., Inc.
48 Wall Street, 22nd Floor | New York, New York 10005
Banks and Brokers Call: (212) 269-5550 | All Others Call Toll-Free: (877) 732-3619
Email: crk@dfking.com
Attention: Peter Aymar

The Dealer Manager for the Exchange Offer is:

BofA Merrill Lynch
Attention: Debt Advisory
The Hearst Building
214 North Tryon Street, 14th Floor
Charlotte, North Carolina 28255
Toll-Free: (888) 292-0070
Collect: (980) 388-4813 and (646) 855-2464

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 20. Indemnification of Directors and Officers.

Section 78.7502 of the Nevada Revised Statutes permits a corporation to indemnify any person who was, is or is threatened to be made a party in a completed, pending or threatened proceeding, whether civil, criminal, administrative or investigative (except an action by or in the right of the corporation), by reason of being or having been an officer, director, employee or agent of the corporation or serving in certain capacities at the request of the corporation. Indemnification may include attorneys' fees, judgments, fines and amounts paid in settlement. The person to be indemnified must have acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action, such person must have had no reasonable cause to believe his conduct was unlawful.

With respect to actions by or in the right of the corporation, indemnification may not be made for any claim, issue or matter as to which such a person has been finally adjudged by a court of competent jurisdiction to be liable to the corporation or for amounts paid in settlement to the corporation, unless and only to the extent that the court in which the action was brought or other court of competent jurisdiction determines upon application that in view of all circumstances the person is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

Unless indemnification is ordered by a court, the determination to pay indemnification must be made by the stockholders, by a majority vote of a quorum of the Board of Directors who were not parties to the action, suit or proceeding, or in certain circumstances by independent legal counsel in a written opinion. Section 78.751 of the Nevada Revised Statutes permits the articles of incorporation or bylaws to provide for payment to an indemnified person of the expenses of defending an action as incurred upon receipt of an undertaking to repay the amount if it is ultimately determined by a court of competent jurisdiction that the person is not entitled to indemnification.

Section 78.7502 also provides that to the extent a director, officer, employee or agent has been successful on the merits or otherwise in the defense of any such action, he must be indemnified by the corporation against expenses, including attorneys' fees, actually and reasonably incurred in connection with the defense.

Article VI, "Indemnification of Directors, Officers, Employees and Agents," of the Company's Amended and Restated Bylaws provides as follows with respect to indemnification of the Company's directors, officers, employees and agents:

> Section 1. To the fullest extent allowed by Nevada law, any director of the Company shall not be liable to the Company or its shareholders for monetary damages for an act or omission in the director's capacity as a director, except that this Article VI does not eliminate or limit the liability of a director for:
>
> (a) an act or omission which involves intentional misconduct, fraud or a knowing violation of law; or
>
> (b) the payment of dividends in violation of N.R.S. 78.300.
>
> Section 2. The Company shall indemnify each director, officer, employee and agent, now or hereafter serving the Company, each former director, officer, employee and agent, and each person who may now or hereafter serve or who may have heretofore served at the Company's request as a director, officer, employee or agent of another corporation or other business enterprise, and the respective heirs, executors, administrators and personal representatives of each of them against all expenses actually and reasonably incurred by, or imposed upon, him in connection with the defense of any claim, action, suit

or proceeding, civil or criminal, against him by reason of his being or having been such director, officer, employee or agent, except in relation to such matters as to which he shall be adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom in such action, suit or proceeding to be liable for gross negligence or willful misconduct in the performance of duty. For purposes hereof, the term "expenses" shall include but not be limited to all expenses, costs, attorneys' fees, judgments (including adjudications other than on the merits), fines, penalties, arbitration awards, costs of arbitration and sums paid out and liabilities actually and reasonably incurred or imposed in connection with any suit, claim, action or proceeding, and any settlement or compromise thereof approved by the Board of Directors as being in the best interests of the Company. However, in any case in which there is no disinterested majority of the Board of Directors available, the indemnification shall be made: (1) only if the Company shall be advised in writing by counsel that in the opinion of counsel (a) such officer, director, employee or agent was not adjudged or found liable for gross negligence or willful misconduct in the performance of duty as such director, officer, employee or agent or the indemnification provided is only in connection with such matters as to which the person to be indemnified was not so liable, and in the case of settlement or compromise, the same is in the best interests of the Company; and (b) indemnification under the circumstances is lawful and falls within the provisions of these Bylaws; and (2) only in such amount as counsel shall advise the Company in writing is, in his opinion, proper. In making or refusing to make any payment under this or any other provision of these Bylaws, the Company, its directors, officers, employees and agents shall be fully protected if they rely upon the written opinion of counsel selected by, or in the manner designated by, the Board of Directors.

Section 3. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Company in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors upon receipt of an undertaking by or on behalf of the director, officer, employee, representative or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Company as authorized in these Bylaws.

Section 4. The Company may indemnify each person, though he is not or was not a director, officer, employee or agent of the Company, who served at the request of the Company on a committee created by the Board of Directors to consider and report to it in respect of any matter. Any such indemnification may be made under the provisions hereof and shall be subject to the limitations hereof, except that (as indicated) any such committee member need not be nor have been a director, officer, employee or agent of the Company.

Section 5. The provisions hereof shall be applicable to actions, suits or proceedings (including appeals) commenced after the adoption hereof, whether arising from acts or omissions to act occurring before or after the adoption hereof.

Section 6. The indemnification provisions herein provided shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, or by law or statute, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 7. The Company may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, or other enterprise, and persons described in Section 4 of this Article above, against any liability asserted against him and incurred by him in any such capacity or arising out of his status, as such, whether or not the Company would have the power to indemnify him against such liability under the provisions of these Bylaws.

Item 21. Exhibits and Financial Statement Schedules.

A list of exhibits filed with this registration statement on Form S-4 is set forth on the Exhibit Index and is incorporated herein by reference.

Item 22. Undertakings.

The undersigned registrants hereby undertake:

(i) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(1) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(2) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in the volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the “Calculation of Registration Fee” table in the effective registration statement; and

(3) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

(ii) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(iii) To remove from the registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(iv) That, for purposes of determining liability under the Securities Act to any purchaser, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(v) That, for the purpose of determining liability of the registrants under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned registrants undertake that in a primary offering of securities of the undersigned registrants pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such

purchaser by means of any of the following communications, the undersigned registrants will each be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(1) any preliminary prospectus or prospectus of the undersigned registrants relating to the offering required to be filed pursuant to Rule 424;

(2) any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrants;

(3) the portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrants; and

(4) any other communication that is an offer in the offering made by the undersigned registrants to the purchaser.

(vi) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrants pursuant to the provisions described in Item 20, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(vii) To respond to requests for information that is incorporated by reference into the prospectus pursuant to Items 4, 10(b), or 11 or 13 of this form, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes information contained in documents filed subsequent to the date of the registration statement through the date of responding to the request.

(viii) To supply by means of a post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not the subject of and included in the registration statement when it became effective.

Table of Contents

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Amendment No. 2 to the registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Frisco, State of Texas, on August 30, 2016.

COMSTOCK RESOURCES, INC.

By: *

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

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 2 to the registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
*	Chief Executive Officer and Chairman of the Board of Directors (Principal Executive Officer)	August 30, 2016
M. Jay Allison		
/s/ ROLAND O. BURNS	President, Chief Financial Officer, Secretary and Director (Principal Financial and Accounting Officer)	August 30, 2016
Roland O. Burns		
*	Director	August 30, 2016
Elizabeth B. Davis		
*	Director	August 30, 2016
David K. Lockett		
*	Director	August 30, 2016
Cecil E. Martin, Jr.		
*	Director	August 30, 2016
Frederic D. Sewell		
*	Director	August 30, 2016
David W. Sledge		
*	Director	August 30, 2016
Jim L. Turner		

*By: /s/ ROLAND O. BURNS

Roland O. Burns
Attorney-in-Fact

Table of Contents

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Amendment No. 2 to the registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Frisco, State of Texas, on August 30, 2016.

COMSTOCK OIL & GAS, LP

By: Comstock Oil and Gas GP, LLC,
general partner

By: *
M. Jay Allison
Manager (Principal Executive Officer)

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 2 to the registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
*	Manager of General Partner	August 30, 2016
M. Jay Allison	(Principal Executive Officer)	
/s/ ROLAND O. BURNS	Manager of General Partner	August 30, 2016
Roland O. Burns	(Principal Financial Officer and Principal Accounting Officer	

*By: /s/ ROLAND O. BURNS
Roland O. Burns
Attorney-in-Fact

Table of Contents

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Amendment No. 2 to the registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Frisco, State of Texas, on August 30, 2016.

COMSTOCK OIL & GAS – LOUISIANA, LLC

By: *
M. Jay Allison
Chief Executive Officer
(Principal Executive Officer)

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 2 to the registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
*	Chief Executive Officer and Manager	August 30, 2016
M. Jay Allison	(Principal Executive Officer)	
/s/ ROLAND O. BURNS	President, Chief Financial Officer,	August 30, 2016
Roland O. Burns	Secretary and Manager	
	(Principal Financial and Accounting Officer)	

*By: /s/ ROLAND O. BURNS
Roland O. Burns
Attorney-in-Fact

Table of Contents

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Amendment No. 2 to the registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Frisco, State of Texas, on August 30, 2016.

COMSTOCK OIL & GAS GP, LLC

By: *
M. Jay Allison
Chief Executive Officer
(Principal Executive Officer)

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 2 to the registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
*	Manager	August 30, 2016
M. Jay Allison	(Principal Executive Officer)	
/s/ ROLAND O. BURNS	Manager	August 30, 2016
Roland O. Burns	(Principal Financial Officer and Principal Accounting Officer)	

*By: /s/ ROLAND O. BURNS
Roland O. Burns
Attorney-in-Fact

Table of Contents

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Amendment No. 2 to the registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Frisco, State of Texas, on August 30, 2016.

COMSTOCK OIL & GAS INVESTMENTS, LLC

By: *
M. Jay Allison
Chief Executive Officer
(Principal Executive Officer)

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 2 to the registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
*	Chief Executive Officer and Manager	August 30, 2016
M. Jay Allison	(Principal Executive Officer)	
/s/ ROLAND O. BURNS	President, Chief Financial Officer,	August 30, 2016
Roland O. Burns	Secretary and Manager	
	(Principal Financial and Accounting Officer)	

*By: /s/ ROLAND O. BURNS
Roland O. Burns
Attorney-in-Fact

Table of Contents

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Amendment No. 2 to the registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Frisco, State of Texas, on August 30, 2016.

COMSTOCK OIL & GAS HOLDINGS, INC.

By: *
M. Jay Allison
Chief Executive Officer
(Principal Executive Officer)

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 2 to the registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
*	Chief Executive Officer and Director	August 30, 2016
M. Jay Allison	(Principal Executive Officer)	
/s/ ROLAND O. BURNS	President, Chief Financial Officer, Secretary and Director	August 30, 2016
Roland O. Burns	(Principal Financial and Accounting Officer)	

*By: /s/ ROLAND O. BURNS
Roland O. Burns
Attorney-in-Fact

Table of Contents

EXHIBIT INDEX

Exhibit No.	Description
3.1	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).
3.2	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).
3.3	Certificate of Amendment to the Restated Articles of Incorporation dated May 19, 2009 (incorporated by reference to Exhibit 3.1 to our Registration Statement on Form S-3 dated October 5, 2009).
3.4	Certificate of Designation of Series C Junior Participating Preferred Stock of Comstock Resources, Inc. (incorporated by reference to Exhibit 3.1 to our Current Report on Form 8-K dated October 1, 2015).
3.5	Certificate of Amendment to the Restated Articles of Incorporation dated June 1, 2016 (incorporated by reference to Exhibit 3.2 to our Current Report on Form 8-K dated July 22, 2016).
3.6	Certificate of Change dated July 20, 2016 (incorporated by reference to Exhibit 3.1 to our Current Report on Form 8-K dated July 22, 2016).
3.7	Amended and Restated Bylaws (incorporated by reference to Exhibit 3.1 to our Current Report on Form 8-K dated August 21, 2014).
4.1	Specimen Stock Certificate for Common Stock (incorporated herein by reference to Exhibit 4.1 to Comstock's Registration Statement on Form S-3 filed with the SEC on December 16, 2003).
4.2	Indenture dated October 9, 2009 between Comstock, the Subsidiary Guarantors party thereto, and The Bank of New York Mellon Trust Company, N.A., Trustee for debt securities (incorporated herein by reference to Exhibit 4.1 to our Current Report on Form 8-K filed with the SEC on October 14, 2009).
4.3	Third Supplemental Indenture dated March 14, 2011 between Comstock Resources, Inc., the Subsidiary Guarantors party thereto and The Bank of New York Mellon Trust Company, N.A., for the 7 ¾% Senior Notes due 2019 (incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K dated March 14, 2011).
4.4	Fourth Supplemental Indenture dated June 5, 2012 between Comstock Resources, Inc., the Subsidiary Guarantors party thereto and The Bank of New York Mellon Trust Company, N.A., for the 9 ½% Senior Notes due 2020 (incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K dated June 7, 2012).
4.5	Indenture dated March 13, 2015 between Comstock Resources, Inc., the Subsidiary Guarantors party thereto and The Bank of New York Mellon Trust Company, N.A., Trustee for the 10% Senior Secured Notes due 2020 (incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K dated March 13, 2015).
4.6	Rights Agreement dated October 1, 2015 between Comstock Resources, Inc. and American Stock Transfer & Trust Company LLC, as rights agent (incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K dated October 1, 2015).
4.7*	Form of First Supplemental Indenture between Comstock Resources, Inc., the Subsidiary Guarantors party thereto and American Stock Transfer & Trust Company, LLC, Trustee for the 10% Senior Secured Notes due 2020.
4.8*	Form of Fifth Supplemental Indenture between Comstock Resources, Inc., the Subsidiary Guarantors party thereto and American Stock Transfer & Trust Company, LLC, Trustee for the 7 ¾% Senior Notes due 2019.
4.9*	Form of Sixth Supplemental Indenture between Comstock Resources, Inc., the Subsidiary Guarantors party thereto and American Stock Transfer & Trust Company, LLC, Trustee for the 9 ½% Senior Notes due 2020.
4.10*	Form of Warrant Agreement between Comstock Resources and American Stock Transfer & Trust Company, LLC, as warrant agent.
4.11*	Form of Indenture between Comstock Resources, Inc., the Subsidiary Guarantors party thereto and American Stock Transfer & Trust Company, LLC, Trustee for the Senior Secured Toggle Notes due 2020.
4.12*	Form of Indenture between Comstock Resources, Inc., the Subsidiary Guarantors party thereto and American Stock Transfer & Trust Company, LLC, Trustee for the 7 ¾% Convertible Secured PIK Notes due 2019.
4.13*	Form of Indenture between Comstock Resources, Inc., the Subsidiary Guarantors party thereto and American Stock Transfer & Trust Company, LLC, Trustee for the 9 ½% Convertible Secured PIK Notes due 2020.
4.14*	Form of Amended and Restated Priority Lien Intercreditor Agreement between Comstock Resources, Inc., the Grantors party thereto, Bank of Montreal, as pari passu collateral agent, and American Stock Transfer & Trust Company, LLC, Trustee for the new notes and the old notes.
4.15*	Form of Junior Lien Intercreditor Agreement between Bank of Montreal, as priority lien agent, and Bank of Montreal, as second lien collateral agent.
5.1*	Opinion of Locke Lord LLP.
5.2*	Opinion of Woodburn and Wedge.
10.1	Amended and Restated Employment Agreement dated February 24, 2014 by and between Comstock Resources, Inc. and M. Jay Allison (incorporated by reference to Exhibit 10.1 to our Annual Report on Form 10-K for the year ended December 31, 2013).

Table of Contents

Exhibit No.	Description
10.2	Amended and Restated Employment Agreement dated February 24, 2014 by and between Comstock Resources, Inc. and Roland O. Burns (incorporated by reference to Exhibit 10.2 to our Annual Report on Form 10-K for the year ended December 31, 2013).
10.3	Employment Agreement dated February 23, 2015 by and between Comstock Resources, Inc. and Mack D. Good (incorporated by reference to Exhibit 10.3 to our Annual Report on Form 10-K for the year ended December 31, 2015).
10.4	Comstock Resources, Inc. 2009 Long-term Incentive Plan Amended and Restated Effective as of May 7, 2015 (incorporated by reference to Exhibit 10.4 to our Annual Report on Form 10-K for the year ended December 31, 2015).
10.5	Credit Agreement dated March 4, 2015 among Comstock Resources, Inc., as the borrower, the lenders from time to time thereto, and Bank of Montreal as administrative agent and issuing bank (incorporated by reference to Exhibit 10.2 to our Current Report on Form 8-K dated March 4, 2015).
10.6	Lease between Stonebriar I Office Partners, Ltd. and Comstock Resources, Inc. dated May 6, 2004 (incorporated by reference to Exhibit 10.24 to our Annual Report on Form 10-K for the year ended December 31, 2004).
10.7	First Amendment to the Lease Agreement dated August 25, 2005, between Stonebriar I Office Partners, Ltd. and Comstock Resources, Inc. (incorporated by reference to Exhibit 10.20 to our Annual Report on Form 10-K for the year ended December 31, 2005).
10.8	Second Amendment to the Lease Agreement dated October 15, 2007 between Stonebriar I Office Partners, Ltd. and Comstock Resources, Inc. (incorporated by reference to Exhibit 10.10 to our Annual Report on Form 10-K for the year ended December 31, 2008).
10.9	Third Amendment to the Lease Agreement dated September 30, 2008 between Stonebriar I Office Partners, Ltd. and Comstock Resources, Inc. (incorporated by reference to Exhibit 10.11 to our Annual Report on Form 10-K for the year ended December 31, 2008).
10.10	Fourth Amendment to the Lease Agreement dated May 8, 2009 between Stonebriar I Office Partners, Ltd. and Comstock Resources, Inc. (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2009).
10.11	Fifth Amendment to the Lease Agreement dated June 15, 2011 between Stonebriar I Office Partners, Ltd. and Comstock Resources, Inc. (incorporated by reference to Exhibit 10.1 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2011).
10.12	Base Contract for Sale and Purchase of Natural Gas between Comstock Oil & Gas-Louisiana, LLC and BP Energy Company dated November 7, 2008, as amended by Third Amended and Restated Special Provisions dated January 5, 2010 (incorporated by reference to Exhibit 10.14 to our Annual Report on Form 10-K for the year ended December 31, 2009).
12.1*	Computation of Ratio of Earnings to Fixed Charges.
21.1*	Subsidiaries of Comstock Resources, Inc.
23.1*	Consent of Locke Lord LLP (Included in Exhibit 5.1).
23.2*	Consent of Woodburn and Wedge (Included in Exhibit 5.2)
23.3*	Consent of Ernst & Young LLP.
23.4*	Consent of Lee Keeling and Associates, Inc.
24.1**	Power of Attorney (Included on the Signature Pages of the initial filing of this Form S-4).
25.1*	Statement on Form T-1 of eligibility of Trustee for the Senior Secured Toggle Notes due 2020.
25.2*	Statement on Form T-1 of eligibility of Trustee for the 7 ¾% Convertible Secured PIK Notes due 2019.
25.3*	Statement on Form T-1 of eligibility of Trustee for the 9 ½% Convertible Secured PIK Notes due 2020.
99.1*	Form of Letter of Transmittal and Consent
101.INS*	XBRL Instance Document
101.SCH*	XBRL Schema Document
101.CAL*	XBRL Calculation Linkbase Document
101.LAB*	XBRL Labels Linkbase Document
101.PRE*	XBRL Presentation Linkbase Document
101.DEF*	XBRL Definition Linkbase Document

* Filed herewith.
** Previously filed as an exhibit to Comstock Resources, Inc.'s Registration Statement on Form S-4 (File No. 333-212795) filed on August 1, 2016.

Exhibit 4.7

COMSTOCK RESOURCES, INC.,

EACH OF THE SUBSIDIARY GUARANTORS PARTY HERETO

and

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,

as Trustee

FIRST SUPPLEMENTAL INDENTURE

dated as of , 2016

to

INDENTURE

dated as of March 13, 2015

10% SENIOR SECURED NOTES DUE 2020

THIS FIRST SUPPLEMENTAL INDENTURE dated as of , 2016 (this "Supplemental Indenture"), is among COMSTOCK RESOURCES, INC., a Nevada corporation (hereinafter called the "Company"), the SUBSIDIARY GUARANTORS named on the signature pages hereto and AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC (hereinafter called the "Trustee") as successor Trustee to The Bank of New York Mellon Trust Company, N.A. ("BNY") under the Indenture, dated as of March 13, 2015, among the Company, the Subsidiary Guarantors from time to time party thereto and BNY (the "Indenture"). Capitalized terms used in this Supplemental Indenture and not otherwise defined herein shall have the meanings assigned to such terms in the Indenture.

RECITALS

WHEREAS, pursuant to the Indenture, the Company issued its 10% Senior Secured Notes due 2020 (the "Notes") of which $700,000,000 in aggregate principal amount are currently outstanding under the Indenture;

WHEREAS, pursuant to Section 7.07 of the Indenture, BNY resigned as Trustee, Paying Agent, Registrar and Notes Custodian under the Indenture, and effective as of August 30, 2016, the Trustee was appointed to serve as successor Trustee, Paying Agent, Registrar, and Notes Custodian under the Indenture;

WHEREAS, Section 9.02 of the Indenture provides that the Company the Subsidiary Guarantors and the Trustee, with consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding (and with consent of the Holders of not less than 66 $^{2}/_{3}$% of the aggregate principal amount of the Notes then outstanding with respect to any release of the Liens on the Collateral and amendments to the Indenture related thereto) and upon the request of the Company may enter into an indenture or indentures supplemental to the Indenture for the purpose of eliminating any of the provisions of the Indenture or of modifying in any manner the rights of the Holders under the Indenture, subject to the limitations set forth therein;

WHEREAS, pursuant to an exchange offer and consent solicitation, the Company has offered to exchange its Senior Secured Toggle Notes due 2020 for any and all outstanding Notes upon the terms and subject to the conditions set forth in the prospectus contained in the Registration Statement on Form S-4 filed with the Securities and Exchange Commission on , 2016, as the same may be amended, supplemented or modified (the "Prospectus");

WHEREAS, the Company desires to amend certain provisions of the Indenture, as set forth in Article I of this Supplemental Indenture (the "Proposed Amendments");

WHEREAS, the Company has received and delivered to the Trustee an Act of the Holders containing the requisite consents (the "Consents") to effect the Proposed Amendments under the Indenture; and

WHEREAS, pursuant to Section 9.02 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture;

WHEREAS, the Company hereby requests that the Trustee join with the Company and the Subsidiary Guarantors in the execution of this Supplemental Indenture; and

WHEREAS, all acts and requirements necessary to make this Supplemental Indenture the legal, valid and binding obligation of the Company and the Subsidiary Guarantors have been done.

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, and for the equal and proportionate benefit of the Holders of the Notes, each party hereto hereby agree as follows:

ARTICLE I
AMENDMENTS TO INDENTURE

Section 1.01 Amendments to Articles 1, 4, 5, 6 and 11. The Indenture is hereby amended as follows:

(a) The following sections of the Indenture shall be deleted in their entirety and replaced with "RESERVED":

(i) Section 4.04(b), clause (b) only of the section entitled Certificates and Other Information;

(ii) Section 4.07, entitled Limitation on Restricted Payments;

(iii) Section 4.08, entitled Limitation on Dividend and Other Payment Restrictions Affecting Subsidiaries;

(iv) Section 4.09, entitled Limitation on Indebtedness and Disqualified Capital Stock;

(v) Section 4.10(a), clause (a) only of the section entitled Limitation on Asset Sales;

(vi) Section 4.11, entitled Limitation on Transactions with Affiliates;

(vii) Section 4.12, entitled Limitation on Liens;

(viii) Section 4.16, entitled Future Designation of Restricted and Unrestricted Subsidiaries;

(ix) Section 4.17, Suspended Covenants;

(x) Section 4.19, entitled Limitation on Certain Agreements;

(xi) Section 4.20, entitled Limitation on Sale and Leaseback Transactions;

(xii) Section 5.01(a)(3), clause (a)(3) only of the section entitled Merger, Consolidation or Sale of Assets;

(xiii) Sections 6.01(e), 6.01(f) and 6.01(g), clauses (e), (f) and (g) only of the section entitled Events of Default;

(xiv) Section 11.01, entitled Collateral Agreements; Additional Collateral; and

(xv) Section 11.04, entitled No Impairment of Security Interests.

(b) Failure to comply with the terms of any of the foregoing Sections of the Indenture shall no longer constitute a Default or an Event of Default under the Indenture and shall no longer have any other consequence under the Indenture. Provisions in the Indenture that authorize action by the Company or any Subsidiary Guarantor when permitted by a deleted section or which is to be done in accordance with a deleted section shall be deemed to permit such action unless prohibited by such deleted section or performed in a way consistent with such section, and, otherwise, references in the Indenture to deleted provisions shall also no longer have any effect or consequence under the Indenture.

(c) Section 1.01 of the Indenture is hereby amended to delete the following defined terms in their entirety: “Account Control Agreement,” Acquired Indebtedness,” “Consolidated Fixed Charge Coverage Ratio,” “Discharge of Revolving Credit Agreement Obligations,” “Disinterested Director,” “Engineering Report,” “Initial Engineering Report,” “Mortgaged Properties,” “Permitted Investments,” “Preferred Stock,” “Proved Developed Non-Producing Reserves,” “Proved Developed Producing Reserves,” “Proved Developed Reserves,” “Proved Reserves,” “PV-9” and “Restricted Investment.”

(d) Section 1.01 of the Indenture is further amended to delete the definition of “Investment” in its entirety and to replace it with the following:

“*Investment*” means, with respect to any Person, any direct or indirect advance, loan, guarantee of Indebtedness or other extension of credit or capital contribution by such Person to (by means of any transfer of cash or other property or assets to others or any payment for property, assets 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 (1) 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, (2) Interest Rate Protection Obligations entered into in the ordinary course of business otherwise as permitted hereunder, 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 (3) endorsements of negotiable instruments and documents in the ordinary course of business. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Restricted Subsidiary that were not sold or disposed of.

(e) Section 1.01 of the Indenture is further amended to delete clause 25 of the definition of "Permitted Liens" in its entirety and replace it with "RESERVED."

(f) Section 1.01 of the Indenture is further amended to insert in alphabetical order the following additional definition:

"*Incur*," *Incurrence*," "*Incurred*" and "*Incurring*" shall have meanings correlative to create, incur, issue, assume, guarantee or in any manner become directly or indirectly liable for the payment of.

(g) Section 1.02 of the Indenture is hereby amended to delete the references to the following defined terms: "Affiliate Transaction," "Covenant Suspension Period," "Incur," "Investment Grade Rating," "Payment Default," "Payment Restriction," "Permitted Consideration," "Permitted Indebtedness," "Restricted Payments" and "Suspended Covenants."

(h) Section 6.01(c) of the Indenture shall be deleted in its entirety and replaced with the following:

"(c) failure by the Company to comply with the provisions described under Section 4.15 or 5.01;"

Section 1.02 Release of Collateral; Execution of Amended and Restated Priority Lien Intercreditor Agreement. Upon the effectiveness of this Section as provided in Section 1.03, all Collateral is hereby released, and the effectiveness of all provisions of the Indenture requiring the Company and the Subsidiary Guarantors to grant security interests and mortgages on their respective assets is hereby terminated. The Company hereby authorizes and directs the Trustee to execute and deliver the Amended and Restated Priority Lien Intercreditor Agreement dated as of , 2016, terminating the rights of the Trustee under the existing Pari Passu Intercreditor Agreement.

Section 1.03 Effectiveness of Amendments. The amendments set forth in Sections 1.01 and 1.02 hereof shall not become effective until the Trustee shall have received from the Company written confirmation that the Company has accepted for exchange any and all of the Notes and other notes validly tendered on or prior to 11:59 p.m., New York City time, on , 2016 pursuant to the terms of the terms of the exchange offer and consent solicitation set forth in the Prospectus (collectively, the "Accepted Securities"), the Minimum Condition as defined in the Prospectus has been satisfied, and all holders of the Accepted Securities have received their applicable exchange consideration within the meaning of such term, and as provided for, in the Prospectus.

ARTICLE II
MISCELLANEOUS

Section 2.01 Instruments To Be Read Together. This Supplemental Indenture is executed as and shall constitute an indenture supplemental to and in implementation of the Indenture, and said Indenture and this Supplemental Indenture shall henceforth be read together. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes shall be bound hereby and thereby.

Section 2.02 Confirmation. The Indenture as amended and supplemented by this Supplemental Indenture is in all respects confirmed and preserved.

Section 2.03 Headings. The headings of the Articles and Sections of this Supplemental Indenture have been inserted for convenience of reference only, and are not to be considered a part hereof and shall in no way modify or restrict any of the terms and provisions hereof.

Section 2.04 Governing Law. THIS SUPPLEMENTAL INDENTURE IS GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 2.05 Counterparts. The parties hereto may sign any number of copies of this Supplemental Indenture. This Supplemental Indenture may be signed in counterparts and by the different parties hereto in separate counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile or portable document format (.pdf) transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signature of the parties hereto transmitted by facsimile or .pdf shall be deemed to be their original signatures for all purposes.

Section 2.06 Effectiveness; Termination. This Supplemental Indenture shall become effective on the date first above written; provided, however, that the amendments to the Indenture set forth in Sections 1.01 and 1.02 of this Supplemental Indenture shall become effective only if the conditions set forth in Section 1.03 of this Supplemental Indenture have been satisfied.

Section 2.07 Acceptance by Trustee. The Trustee accepts the amendments to the Indenture effected by this Supplemental Indenture and agrees to execute the trusts created by the Indenture as hereby amended, but only upon the terms and conditions set forth in the Indenture.

Section 2.08 Responsibility of Trustee. The recitals and statements contained herein shall be taken as the statements of the Company and the Subsidiary Guarantors, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity, adequacy or sufficiency of this Supplemental Indenture.

Section 2.09 Successors and Assigns. All covenants and agreements in this Supplemental Indenture by the Company and the Subsidiary 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 2.10 Severability. In case any provision in this Supplemental Indenture or in the Notes or the Subsidiary 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 2.11 Benefits of Supplemental Indenture. Nothing in this Supplemental Indenture, express or implied, shall give to any Person (other than the parties hereto, any Paying Agent, any Registrar and their successors hereunder and the Holders) any benefit or any legal or equitable right, remedy or claim under this Supplemental Indenture.

[Signature pages follow]

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

ISSUER:

COMSTOCK RESOURCES, INC.

By: _____
Name: Roland O. Burns
Title: President

SUBSIDIARY GUARANTORS:

COMSTOCK OIL & GAS, LP

By: Comstock Oil & Gas GP, LLC,
its general partner

By: Comstock Resources, Inc. as sole member

By: _____
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS LOUISIANA, LLC

By: _____
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS GP, LLC

By: Comstock Resources, Inc. as sole member

By: _____
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS INVESTMENTS, LLC

By: _____
Name: Roland O. Burns
Title: Manager

COMSTOCK OIL & GAS HOLDINGS, INC.

By: _____
Name: Roland O. Burns
Title: President

[Signature Page to Comstock Resources, Inc. First Supplemental Indenture]

TRUSTEE:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, as Trustee

By: _____
Name:
Title:

[Signature Page to Comstock Resources, Inc. First Supplemental Indenture]

Exhibit 4.8

COMSTOCK RESOURCES, INC.,

THE SUBSIDIARY GUARANTORS NAMED HEREIN

and

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,

as Trustee

FIFTH SUPPLEMENTAL INDENTURE

dated as of , 2016

to

INDENTURE

dated as of October 9, 2009

---

7 ¾% Senior Notes due 2019

THIS FIFTH SUPPLEMENTAL INDENTURE dated as of , 2016 (this "Supplemental Indenture"), is among COMSTOCK RESOURCES, INC., a Nevada corporation (hereinafter called the "Company"), the SUBSIDIARY GUARANTORS named on the signature pages hereto and AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC (hereinafter called the "Trustee") as successor Trustee to The Bank of New York Mellon Trust Company, N.A. ("BNY") under the Indenture, dated as of October 9, 2009, among the Company, the Subsidiary Guarantors named therein and BNY (the "Base Indenture"), as amended and supplemented by the Third Supplemental Indenture, dated as of March 14, 2011, among the Company, the Subsidiary Guarantors named therein and BNY (the "Third Supplemental Indenture") (the Base Indenture, as amended and supplemented by the Third Supplemental Indenture, the "Indenture"). Capitalized terms used in this Supplemental Indenture and not otherwise defined herein shall have the meanings assigned to such terms in the Indenture.

RECITALS

WHEREAS, pursuant to the Indenture, the Company established the form and terms of a series of the Company's Securities designated as its 7 ¾% Senior Notes due 2019 (the "Notes");

WHEREAS, pursuant to Section 6.9 of the Indenture, BNY resigned as Trustee, Paying Agent, Registrar and Note Custodian under the Indenture, and effective as of August 30, 2016, the Trustee was appointed to serve as successor Trustee, Paying Agent, Registrar, and Note Custodian under the Indenture;

WHEREAS, Notes in the aggregate principal amount of $288,516,000 are currently Outstanding under the Indenture;

WHEREAS, Section 8.2 of the Indenture provides that with consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Notes, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, each of the Subsidiary Guarantors, when authorized by a Board Resolution, and the Trustee upon Company Request may enter into an indenture or indentures supplemental to the Indenture for the purpose of eliminating any of the provisions of the Indenture or of modifying in any manner the rights of the Holders under the Indenture, subject to the limitations set forth therein;

WHEREAS, pursuant to an exchange offer and consent solicitation, the Company has offered to exchange its 7 ¾% Convertible Secured PIK Notes due 2019 for any and all Outstanding Notes upon the terms and subject to the conditions set forth in the prospectus that is contained in the Registration Statement on Form S-4 filed with the Securities and Exchange Commission on , 2016, as the same may be amended, supplemented or modified (the "Prospectus");

WHEREAS, the Company has been authorized by a Board Resolution to enter into this Supplemental Indenture;

WHEREAS, the Subsidiary Guarantors have been authorized by a Board Resolution to enter into this Supplemental Indenture;

WHEREAS, the Company desires to amend certain provisions of the Indenture, as set forth in Article I of this Supplemental Indenture (the "Proposed Amendments");

WHEREAS, the Company has received and delivered to the Trustee an Act of the Holders containing the requisite consents (the "Consents") to effect the Proposed Amendments under the Indenture;

WHEREAS, pursuant to Section 8.2 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture;

WHEREAS, the Company hereby requests that the Trustee join with the Company and the Subsidiary Guarantors in the execution of this Supplemental Indenture; and

WHEREAS, all acts and requirements necessary to make this Supplemental Indenture the legal, valid and binding obligation of the Company and the Subsidiary Guarantors have been done.

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, and for the equal and proportionate benefit of the Holders of the Notes, each party hereto hereby agree as follows:

ARTICLE I
AMENDMENTS TO INDENTURE

Section 1.1 Amendments to Articles II, V, VII and IX. The Indenture is hereby amended as follows:

(a) The following sections of the Indenture shall be deleted in their entirety and replaced with "RESERVED":

(i) Sections 5.1(f) and (h), clauses (f) and (h) only of the section entitled Events of Default;

(ii) Section 7.1(c), clause (c) only of the section entitled Company May Consolidate, Etc., Only on Certain Terms;

(iii) Section 9.10, entitled Limitation on Restricted Payments;

(iv) Section 9.12, entitled Limitation on Indebtedness and Disqualified Capital Stock;

(v) Section 9.14, entitled Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries;

(vi) Section 9.15, entitled Limitation on Liens;

(vii) Section 9.18, entitled Limitation on Transactions with Affiliates;

(viii) Section 9.19, entitled Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries; and

(ix) Section 9.20, entitled Limitation on Sale and Leaseback Transactions.

(b) Failure to comply with the terms of any of the foregoing Sections of the Indenture shall no longer constitute a Default or an Event of Default under the Indenture and shall no longer have any other consequence under the Indenture. Provisions in the Indenture that authorize action by the Company or any Subsidiary Guarantor when permitted by a deleted section or which is to be done in accordance with a deleted section shall be deemed to permit such action unless prohibited by such deleted section or performed in a way consistent with such section, and, otherwise, references in the Indenture to deleted provisions shall also no longer have any effect or consequence under the Indenture.

(c) Section 2.1 of the Indenture is hereby amended to delete the following defined terms in their entirety: "Acquired Indebtedness," "Average Life," "Consolidated Fixed Charge Coverage Ratio," "Consolidated Net Income," "Consolidated Non-cash Charges," "Disinterested Director," "Permitted Refinancing Indebtedness," "Preferred Stock" and "Restricted Investment."

(d) Section 2.1 of the Indenture is further hereby amended to delete the defined terms "Bank Credit Agreement," "Investment," "Priority Credit Facility Debt" and "Unrestricted Subsidiary" in their entirety and replace them with the following:

"Bank Credit Agreement" means that certain Third Amended and Restated Credit Agreement dated as of November 30, 2010 among the Company, 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, JP Morgan Chase Bank, N.A. 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) 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.

"Investment" means, with respect to any Person, any direct or indirect advance, loan, guarantee of Indebtedness or other extension of credit or capital contribution by such Person 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 (1) 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, (2) Interest Rate Protection Obligations entered into in the ordinary course of business or as permitted hereunder, 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 (3) endorsements of negotiable instruments and documents in the ordinary course of business. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Restricted Subsidiary that were not sold or disposed of.

"Priority Credit Facility Debt" means, collectively, (1) Indebtedness of the Company or any Restricted Subsidiary (including, without limitation, Indebtedness under the Bank Credit Agreement) secured by Liens not otherwise permitted under any of clauses (2) through (25), inclusive, of the definition of "Permitted Liens," and (2) other Indebtedness or Disqualified Capital Stock of any Restricted Subsidiary that is not a Subsidiary Guarantor.

"Unrestricted Subsidiary" means (1) 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 (2) 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; and (c) 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); *provided, however,* that with respect to clause (a), the Company or a Restricted Subsidiary may be liable for Indebtedness of an Unrestricted Subsidiary if (i) such liability constituted a Permitted Investment at the time of incurrence, or (ii) 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. If at any time any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of the Indenture and any Indebtedness of such Subsidiary shall be deemed to be Incurred as of such date. 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, no Default or Event of Default shall have occurred and be continuing.

(d) Section 2.1 of the Indenture is further hereby amended to delete clause (1) of the defined term "Permitted Liens" in its entirety and replace it with the following:

(1) Liens securing Indebtedness of the Company or any Restricted Subsidiary that constitutes Priority Credit Facility Debt;

(e) Section 2.2 of the Indenture is hereby amended to delete the references to the following defined terms: "Affiliate Transaction," "Payment Restriction," "Permitted Indebtedness" and "Restricted Payment."

(f) Section 9.21 of the Indenture is hereby deleted in its entirety and replaced with the following:

Section 9.21 Covenant Suspension. Following any day (a "Suspension Date") that (a) the Notes have a rating equal to or higher than BBB- (or the equivalent) by S&P and a rating equal to or higher than Baa3 (or the equivalent) by Moody's ("Investment Grade Ratings"), (b) follows a date on which the Notes do not have Investment Grade Ratings, and (c) no Default or Event of Default has occurred and is continuing under this Indenture, the Company and its Restricted Subsidiaries shall not be subject to the covenants described in Section 9.17 (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 Notes 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 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. During any Suspension Period, the Board of Directors of the Company may not designate any of the Company's Subsidiaries as Unrestricted Subsidiaries pursuant to this Indenture. The Company shall give the Trustee prompt written notification upon the occurrence of a Suspension Date or a Reversion Date.

Section 1.2 Effectiveness of Amendments. The amendments set forth in Section 1.1 hereof shall not become effective until the Trustee shall have received from the Company written confirmation that the Company has accepted for exchange any and all of the Notes and other notes validly tendered on or prior to 11:59 p.m., New York City time, on , 2016 pursuant to the terms of the terms of the exchange offer and consent solicitation set forth in the Prospectus (collectively, the "Accepted Securities"), the Minimum Condition as defined in the Prospectus has been satisfied, and all holders of the Accepted Securities have received their applicable exchange consideration within the meaning of such term, and as provided for, in the Prospectus.

ARTICLE II
MISCELLANEOUS

Section 2.1 Instruments To Be Read Together. This Supplemental Indenture is executed as and shall constitute an indenture supplemental to and in implementation of the Indenture, and said Indenture and this Supplemental Indenture shall henceforth be read together. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes shall be bound hereby and thereby.

Section 2.2 Confirmation. The Indenture as amended and supplemented by this Supplemental Indenture is in all respects confirmed and preserved.

Section 2.3 Trust Indenture Act Controls. This Supplemental Indenture is subject to the provisions of the Trust Indenture Act that are required to be part of this 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 this Indenture by operation of such Trust Indenture Act section, such imposed duties or incorporated provision shall control.

Section 2.4 Headings. The headings of the Articles and Sections of this Supplemental Indenture have been inserted for convenience of reference only, and are not to be considered a part hereof and shall in no way modify or restrict any of the terms and provisions hereof.

Section 2.5 Governing Law. THIS 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.

Section 2.6 Counterparts. The parties hereto may sign any number of copies of this Supplemental Indenture. This Supplemental Indenture may be signed in counterparts and by the different parties hereto in separate counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile or portable document format (.pdf) transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signature of the parties hereto transmitted by facsimile or .pdf shall be deemed to be their original signatures for all purposes.

Section 2.7 Effectiveness; Termination. This Supplemental Indenture shall become effective on the date first above written; *provided, however*, that the amendments to the Indenture set forth in Section 1.1 of this Supplemental Indenture shall become effective only if the conditions set forth in Section 1.2 of this Supplemental Indenture have been satisfied.

Section 2.8 Acceptance by Trustee. The Trustee accepts the amendments to the Indenture effected by this Supplemental Indenture and agrees to execute the trusts created by the Indenture as hereby amended, but only upon the terms and conditions set forth in the Indenture.

Section 2.9 Responsibility of Trustee. The recitals and statements contained herein shall be taken as the statements of the Company and the Subsidiary Guarantors, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity, adequacy or sufficiency of this Supplemental Indenture.

Section 2.10 Successors and Assigns. All covenants and agreements in this Supplemental Indenture by the Company and the Subsidiary 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 2.11 Severability. In case any provision in this Supplemental Indenture or in the Notes or the Subsidiary 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 2.12 Benefits of Supplemental Indenture. Nothing in this Supplemental Indenture, express or implied, shall give to any Person (other than the parties hereto, any Paying Agent, any Registrar and their successors hereunder and the Holders) any benefit or any legal or equitable right, remedy or claim under this Supplemental Indenture.

[Signature pages follow]

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

ISSUER:

COMSTOCK RESOURCES, INC.

By: _____
Name: Roland O. Burns
Title: President

SUBSIDIARY GUARANTORS:

COMSTOCK OIL & GAS, LP

By: Comstock Oil & Gas GP, LLC,
its general partner

By: Comstock Resources, Inc. as sole member

By: _____
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS LOUISIANA, LLC

By: _____
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS GP, LLC

By: Comstock Resources, Inc. as sole member

By: _____
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS INVESTMENTS, LLC

By: _____
Name: Roland O. Burns
Title: Manager

COMSTOCK OIL & GAS HOLDINGS, INC.

By: _____
Name: Roland O. Burns
Title: President

[Signature Page to Comstock Resources, Inc. Fifth Supplemental Indenture]

TRUSTEE:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, as Trustee

By: _____
Name:
Title:

[Signature Page to Comstock Resources, Inc. Fifth Supplemental Indenture]

Exhibit 4.9

COMSTOCK RESOURCES, INC.,

THE SUBSIDIARY GUARANTORS NAMED HEREIN

and

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,

as Trustee

SIXTH SUPPLEMENTAL INDENTURE

dated as of , 2016

to

INDENTURE

dated as of October 9, 2009

---

9 ½% Senior Notes due 2020

THIS SIXTH SUPPLEMENTAL INDENTURE dated as of , 2016 (this "Supplemental Indenture"), is among COMSTOCK RESOURCES, INC., a Nevada corporation (hereinafter called the "Company"), the SUBSIDIARY GUARANTORS named on the signature pages hereto and AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC (hereinafter called the "Trustee") as successor Trustee to The Bank of New York Mellon Trust Company, N.A. ("BNY") under the Indenture, dated as of October 9, 2009, among the Company, the Subsidiary Guarantors named therein and BNY (the "Base Indenture"), as amended and supplemented by the Fourth Supplemental Indenture, dated as of June 5, 2012, among the Company, the Subsidiary Guarantors named therein and BNY (the "Fourth Supplemental Indenture") (the Base Indenture, as amended and supplemented by the Fourth Supplemental Indenture, the "Indenture"). Capitalized terms used in this Supplemental Indenture and not otherwise defined herein shall have the meanings assigned to such terms in the Indenture.

RECITALS

WHEREAS, pursuant to the Indenture, the Company established the form and terms of a series of the Company's Securities designated as its 9 ½% Senior Notes due 2020 (the "Notes");

WHEREAS, pursuant to Section 6.9 of the Indenture, BNY resigned as Trustee, Paying Agent, Registrar and Note Custodian under the Indenture, and effective as of August 30, 2016, the Trustee was appointed to serve as successor Trustee, Paying Agent, Registrar, and Note Custodian under the Indenture;

WHEREAS, Notes in the aggregate principal amount of $174,607,000 are currently Outstanding under the Indenture;

WHEREAS, Section 8.2 of the Indenture provides that with consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Notes, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, each of the Subsidiary Guarantors, when authorized by a Board Resolution, and the Trustee upon Company Request may enter into an indenture or indentures supplemental to the Indenture for the purpose of eliminating any of the provisions of the Indenture or of modifying in any manner the rights of the Holders under the Indenture, subject to the limitations set forth therein;

WHEREAS, pursuant to an exchange offer and consent solicitation, the Company has offered to exchange its 9 ½% Convertible Secured PIK Notes due 2020 for any and all Outstanding Notes upon the terms and subject to the conditions set forth in the prospectus that is contained in the Registration Statement on Form S-4 filed with the Securities and Exchange Commission on , 2016, as the same may be amended, supplemented or modified (the "Prospectus");

WHEREAS, the Company has been authorized by a Board Resolution to enter into this Supplemental Indenture;

WHEREAS, the Subsidiary Guarantors have been authorized by a Board Resolution to enter into this Supplemental Indenture;

WHEREAS, the Company desires to amend certain provisions of the Indenture, as set forth in Article I of this Supplemental Indenture (the "Proposed Amendments");

WHEREAS, the Company has received and delivered to the Trustee an Act of the Holders containing the requisite consents (the "Consents") to effect the Proposed Amendments under the Indenture;

WHEREAS, pursuant to Section 8.2 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture;

WHEREAS, the Company hereby requests that the Trustee join with the Company and the Subsidiary Guarantors in the execution of this Supplemental Indenture; and

WHEREAS, all acts and requirements necessary to make this Supplemental Indenture the legal, valid and binding obligation of the Company and the Subsidiary Guarantors have been done.

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, and for the equal and proportionate benefit of the Holders of the Notes, each party hereto hereby agree as follows:

ARTICLE I
AMENDMENTS TO INDENTURE

Section 1.1 Amendments to Articles II, V, VII and IX. The Indenture is hereby amended as follows:

(a) The following sections of the Indenture shall be deleted in their entirety and replaced with "RESERVED":

(i) Sections 5.1(f) and (h), clauses (f) and (h) only of the section entitled Events of Default;

(ii) Section 7.1(c), clause (c) only of the section entitled Company May Consolidate, Etc., Only on Certain Terms;

(iii) Section 9.10, entitled Limitation on Restricted Payments;

(iv) Section 9.12, entitled Limitation on Indebtedness and Disqualified Capital Stock;

(v) Section 9.14, entitled Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries;

(vi) Section 9.15, entitled Limitation on Liens;

(vii) Section 9.18, entitled Limitation on Transactions with Affiliates;

(viii) Section 9.19, entitled Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries; and

(ix) Section 9.20, entitled Limitation on Sale and Leaseback Transactions.

(b) Failure to comply with the terms of any of the foregoing Sections of the Indenture shall no longer constitute a Default or an Event of Default under the Indenture and shall no longer have any other consequence under the Indenture. Provisions in the Indenture that authorize action by the Company or any Subsidiary Guarantor when permitted by a deleted section or which is to be done in accordance with a deleted section shall be deemed to permit such action unless prohibited by such deleted section or performed in a way consistent with such section, and, otherwise, references in the Indenture to deleted provisions shall also no longer have any effect or consequence under the Indenture.

(c) Section 2.1 of the Indenture is hereby amended to delete the following defined terms in their entirety: "Acquired Indebtedness," "Average Life," "Consolidated Fixed Charge Coverage Ratio," "Consolidated Net Income," "Consolidated Non-cash Charges," "Disinterested Director," "Permitted Refinancing Indebtedness," "Preferred Stock" and "Restricted Investment."

(d) Section 2.1 of the Indenture is further hereby amended to delete the defined terms "Bank Credit Agreement," "Investment," "Priority Credit Facility Debt" and "Unrestricted Subsidiary" in their entirety and replace them with the following:

"Bank Credit Agreement" means that certain Third Amended and Restated Credit Agreement dated as of November 30, 2010 among the Company, 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, JP Morgan Chase Bank, N.A. 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) 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.

"Investment" means, with respect to any Person, any direct or indirect advance, loan, guarantee of Indebtedness or other extension of credit or capital contribution by such Person 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 (1) 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, (2) Interest Rate Protection Obligations entered into in the ordinary course of business or as permitted hereunder, 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 (3) endorsements of negotiable instruments and documents in the ordinary course of business. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Restricted Subsidiary that were not sold or disposed of.

"Priority Credit Facility Debt" means, collectively, (1) Indebtedness of the Company or any Restricted Subsidiary (including, without limitation, Indebtedness under the Bank Credit Agreement) secured by Liens not otherwise permitted under any of clauses (2) through (25), inclusive, of the definition of "Permitted Liens," and (2) other Indebtedness or Disqualified Capital Stock of any Restricted Subsidiary that is not a Subsidiary Guarantor.

"Unrestricted Subsidiary" means (1) 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 (2) 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; and (c) 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); *provided, however,* that with respect to clause (a), the Company or a Restricted Subsidiary may be liable for Indebtedness of an Unrestricted Subsidiary if (i) such liability constituted a Permitted Investment at the time of incurrence, or (ii) 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. If at any time any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of the Indenture and any Indebtedness of such Subsidiary shall be deemed to be Incurred as of such date. 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, no Default or Event of Default shall have occurred and be continuing.

(d) Section 2.1 of the Indenture is further hereby amended to delete clause (1) of the defined term "Permitted Liens" in its entirety and replace it with the following:

(1) Liens securing Indebtedness of the Company or any Restricted Subsidiary that constitutes Priority Credit Facility Debt;

(e) Section 2.2 of the Indenture is hereby amended to delete the references to the following defined terms: "Affiliate Transaction," "Payment Restriction," "Permitted Indebtedness" and "Restricted Payment."

(f) Section 9.21 of the Indenture is hereby deleted in its entirety and replaced with the following:

Section 9.21 Covenant Suspension. Following any day (a "Suspension Date") that (a) the Notes have a rating equal to or higher than BBB- (or the equivalent) by S&P and a rating equal to or higher than Baa3 (or the equivalent) by Moody's ("Investment Grade Ratings"), (b) follows a date on which the Notes do not have Investment Grade Ratings, and (c) no Default or Event of Default has occurred and is continuing under this Indenture, the Company and its Restricted Subsidiaries shall not be subject to the covenants described in Section 9.17 (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 Notes 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 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. During any Suspension Period, the Board of Directors of the Company may not designate any of the Company's Subsidiaries as Unrestricted Subsidiaries pursuant to this Indenture. The Company shall give the Trustee prompt written notification upon the occurrence of a Suspension Date or a Reversion Date.

Section 1.2 Effectiveness of Amendments. The amendments set forth in Section 1.1 hereof shall not become effective until the Trustee shall have received from the Company written confirmation that the Company has accepted for exchange any and all of the Notes and other notes validly tendered on or prior to 11:59 p.m., New York City time, on , 2016 pursuant to the terms of the terms of the exchange offer and consent solicitation set forth in the Prospectus (collectively, the "Accepted Securities"), the Minimum Condition as defined in the Prospectus has been satisfied, and all holders of the Accepted Securities have received their applicable exchange consideration within the meaning of such term, and as provided for, in the Prospectus.

ARTICLE II
MISCELLANEOUS

Section 2.1 Instruments To Be Read Together. This Supplemental Indenture is executed as and shall constitute an indenture supplemental to and in implementation of the Indenture, and said Indenture and this Supplemental Indenture shall henceforth be read together. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes shall be bound hereby and thereby.

Section 2.2 Confirmation. The Indenture as amended and supplemented by this Supplemental Indenture is in all respects confirmed and preserved.

Section 2.3 Trust Indenture Act Controls. This Supplemental Indenture is subject to the provisions of the Trust Indenture Act that are required to be part of this 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 this Indenture by operation of such Trust Indenture Act section, such imposed duties or incorporated provision shall control.

Section 2.4 Headings. The headings of the Articles and Sections of this Supplemental Indenture have been inserted for convenience of reference only, and are not to be considered a part hereof and shall in no way modify or restrict any of the terms and provisions hereof.

Section 2.5 Governing Law. THIS 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.

Section 2.6 Counterparts. The parties hereto may sign any number of copies of this Supplemental Indenture. This Supplemental Indenture may be signed in counterparts and by the different parties hereto in separate counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile or portable document format (.pdf) transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signature of the parties hereto transmitted by facsimile or .pdf shall be deemed to be their original signatures for all purposes.

Section 2.7 Effectiveness; Termination. This Supplemental Indenture shall become effective on the date first above written; *provided*, *however*, that the amendments to the Indenture set forth in Section 1.1 of this Supplemental Indenture shall become effective only if the conditions set forth in Section 1.2 of this Supplemental Indenture have been satisfied.

Section 2.8 Acceptance by Trustee. The Trustee accepts the amendments to the Indenture effected by this Supplemental Indenture and agrees to execute the trusts created by the Indenture as hereby amended, but only upon the terms and conditions set forth in the Indenture.

Section 2.9 Responsibility of Trustee. The recitals and statements contained herein shall be taken as the statements of the Company and the Subsidiary Guarantors, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity, adequacy or sufficiency of this Supplemental Indenture.

Section 2.10 Successors and Assigns. All covenants and agreements in this Supplemental Indenture by the Company and the Subsidiary 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 2.11 Severability. In case any provision in this Supplemental Indenture or in the Notes or the Subsidiary 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 2.12 Benefits of Supplemental Indenture. Nothing in this Supplemental Indenture, express or implied, shall give to any Person (other than the parties hereto, any Paying Agent, any Registrar and their successors hereunder and the Holders) any benefit or any legal or equitable right, remedy or claim under this Supplemental Indenture.

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

ISSUER:

COMSTOCK RESOURCES, INC.

By: _____
Name: Roland O. Burns
Title: President

SUBSIDIARY GUARANTORS:

COMSTOCK OIL & GAS, LP

By: Comstock Oil & Gas GP, LLC,
its general partner

By: Comstock Resources, Inc. as sole member

By: _____
Name: Roland O. Burns
Title: President

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By: _____
Name: Roland O. Burns
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COMSTOCK OIL & GAS INVESTMENTS, LLC

By: _____
Name: Roland O. Burns
Title: Manager

COMSTOCK OIL & GAS HOLDINGS, INC.

By: _____
Name: Roland O. Burns
Title: President

[Signature Page to Comstock Resources, Inc. Sixth Supplemental Indenture]

TRUSTEE:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, as Trustee

By: _____
Name:
Title:

[Signature Page to Comstock Resources, Inc. Sixth Supplemental Indenture]

Exhibit 4.10

WARRANT AGREEMENT

dated as of , 2016

between

COMSTOCK RESOURCES, INC.

and

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,

as Warrant Agent

TABLE OF CONTENTS

WARRANT AGREEMENT

Warrant Agreement (as it may be amended from time to time, this "**Warrant Agreement**"), dated as of , 2016, between Comstock Resources, Inc., a Nevada corporation (the "**Company**"), and American Stock Transfer & Trust Company, LLC, a New York State chartered limited purpose trust company (the "**Warrant Agent**").

WITNESSETH THAT:

WHEREAS, pursuant to the terms and conditions of the Exchange Offer (as defined below), the holders of the Old Senior Secured Notes (as defined in the Registration Statement) who tender such Old Senior Secured Notes in the Exchange Offer and that are accepted for exchange and not validly withdrawn are to be issued warrants **("Warrants")**, exercisable until the Expiration Date, to purchase up to an aggregate of [one million nine hundred twenty-five thousand five hundred (1,925,500)] Common Shares (as defined below) at an exercise price of $0.01 per share, as the same may be adjusted pursuant to Article 4 hereof (the "**Exercise Price**");

WHEREAS, the Warrants have the terms and conditions set forth in this Warrant Agreement (including the Exhibits hereto);

WHEREAS, the Company desires that the Warrant Agent act on behalf of the Company, and the Warrant Agent is willing to so act, in connection with the issuance, exchange, Transfer (as defined below), substitution and exercise of Warrants; and

WHEREAS, the Warrants and the underlying Common Shares have been registered under the Securities Act (as defined below) pursuant to the Registration Statement.

NOW THEREFORE in consideration of the mutual agreements herein contained, the Company and the Warrant Agent agree as follows:

Article 1

Definitions

Section 1.01 Certain Definitions. As used in this Warrant Agreement, the following terms shall have their respective meanings set forth below:

"**Affiliate**" shall mean, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such first 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.

"**Affiliated Buyer**" means, with respect to an Asset Sale or tender offer, any Person (i) who is an Affiliate of the Company, (ii) who is an officer, director, employee or member of the Company or any Affiliate of the Company, or (iii) a majority of which Person's total outstanding equity, upon consummation of such transaction, is held by Persons who are equityholders in the Company immediately prior to the consummation of such transaction.

"**Appropriate Officer**" has the meaning set forth in Section 2.02(a).

"**Asset Sale**" has the meaning set forth in Section 4.06(c).

"**Authentication Order**" means a Company Order for authentication and delivery of Warrants.

"**Beneficial Owner**" means any Person beneficially owning an interest in a Global Warrant, which interest is credited to the account of a direct participant in the Depository for the benefit of such Beneficial Owner through the book-entry system maintained by the Depositary (or its agent)). For the avoidance of doubt, a Participant may also be a Beneficial Owner.

"**Board**" means the board of directors of the Company or any committee of such board duly authorized to exercise the power of the board of directors with respect to the matters provided for in this Warrant Agreement as to which the board of directors is authorized or required to act.

"**Business Day**" means any day other than (x) a Saturday or Sunday or (y) any day which is a legal holiday in the State of New York or a day on which banking institutions and trust companies in the state in which the Warrant Agent is located are authorized or obligated by Law, regulation or executive order to close.

"**Cash**" means such coin or currency of the United States as at any time of payment is legal tender for the payment of public and private debts.

"**Charter**" means the restated articles of incorporation of the Company, as amended or restated.

"**Close of Business**" means 5:00 p.m., New York City time.

"**Closing Date**" means the closing date of the Exchange Offer.

"**Common Shares**" means shares of the common stock, par value $0.50 per share, of the Company.

"**Company**" has the meaning set forth in the preamble.

"**Company Order**" means a written request or order signed in the name of the Company by any Appropriate Officer or other duly authorized officer of the Company and delivered to the Warrant Agent.

"**Convertible Securities**" means options, rights, warrants or other securities convertible into or exchangeable or exercisable for Common Shares (including the Warrants).

"Depository" means The Depository Trust Company, its nominees, and their respective successors.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended from time to time, and the related rules and regulations promulgated thereunder.

"**Exercise Date**" has the meaning set forth in Section 3.02(b).

"**Ex-Date**" means with respect to a dividend or distribution to holders of the Common Shares, the first date on which the Common Shares can be traded without the right to receive such dividend or distribution.

"**Exercise Notice**" means, for any Warrant, an exercise notice substantially in the form set forth in Exhibit B hereto.

"**Exercise Price**" has the meaning set forth in the Recitals.

"**Exchange Offer**" has the meaning set forth in the Registration Statement.

"**Expiration Date**" means, for any Warrant, the second anniversary of the Closing Date.

"**Fair Value**," as of a specified date, means the price per Common Share, other Securities or other distributed property determined as follows:

(i) in the case of Common Shares or other Securities listed on the New York Stock Exchange or the NASDAQ Stock Market, the VWAP of a Common Share or a single unit of such other Security for the 20 Trading Days ending on, but excluding, the specified date (or if the Common Shares or other Security has been listed for less than 20 Trading Days, the VWAP for such lesser period of time);

(ii) in the case of Common Shares or other Securities not listed on the New York Stock Exchange or the NASDAQ Stock Market, the VWAP of a Common Share or a single unit of such other Security in composite trading for the principal U.S. national or regional securities exchange on which such securities are then listed for the 20 Trading Days ending on, but excluding, the specified date (or if the Common Shares or other Security has been listed for less than 20 Trading Days, the VWAP for such lesser period of time); or

(iii) in all other cases, the fair value per Common Share, other Securities or other distributed property as of a date not earlier than 10 Business Days preceding the specified date as determined in good faith by the Board and, if the Board elects to engage the same, upon the advice of an independent investment banking, financial advisory or valuation firm or appraiser selected by the Board (a "**Representative**"); provided, however, that

(iv) notwithstanding the foregoing, if the Board determines in good faith that the application of clauses (i) or (ii) of this definition would result in a VWAP based on the trading prices of a thinly-traded Security such that the price resulting therefrom may not represent an accurate measurement of the fair value of such Security, the Board at its election may apply the provisions of clause (iii) of this definition in lieu of the applicable clause (i) or (ii) with respect to the determination of the fair value of such Security.

"**Full Physical Settlement**" means the settlement method pursuant to which an exercising Beneficial Owner shall be entitled to receive from the Company, for each Warrant exercised, a number of Common Shares equal to the Full Physical Share Amount in exchange for payment by the Beneficial Owner of the Exercise Price.

"**Full Physical Share Amount**" means, for each Warrant exercised as to which Full Physical Settlement is applicable, one Common Share.

"**Global Warrant**" means a Warrant in the form of a Global Warrant Certificate.

"**Global Warrant Certificate**" means any certificate representing Warrants satisfying the requirements set forth in Section 2.04.

"**Global Warrant Holder**" means the Person acting as the Depository or nominee of the Depository in whose name Warrants are registered in the Warrant Register. The initial Global Warrant Holder shall be Cede & Co., as the Depository's nominee.

"**Law**" means any federal, state, local, foreign or provincial law, statute, ordinance, rule, regulation, judgment, order, injunction, decree or agency requirement having the force of law or any undertaking to or agreement with any governmental authority, including common law.

"**Net Share Amount**" means for each Warrant exercised as to which Net Share Settlement is applicable, a fraction of a Common Share equal to (i) the Fair Value (as of the Exercise Date for such Warrant) of one Common Share minus the Exercise Price therefor divided by (ii) such Fair Value. In no event shall the Company deliver a fractional Common Share in connection with an exercise of Warrants as to which Net Share Settlement is applicable.

"**Net Share Settlement**" means the settlement method pursuant to which an exercising Beneficial Owner shall be entitled to receive from the Company, for each Warrant exercised, a number of Common Shares equal to the Net Share Amount without any payment of Cash therefor.

"**New Convertible Notes**" has the meaning set forth in the Registration Statement.

"**Non-Affiliate Combination**" means a Fundamental Equity Change where (i) the acquirer is a true third party and not an Affiliate of the Company or any of its or its Affiliates' officers, directors, employees or members and (ii) all of the equity held by equity holders of the Company (other than management) is extinguished or replaced by equity in a different Person (other than a Fundamental Equity Change in which the equity interests in the Company are replaced in a merger or other corporate combination with equity in the surviving Person that represents more than 50% of the total equity in the surviving Person).

"**Number of Warrants**" means the "**Number of Warrants**" specified on the face of the Global Warrant Certificate, subject to adjustment pursuant to Article 4.

"**Offer Expiration Date**" has the meaning set forth in Section 4.01(c).

"**Officer's Certificate**" means a certificate signed by any Appropriate Officer or other duly authorized officer of the Company.

"**Open of Business**" means 9:00 a.m., New York City time.

"**Participant**" means any direct participant of the Depository, the account of which is credited with a beneficial interest in the Global Warrant for the benefit of a Beneficial Owner through the book-entry system maintained by the Depositary (or its agent).

"**Person**" means an individual, partnership, firm, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority or other entity of whatever nature.

"**Prospectus**" means the Prospectus that is part of the Registration Statement.

"**Record Date**" means, with respect to any dividend, distribution or other transaction or event in which the holders of Common Shares have the right to receive any Cash, Securities or other property or in which Common Shares (or another applicable Security) are exchanged for or converted into, or any combination of, Cash, Securities or other property, the date fixed for determination of holders of Common Shares entitled to receive such Cash, Securities or other property or participate in such exchange or conversion (whether such date is fixed by the Board or by statute, contract or otherwise).

"**Registration Statement**" means the Company's Registration Statement on Form S-4 filed with the Securities and Exchange Commission on August 1, 2016, as such registration statement may be amended.

"**Reorganization Event**" has the meaning set forth in Section 4.07(a).

"**Representative**" has the meaning set forth in clause (iii) of the definition of Fair Value.

"**SEC**" means the United States Securities and Exchange Commission, or any other federal agency at the time administering the Securities Act or the Exchange Act, whichever is the relevant statute for the particular purpose.

"**Securities**" means (i) any capital stock (whether Common Shares or preferred stock, voting or non-voting), partnership, membership or limited liability company interest or other equity or voting interest, (ii) any right, option, warrant or other security or evidence of indebtedness convertible into, or exercisable or exchangeable for, directly or indirectly, any interest described in clause (i), (iii) any notes, bonds, debentures, trust receipts and other obligations, instruments or evidences of indebtedness, and (iv) any other "**securities,**" as such term is defined or determined under the Securities Act.

"**Securities Act**" means the Securities Act of 1933, as amended from time to time, and the related rules and regulations promulgated thereunder.

"**Settlement Date**" means, in respect of a Warrant that is exercised hereunder, the third Business Day immediately following the Exercise Date for such Warrant.

"**Subsidiary**" means, as to any Person, any corporation, partnership, limited liability company or other organization, whether incorporated or unincorporated, of which at least a majority of the securities or other interests having by their terms voting power to elect a majority of the Board or others performing similar functions with respect to such corporation or other organization is directly or indirectly beneficially owned or controlled by such party or by any one or more of its subsidiaries, or by such party and one or more of its subsidiaries.

"**Tendering Holders**" means those holders of Old Senior Secured Notes that validly tender such Old Senior Secured Notes in the Exchange Offer and that are accepted and not validly withdrawn for exchange.

"**Trading Day**" means each Monday, Tuesday, Wednesday, Thursday and Friday, other than any day on which Securities are not traded on the applicable securities exchange.

"**Transfer**" means, with respect to any Warrant, to directly or indirectly (whether by act, omission or operation of law), sell, exchange, transfer, hypothecate, negotiate, gift, convey in trust, pledge, assign, encumber, or otherwise dispose of, or by adjudication of a Person as bankrupt, by assignment for the benefit of creditors, by attachment, levy or other seizure by any creditor (whether or not pursuant to judicial process), or by passage or distribution of Warrants under judicial order or legal process, carry out or permit the transfer or other disposition of, all or any portion of such Warrant.

"**Transferee**" means a Person to whom any Warrant (or interest in the Global Warrant) is Transferred.

"**Trigger Event**" has the meaning set forth in Section 4.03(a).

"**Unit of Reference Property**" has the meaning set forth in Section 4.07(a).

"**VWAP**" means, for any Trading Day, the price for Securities (including Common Shares) determined by the daily volume weighted average price per unit of such Securities for such Trading Day on the trading market on which such Securities are then listed or quoted, in each case, for the regular trading session (including any extensions thereof, without regard to pre-open or after hours trading outside of such regular trading session) as reported on the New York Stock Exchange or NASDAQ Stock Market, or if such Securities are not listed or quoted on the New York Stock Exchange or NASDAQ Stock Market, as reported by the principal U.S. national or regional securities exchange on which such Securities are then listed or quoted, whichever is applicable, as published by Bloomberg at 4:15 P.M., New York City time (or 15 minutes following the end of any extension of the regular trading session), on such Trading Day, or if such volume weighted average price is unavailable or in manifest error, the price per unit of such Securities using a volume weighted average price method selected by an independent nationally recognized investment bank or other qualified financial institution selected by the Board.

"**Warrant**" means a warrant of the Company exercisable for a single Common Share as provided herein, and issued pursuant to this Warrant Agreement with the terms, conditions and rights set forth in this Warrant Agreement.

"**Warrant Agent**" has the meaning set forth in the preamble.

"**Warrant Agreement**" has the meaning set forth in the preamble.

"**Warrant Register**" has the meaning set forth in Section 2.03(a).

Article 2

Issuance, Execution and Transfer of Warrants

Section 2.01 Issuance and Delivery of Warrants.

(a) On the Closing Date, the Company shall initially issue and execute one Global Warrant (in accordance with Section 2.02) evidencing an initial aggregate Number of Warrants equal to [1,925,500] (such Number of Warrants to be subject to adjustment from time to time as described herein) in accordance with the terms of this Warrant Agreement and the Exchange Offer and deliver such Global Warrant to the Warrant Agent, for authentication, along with a duly executed Authentication Order. The Warrant Agent shall then Transfer such Global Warrant to the Global Warrant Holder for crediting to the accounts of the applicable Participants for the benefit of the Tendering Holders pursuant to the procedures of the Depository on or after the Closing Date. The Global Warrant shall evidence one or more Warrants. Each Warrant evidenced thereby shall be exercisable (upon payment of the Exercise Price and compliance with the procedures set forth in this Warrant Agreement) for one Common Share. On the Closing Date, the Warrant Agent shall, upon receipt of such Global Warrant and Authentication Order, authenticate such Global Warrant in accordance with Section 2.02 and register such Global Warrant in the Warrant Register. The Global Warrant shall be dated as of the Closing Date and, subject to the terms hereof, shall evidence the only Warrants issued or outstanding under this Warrant Agreement. The Global Warrant Certificate shall be deposited on or after the date hereof with the Warrant Agent.

(b) All Warrants issued under this Warrant Agreement shall in all respects be equally and ratably entitled to the benefits hereof, without preference, priority, or distinction on account of the actual time of the issuance and authentication or any other terms thereof. Each Warrant shall be, and shall remain, subject to the provisions of this Warrant Agreement until such time as all of the Warrants evidenced thereby shall have been duly exercised or shall have expired or been canceled in accordance with the terms hereof. The Global Warrant Holder shall be bound by all of the terms and provisions of this Warrant Agreement as fully and effectively as if the Global Warrant Holder had signed the same.

(c) Any Warrant that is forfeited by a Beneficial Owner, or repurchased by the Company shall be deemed to be no longer outstanding for all purposes of this Warrant Agreement.

Section 2.02 Execution and Authentication of Warrants.

(a) Each Global Warrant Certificate shall be executed on behalf of the Company by the Chief Executive Officer, President, Chief Financial Officer or Secretary (each, an "**Appropriate Officer**") of the Company. The signature of any of the Appropriate Officers on a Global Warrant Certificate may be in the form of a facsimile or other electronically transmitted signature (including, without limitation, electronic transmission in portable document format (.pdf)).

(b) Any Global Warrant Certificate bearing the signatures of individuals, each of whom was, at the time he or she signed such Global Warrant Certificate or his or her facsimile signature was affixed to such Global Warrant Certificate, as the case may be, an Appropriate Officer, shall bind the Company, notwithstanding that such individuals or any of them have ceased be such an Appropriate Officer prior to the authentication of such Global Warrant by the Warrant Agent or was not such an Appropriate Officer at the date of such Global Warrant.

(c) No Global Warrant shall be entitled to any benefit under this Warrant Agreement or be valid or obligatory for any purpose unless there appears on the applicable Global Warrant Certificate a certificate of authentication substantially in the form provided for herein executed by the Warrant Agent, and such signature upon any Global Warrant Certificate shall be conclusive evidence, and the only evidence, that such Global Warrant has been duly authenticated and delivered hereunder. The signature of the Warrant Agent on any Global Warrant Certificate may be in the form of a facsimile or other electronically transmitted signature (including, without limitation) electronic transmission in portable document format (.pdf)).

Section 2.03 Registration, Transfer, Exchange and Substitution.

(a) The Company shall cause to be kept at the office of the Warrant Agent, and the Warrant Agent shall maintain, a register (the "**Warrant Register**") in which the Company shall provide for the registration of any Global Warrant and Transfers, exchanges or substitutions of any Global Warrant as provided herein. Any Global Warrant issued upon any registration of Transfer or exchange of or substitution for any Global Warrant shall be a valid obligation of the Company, evidencing the same obligations, and entitled to the same benefits under this Warrant Agreement, as any Global Warrant surrendered for such registration of Transfer, exchange or substitution.

(b) Transfers of a Global Warrant shall be limited to Transfers in whole, and not in part, to the Company, the Depository, their successors, and their respective nominees. A Global Warrant may be Transferred to such parties upon the delivery of a written instruction of Transfer in form reasonably satisfactory to the Warrant Agent and the Company, duly executed by the Global Warrant Holder or by such Global Warrant Holder's attorney, duly authorized in writing. No such Transfer shall be effected until, and the Transferee shall succeed to the rights of the Global Warrant Holder only upon, final acceptance and registration of the Transfer in the Warrant Register by the Warrant Agent. Prior to the registration of any Transfer of a Global Warrant by the Global Warrant Holder as provided herein, the Company, the Warrant Agent, and any agent of the Company or the Warrant Agent may treat the Person in whose name such Global Warrant is registered as the owner thereof for all purposes, notwithstanding any notice to the contrary. To permit a registration of a Transfer of a Global Warrant, the Company shall execute a Global Warrant Certificate at the Warrant Agent's request and the Warrant Agent shall authenticate such Global Warrant Certificates. Any such Global Warrant Certificate shall be deposited on or after the date hereof with the Warrant Agent. No service charge shall be made for any such registration of Transfer. A party requesting transfer of a Global Warrant must provide any evidence of authority that may be required by the Warrant Agent, including but not limited to, a signature guarantee from an eligible guarantor institution participating in a signature guarantee program approved by the Securities Transfer Association, Inc.

(c) Interests of Beneficial Owners in a Global Warrant registered in the name of the Depository or its nominee shall only be Transferred in accordance with the procedures of the Depository, the applicable Participant and applicable Law.

(d) So long as any Global Warrant is registered in the name of the Depository or its nominee, the Beneficial Owners shall have no rights under this Warrant Agreement with respect to such Global Warrant held on their behalf by the Depository, and the Depository may be treated by the Company, the Warrant Agent and any agent of the Company or the Warrant Agent as the absolute owner of such Global Warrant for all purposes. Accordingly, any such Beneficial Owner's interest in such Global Warrant will be shown only on, and the Transfer of such interest shall be effected only through, records maintained by the Depository or its nominee or the applicable Participant, and neither the Company nor the Warrant Agent shall have any responsibility or liability with respect to such records maintained by the Depository or its nominee or the applicable Participant. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Warrant Agent or any agent of the Company or the Warrant Agent from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair the operation of customary practices of the Depository or Participants governing the exercise of the rights of a Beneficial Owner.

Section 2.04 Form of Global Warrant Certificates. Each Global Warrant Certificate shall be in substantially the form set forth in Exhibit A hereto and shall have such insertions as are appropriate or required by this Warrant Agreement and may have such letters, numbers or other marks of identification and such legends and endorsements, stamped, printed, lithographed or engraved thereon, as the Company may deem appropriate and as are not inconsistent with the provisions of this Warrant Agreement, such as may be required to comply with this Warrant Agreement, any Law or any rule of any securities exchange on which Warrants may be listed, and such as may be necessary to conform to customary usage.

Section 2.05 Cancellation of the Global Warrant Certificates. Any Global Warrant Certificate shall be promptly cancelled by the Warrant Agent upon the earlier of (i) the Expiration Date, (ii) the mutilation of the Global Warrant Certificate as described in Section 5.02, or (iii) registration of Transfer or exercise of all Warrants represented thereby and, except as provided in this Article 2 in case of a Transfer or Section 5.02 in case of mutilation, no Global Warrant Certificate shall be issued hereunder in lieu thereof.

Article 3

Exercise and Settlement of Warrants

Section 3.01 Exercise of Warrants. At any time prior to Close of Business on the Expiration Date, each Warrant may be exercised, in accordance with this Article 3. Any Warrants not exercised prior to the Expiration Date shall expire unexercised and all rights thereunder and all rights in respect thereof under this Warrant Agreement shall cease as of the Close of Business on the Expiration Date. Only whole Warrants may be exercised.

Section 3.02 Procedure for Exercise.

(a) To exercise each Warrant, a Beneficial Owner must arrange for (i) the delivery of the Exercise Notice duly completed and executed by its applicable Participant to the principal office of the Warrant Agent and the Company, (ii) if Full Physical Settlement is elected, payment to the Warrant Agent in an amount equal to the Exercise Price for each Warrant to be exercised together with all applicable taxes and charges thereto, (iii) delivery of each Warrant to be exercised through the facilities of the Depository and (iv) compliance with all other procedures established by the Depository, the applicable Participant and the Warrant Agent for the exercise of Warrants.

(b) The date on which all the requirements for exercise set forth in this Section 3.02 in respect of a Warrant are satisfied is the "**Exercise Date**" for such Warrant.

(c) Subject to Section 3.02(e), any exercise of a Warrant pursuant to the terms of this Warrant Agreement shall be irrevocable and enforceable in accordance with its terms.

(d) All funds received by the Warrant Agent under this Agreement that are to be distributed or applied by the Warrant Agent in the performance of services in accordance with this Agreement (the "**Funds**") shall be held by the Warrant Agent as agent for the Company and deposited in one or more bank accounts to be maintained by the Warrant Agent in its name as agent for the Company (the "**Funds Account**"). Until paid pursuant to the terms of this Agreement, the Warrant Agent will hold the Funds through the Funds Account in: deposit accounts of commercial banks with Tier 1 capital exceeding $1 billion or with an average rating above investment grade by S&P (LT Local Issuer Credit Rating), Moody's (Long Term Rating) and Fitch Ratings, Inc. (LT Issuer Default Rating) (each as reported by Bloomberg Finance L.P. The Warrant Agent shall have no responsibility or liability for any diminution of the Funds that may result from any deposit made by the Warrant Agent in accordance with this paragraph, including any losses resulting from a default by any bank, financial institution or other third party. The Warrant Agent may from time to time receive interest, dividends or other earnings in connection with such deposits. The Warrant Agent shall not be obligated to pay such interest, dividends or earnings to the Company, any Beneficial Owner or any other party.

(e) The Company shall assist and cooperate with any Beneficial Owner required to make any governmental filings or obtain any governmental approvals prior to or in connection with any exercise of a Warrant (including, without limitation, making any filings required to be made by the Company), and any exercise of a Warrant may be made contingent upon the making of any such filing and the receipt of any such approval.

(f) The Warrant Agent shall forward funds received for warrant exercises in a given month by the fifth Business Day of the following month by wire transfer to an account designated by the Company.

(g) Payment of the Exercise Price by or on behalf of a Beneficial Owner upon exercise of Warrants, in the case of Full Physical Settlement, shall be by federal wire or other immediately available funds payable to the order of the Company to the account maintained by the Warrant Agent in its name as agent for the Company. The Warrant Agent shall provide an exercising Beneficial Owner, upon request, with the appropriate payment instructions.

(h) The Company hereby instructs the Warrant Agent to record tax basis for newly issued Common Shares as follows: the tax basis of each newly issued Common Share equals the tax basis of the exercised Warrant plus the Exercise Price. The Company shall provide the tax basis of the Warrants no later than 90 days after the Closing Date.

Section 3.03 Settlement of Warrants.

(a) Full Physical Settlement shall apply to each Warrant unless the Beneficial Owner elects for Net Share Settlement to apply upon exercise of such Warrant. Such election shall be made in the Exercise Notice for such Warrant.

(b) If Full Physical Settlement applies to the exercise of a Warrant, upon the proper and valid exercise thereof by a Beneficial Owner the Company shall cause to be delivered to the exercising Beneficial Owner the Fully Physical Settlement Amount.

(c) If Net Share Settlement applies to the exercise of a Warrant, upon the proper and valid exercise thereof by a Beneficial Owner the Company shall cause to be delivered to the exercising Beneficial Owner the Net Share Amount. To the extent a Beneficial Owner elects a Net Share Settlement, the Company shall have sole responsibility for calculating the Net Share Amount. The Company shall provide the Net Share Amount calculation to the Warrant Agent.

(d) If there is a dispute as to the determination of the Exercise Price or the calculation of the number of Common Shares to be delivered to an exercising Beneficial Owner, the Company shall cause to be promptly delivered to the number of Common Shares that is not in dispute.

Section 3.04 Delivery of Common Shares.

(a) In connection with the exercise of Warrants, the Warrant Agent shall:

(1) examine all Exercise Notices and all other documents delivered to it to ascertain whether, on their face, such Exercise Notices and any such other documents have been executed and completed in accordance with their terms;

(2) where an Exercise Notice or other document appears on its face to have been improperly completed or executed or some other irregularity in connection with the exercise of the Warrant exists, endeavor to inform the appropriate parties (including the Person submitting such instrument) of the need for fulfillment of all requirements, specifying those requirements which appear to be unfulfilled;

(3) inform the Company of and cooperate with and assist the Company in resolving any reconciliation problems between the Exercise Notices received and delivery of Warrants to the Warrant Agent's account;

(4) advise the Company with respect to an exercise, no later than two Business Days following the satisfaction of each of the applicable procedures for exercise set forth in Section 3.02(a), of (v) the receipt of such Exercise Notice and the number of Warrants exercised in accordance with the terms and conditions of this Warrant Agreement, (w) the number of Common Shares; (x) the instructions with respect to issuance of the Common Shares, subject to the timely receipt from the Depository of the necessary information, (y) the number of Persons who will become holders of record of the Company (who were not previously holders of record) as a result of receiving Common Shares upon exercise of the Warrants and (z) such other information as the Company shall reasonably require;

(5) promptly deposit in the Funds Account all Funds received in payment of the Exercise Price in connection with Full Physical Settlement of Warrants;

(6) promptly cancel and destroy a Global Warrant Certificate if all Warrants represented thereby have been exercised in full and deliver a certificate of destruction to the Company, unless the Company shall otherwise direct in writing;

(7) if all Warrants represented by a Global Warrant Certificate shall not have been exercised in full, note and authenticate such decrease in the Number of Warrants on Schedule A of such Global Warrant Certificate; and

(8) provide to the Company, upon the Company's request, the number of Warrants previously exercised, the number of Common Shares issued in connection with such exercises and the number of remaining outstanding Warrants.

(b) With respect to each properly exercised Warrant in accordance with this Warrant Agreement, the Company shall cause its transfer agent to issue, in book-entry form at the transfer agent or through the Depositary, the Common Shares due in connection with such exercise for the benefit and in the name of the Person designated by the Beneficial Owner submitting the applicable Exercise Notice. The Person on whose behalf and in whose name any Common Shares are registered shall for all purposes be deemed to have become the holder of record of such Common Shares as of the Close of Business on the applicable Exercise Date.

(c) Promptly after the Warrant Agent shall have taken the action required by this Section 3.04 (or at such later time as may be mutually agreeable to the Company and the Warrant Agent), the Warrant Agent shall account to the Company with respect to the consummation of any exercise of any Warrants including, without limitation, with respect to any Exercise Price paid to the Warrant Agent.

Section 3.05 No Fractional Common Shares or Warrants to Be Issued.

(a) Notwithstanding anything to the contrary in this Warrant Agreement, the Company shall not be required to issue any fraction of a Warrant or of a Common Share upon exercise of any Warrants.

(b) If any fraction of a Common Share would, except for the provisions of this Section 3.05, be issuable on the exercise of any Warrants, the number of Common Shares to be issued shall be rounded up to the nearest whole number of Common Shares. All Warrants exercised by a Beneficial Owner on the same Exercise Date shall be aggregated for purposes of determining the number of Common Shares to be delivered pursuant to Section 3.04(b).

(c) If any fraction of a Warrant would, except for the provisions of this Section 3.05, be issuable under the Exchange Offer, the number of Warrants to be issued shall be rounded up to the nearest whole number of Warrants.

Section 3.06 Acquisition of Warrants by Company. The Company shall have the right, except as limited by Law, to purchase or otherwise to acquire one or more Warrants at such times, in such manner and for such consideration as it may deem appropriate.

Section 3.07 Validity of Exercise. All questions as to the validity, form and sufficiency (including time of receipt) of a Warrant exercise shall be determined by the Company, which determination shall be final and binding with respect to the Warrant Agent. The Warrant Agent shall incur no liability for or in respect of and, except to the extent such liability arises from the Warrant Agent's gross negligence, willful misconduct or bad faith (as determined by a court of competent jurisdiction in a final non-appealable judgment), the Warrant Agent, its employees, offices, directors and affiliates shall be indemnified and held harmless by the Company for acting or refraining from acting upon, or as a result of such determination by the Company. The Company reserves the absolute right to waive any of the conditions to the exercise of Warrants or defects in Exercise Notices with regard to any particular exercise of Warrants.

Section 3.08 Certain Calculations.

(a) The Warrant Agent shall be responsible for performing all calculations required in connection with the exercise and settlement of the Warrants as described in this Article 3. In connection therewith, the Warrant Agent shall provide prompt written notice to the Company, in accordance with Section 3.04(a)(4), of the number of Common Shares deliverable upon exercise and settlement of Warrants. For the avoidance of doubt, the Warrant Agent shall not be responsible for performing the calculations set forth in Article 4.

(b) The Warrant Agent shall not be accountable with respect to the validity or value of any Common Shares that may at any time be issued or delivered upon the exercise of any Warrant, and it makes no representation with respect thereto. The Warrant Agent shall not be responsible, to the extent not arising from the Warrant Agent's gross negligence, willful misconduct or bad faith (as determined by a court of competent jurisdiction in a final non-appealable judgment), for any failure of the Company to issue, transfer or deliver any Common Shares or Units of Reference Property, or to comply with any of the covenants of the Company contained in this Article 3.

Article 4

Adjustments

Section 4.01 Adjustments to Exercise Price. After the date on which the Warrants are first issued and while any Warrants remain outstanding and unexpired, the Exercise Price shall be subject to adjustment (without duplication) upon the occurrence of any of the following events:

(a) The issuance of Common Shares as a dividend or distribution to all holders of Common Shares, or a share split or share combination (including a reverse split) or reclassification of the outstanding Common Shares, in which event the Exercise Price shall be adjusted based on the following formula:

$$E_1 = E_0 \times \frac{N0}{N1}$$

where:

E_1 = the Exercise Price in effect immediately after (i) the Open of Business on the Ex-Date in the case of a dividend or distribution or (ii) the consummation of the transaction in the case of a subdivision, combination, split, reverse split or reclassification;

E_0 = the Exercise Price in effect immediately prior to (i) the Open of Business on the Ex-Date in the case of a dividend or distribution or (ii) the consummation of the transaction in the case of a subdivision, combination, split, reverse split or reclassification;

N_0 = the number of Common Shares outstanding immediately prior to (i) the Open of Business on the Record Date in the case of a dividend or distribution or (ii) the consummation of the transaction in the case of a subdivision, combination, split, reverse split or reclassification; and

N_1 = the number of Common Shares equal to (i) in the case of a dividend or distribution, the sum of the number of Common Shares outstanding immediately prior to the Open of Business on the Record Date for such dividend or distribution plus the total number of Common Shares issued pursuant to such dividend or distribution or (ii) in the case of a subdivision, combination, split, reverse split or reclassification, the number of Common Shares outstanding immediately after such subdivision, combination, split, reverse split or reclassification.

Such adjustment shall become effective immediately after (i) the Open of Business on the Ex-Date in the case of a dividend or distribution or (ii) the consummation of the transaction in the case of a subdivision, combination, split, reverse split or reclassification. If any dividend or distribution or subdivision, combination, split, reverse split or reclassification of the type described in this Section 4.01(a) is declared or announced but not so paid or made, the Exercise Price shall again be adjusted to the Exercise Price that would then be in effect if such dividend or distribution or subdivision, combination, split, reverse split or reclassification had not been declared or announced, as the case may be.

(b) The issuance as a dividend or distribution to all holders of Common Shares of evidences of indebtedness, Securities of the Company or any other Person (other than Common Shares), Cash or other property (excluding any dividend or distribution covered by Section 4.01(a)), in which event the Exercise Price will be adjusted based on the following formula:

$E_1 = E_0 \times \frac{P}{P - FMV}$

where:

E_1 = the Exercise Price in effect immediately after the Open of Business on the Ex-Date for such dividend or distribution;

E_0 = the Exercise Price in effect immediately prior to the Open of Business on the Ex-Date for such dividend or distribution;

P = the Fair Value of a Common Share as of immediately prior to the Open of Business on the second Business Day preceding the Ex-Date for such dividend or distribution; and

FMV = the Fair Value of the portion of such dividend or distribution applicable to one Common Share as of the Open of Business on the date of such dividend or distribution.

Such decrease shall become effective immediately after the Open of Business on the Ex-Date for such dividend or distribution. In the event that such dividend or distribution is declared or announced but not so paid or made, the Exercise Price shall again be adjusted to be the Exercise Price which would then be in effect if such distribution had not been declared or announced.

(c) If any single action would require adjustment of the Exercise Price pursuant to more than one subsection of this Section 4.01, only one adjustment shall be made and such adjustment shall be the amount of adjustment that has the highest, relative to the rights and interests of the registered holders of the Warrants then outstanding, absolute value. For the purpose of calculations pursuant to Section 4.01, the number of Common Shares outstanding shall be equal to the sum of (i) the number of Common Shares issued and outstanding and (ii) the number of Common Shares issuable pursuant to the conversion or exercise of Convertible Securities that are outstanding, in each case on the applicable date of determination.

(d) The Company may from time to time, to the extent permitted by Law, decrease the Exercise Price and/or increase the Number of Warrants by any amount for any period of at least twenty days. In that case, the Company shall give the Global Warrant Holder and the Warrant Agent at least ten days' prior written notice of such increase or decrease, and such notice shall state the decreased Exercise Price and/or increased Number of Warrants and the period during which the decrease and/or increase will be in effect. The Company may make such decreases in the Exercise Price and/or increases in the Number of Warrants, in addition to those set forth in this Article 4, as the Board deems advisable, including to avoid or diminish any income tax to holders of the Common Shares resulting from any dividend or distribution of stock (or rights to acquire stock) or from any event treated as such for income tax purposes.

(e) Notwithstanding this Section 4.01 or any other provision of this Warrant Agreement or the Warrants, if an Exercise Price adjustment becomes effective on any Ex-Date, and a Warrant has been exercised on or after such Ex-Date and on or prior to the related Record Date resulting in the Person issued Common Shares being treated as the record holder of the Common Shares on or prior to the Record Date, then, notwithstanding the Exercise Price adjustment provisions in this Section 4.01, the Exercise Price adjustment relating to such Ex-Date will not be made with respect to such Warrant. Instead, such Person will be treated as if it were the record owner of Common Shares on an un-adjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment.

Section 4.02 Adjustments to Number of Warrants. Concurrently with any adjustment to the Exercise Price under Section 4.01, except to the extent pursuant to Section 4.01(e), the Number of Warrants will be adjusted such that the Number of Warrants in effect immediately following the effectiveness of such adjustment will be equal to the Number of Warrants in effect immediately prior to such adjustment, multiplied by a fraction, (i) the numerator of which is the Exercise Price in effect immediately prior to such adjustment and (ii) the denominator of which is the Exercise Price in effect immediately following such adjustment.

Section 4.03 Certain Distributions of Rights and Warrants.

(a) Rights or warrants distributed by the Company to all holders of Common Shares entitling the holders thereof to subscribe for or purchase the Company's Securities (either initially or under certain circumstances), which rights or warrants, until the occurrence of a specified event or events (a "**Trigger Event**"):

(1) are deemed to be transferred with such Common Shares;

(2) are not exercisable; and

(3) are also issued in respect of future issuances of Common Shares,

shall be deemed not to have been distributed for purposes of Article 4 (and no adjustment to the Exercise Price or the Number of Warrants under this Article 4 will be made) until the occurrence of the earliest Trigger Event, whereupon such rights and warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Exercise Price and the Number of Warrants shall be made under this Article 4 (subject in all respects to Section 4.04).

(b) If any such right or warrant is subject to events, upon the occurrence of which such rights or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Record Date with respect to new rights or warrants with such rights (subject in all respects to Section 4.04).

(c) In addition, except as set forth in Section 4.04, in the event of any distribution (or deemed distribution) of rights or warrants, or any Trigger Event or other event (of the type described in Section 4.03(b)) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Exercise Price and the Number of Warrants under Article 4 was made (including any adjustment contemplated in Section 4.04):

(1) in the case of any such rights or warrants that shall all have been redeemed or repurchased without exercise by the holders thereof, the Exercise Price and the Number of Warrants shall be readjusted upon such final redemption or repurchase to give effect to such distribution or Trigger Event, as the case may be, as though it were a distribution under Section 4.01(b), equal to the per share redemption or repurchase price received by a holder or holders of Common Shares with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all holders of Common Shares as of the date of such redemption or repurchase; and

(2) in the case of such rights or warrants that shall have expired or been terminated without exercise by the holders thereof, the Exercise Price and the Number of Warrants shall be readjusted as if such rights and warrants had not been issued or distributed.

Section 4.04 Stockholder Rights Plans. If the Company has a stockholder rights plan in effect with respect to the Common Shares, upon exercise of a Warrant the holder shall be entitled to receive, in addition to the Common Shares, the rights under such stockholder rights plan, unless, prior to such exercise, such rights have separated from the Common Shares, in which case the Exercise Price and the Number of Warrants shall be adjusted at the time of separation as if the Company had made a distribution to all holders of Common Shares as described in the first paragraph of Section 4.01(b), subject to readjustment in the event of the expiration, termination or redemption of such rights.

Section 4.05 Restrictions on Adjustments.

(a) Except in accordance with Section 4.01, the Exercise Price and the Number of Warrants will not be adjusted for the issuance of Common Shares or other Securities of the Company.

(b) For the avoidance of doubt, neither the Exercise Price nor the Number of Warrants will be adjusted:

(1) upon the issuance of any Common Shares or other Securities or any payments pursuant to any equity incentive plan of the Company;

(2) upon the issuance of any Common Shares upon conversion of the New Convertible Notes;

(3) upon any issuance of any Common Shares (or Convertible Securities) pursuant to the exercise of the Warrants;

(4) upon the issuance of Common Shares or other Securities of the Company in connection with a business acquisition transaction (except to the extent otherwise expressly required by this Warrant Agreement).

(c) No adjustment shall be made to the Exercise Price or the Number of Warrants for any of the transactions described in Section 4.01 if the Company makes provisions for participation in any such transaction with respect to Warrants without exercise of such Warrants on the same basis as with respect to Common Shares with notice that the Board determines in good faith to be fair and appropriate.

(d) No adjustment shall be made to the Exercise Price, nor will any corresponding adjustment be made to the Number of Warrants, unless the adjustment would result in a change of at least 1% of the Exercise Price; provided, however, that any adjustment of less than 1% that was not made by reason of this Section 4.05(d) shall be carried forward and made as soon as such adjustment, together with any other adjustments not previously made by reason of this Section 4.05(d), would result in a change of at least 1% in the aggregate. All calculations under this Article 4 shall be made to the nearest cent or to the nearest 1/100th of a Common Share, as the case may be.

(e) If the Company takes a record of the holders of Common Shares for the purpose of entitling them to receive a dividend or other distribution, and thereafter (and before the dividend or distribution has been paid or delivered to members) legally abandons its plan to pay or deliver such dividend or distribution, then thereafter no adjustment to the Exercise Price or the Number of Warrants then in effect shall be required by reason of the taking of such record.

Section 4.06 Successor upon Consolidation, Merger and Sale of Assets.

(a) Other than with respect to a Non-Affiliate Combination, the Company may consolidate or merge with another Person (a "**Fundamental Equity Change**") only (i) if the Company is the surviving Person or (ii), if the Company is not the surviving Person, then:

(i) the successor to the Company assumes all of the Company's obligations under this Warrant Agreement and the Warrants; and

(ii) the successor to the Company provides written notice of such assumption to the Warrant Agent promptly following the Fundamental Equity Change.

(b) In the case of a Fundamental Equity Change other than a Non-Affiliate Combination, the successor Person to the Company shall succeed to and be substituted for the Company with the same effect as if it had been named herein as the Company, and the Company shall thereupon be released from all obligations and covenants under this Warrant Agreement and the Warrants. Such successor person shall provide in writing the Warrant Agent with such identifying corporate information as may be reasonably requested by the Warrant Agent. Such successor person thereafter may cause to be signed, and may issue any or all of, the Global Warrants issuable pursuant to this Warrant Agreement which theretofore shall not have been issued by the Company; and, upon the order of such successor Person, instead of the Company, and subject to all the terms, conditions and limitations in

this Warrant Agreement prescribed, the Warrant Agent shall authenticate and deliver, as applicable, any Global Warrants that previously shall have been signed and delivered by the officers of the Company to the Warrant Agent for authentication, and any Warrants which such successor Person thereafter shall cause to be signed and delivered to the Warrant Agent for such purpose.

(c) If the Company desires to sell, lease, convey or otherwise transfer in one transaction or a series of related transactions all or substantially all of the consolidated assets of the Company and its Subsidiaries (an "**Asset Sale**") to any Affiliated Buyer (such Asset Sale, an "**Affiliated Asset Sale**"), the Company may only consummate such Affiliated Asset Sale if such Affiliated Buyer agrees (i) to enter into a warrant agreement in form and substance substantially similar to this Warrant Agreement and (ii) to issue warrants for equity in such Affiliated Buyer (or a Person to which all or substantially all of the assets of the Company and its Subsidiaries acquired in such Asset Sale are transferred or conveyed) to the Global Warrant Holder on terms (including economic) and conditions substantially similar to the Global Warrant (taking into account any Warrants that are exercised prior to the Expiration Date (taking into account the materiality of the transferred assets to the total assets and operations of the Affiliated Buyer, taken as a whole), for crediting to the accounts of the applicable Participants for the benefit of the Beneficial Owners pursuant to the procedures of the Depository.

Section 4.07 Adjustment upon Reorganization Event.

(a) If there occurs any Fundamental Equity Change (other than a Non-Affiliate Combination) or any recapitalization, reorganization, consolidation, reclassification, change in the outstanding Common Shares (other than changes resulting from a subdivision or combination to which Section 4.01(a) applies), statutory share exchange or other transaction (each such event a "**Reorganization Event**"), in each case as a result of which the Common Shares would be converted into, changed into or exchanged for, stock, other securities, other property or assets (including Cash or any combination thereof) (the "**Reference Property**") while any Warrants remain outstanding and unexpired, then following the effective time of the Reorganization Event, shares of stock, other securities or other property or assets (including Cash or any combination thereof) that a holder of one Common Share would have owned or been entitled to receive in connection with such Reorganization Event (such kind and amount of Reference Property per Common Share, a "**Unit of Reference Property**"). In the event holders of Common Shares have the opportunity to elect the form of consideration to be received in a Reorganization Event, the type and amount of consideration into which the Warrants shall be exercisable from and after the effective time of such Reorganization Event shall be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Shares in such Reorganization Event. The Company hereby agrees not to become a party to any Reorganization Event unless its terms are consistent with this Section 4.07.

(b) At any time from, and including, the effective time of a Reorganization Event:

(i) each Warrant shall be exercisable for a single Unit of Reference Property instead of one Common Share; and

(ii) the Fair Value shall be calculated with respect to a Unit of Reference Property.

(c) On or prior to the effective time of any Reorganization Event (other than a Non-Affiliate Combination), the Company or the successor or purchasing Person, as the case may be, shall execute an amendment to this Warrant Agreement providing that the Warrants shall be exercisable for Units of Reference Property in accordance with the terms of this Section 4.07. If the Reference Property in connection with any Reorganization Event includes shares of stock or other securities and assets of a Person other than the successor or purchasing Person, as the case may be, in such Reorganization Event, then the Company shall cause such amendment to this Warrant Agreement to be executed by such other Person and such amendment shall contain such additional provisions to protect the interests of the Global Warrant Holder (for the benefit of the Beneficial Owners) as the Board shall reasonably consider necessary by reason of the foregoing. Any such amendment to this Warrant Agreement shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 4. In the event the Company shall execute an amendment to this Warrant Agreement pursuant to this Section 4.07, the Company shall promptly file with the Warrant Agent an Officers' Certificate briefly stating the reasons therefor, the kind or amount of Cash, securities or property or assets that will comprise a Unit of Reference Property after the relevant Reorganization Event, any adjustment to be made with respect thereto and that all conditions precedent have been complied with. The Company shall cause notice of the execution of the amendment to be mailed to the Global Warrant Holder within 20 Business Days after execution thereof.

(d) The above provisions of this Section 4.07 shall similarly apply to successive Reorganization Events.

(e) If this Section 4.07 applies to any event or occurrence, no other provision of this Article 4 shall apply to such event or occurrence (other than Section 4.06).

Section 4.08 Common Shares Outstanding; Common Shares Reserved for Issuance on Exercise.

(a) For the purposes of this Article 4, the number of Common Shares at any time outstanding shall not include Common Shares held, directly or indirectly, by the Company or any of its Subsidiaries.

(b) The Board has authorized and reserved for issuance such number of Common Shares as will be issuable upon the exercise of all outstanding Warrants for Common Shares. The Company covenants that all Common Shares that shall be so issuable shall be duly and validly issued, fully paid and non-assessable.

(c) The Company agrees to authorize and direct its current and future transfer agents for the Common Shares to reserve for issuance the number of Common Shares specified in this Section 4.08 and shall take all action required to increase the authorized number of Common Shares if at any time there shall be insufficient authorized but unissued Common Shares to permit such reservation or to permit the exercise of a Warrant. Promptly after the Expiration Date, the Warrant Agent shall certify to the Company the aggregate Number of Warrants then outstanding, and thereafter no Common Shares shall be required to be reserved in respect of such Warrants.

Section 4.09 Calculations; Instructions to Warrant Agent. The Company shall be responsible for making all calculations called for under this Warrant Agreement for purposes of determining any adjustments to the Exercise Price and the Number of Warrants, including determinations as to Fair Value, number of Common Shares to be issued upon exercise of any Warrants and the composition of Units of Reference Property. The Company shall make the foregoing calculations in good faith. Such calculations and determinations shall be final and binding on the Global Warrant Holder and all Beneficial Owners absent manifest error. The Company shall provide a schedule of the Company's calculations and determinations to the Warrant Agent, and the Warrant Agent is entitled to rely upon the accuracy of the Company's calculations without independent verification.

Section 4.10 Notice of Adjustments. The Company shall mail, or cause to be mailed, to the Global Warrant Holder and the Warrant Agent, in accordance with Section 6.14, a notice of any adjustment or readjustment to the Exercise Price or the Number of Warrants no less than three Business Days prior to the effective date of such adjustment or readjustment. The Company shall file with the Warrant Agent such notice and an Officer's Certificate setting forth such adjustment or readjustment and kind and amount of securities, Cash or other property for which a Warrant shall thereafter be exercisable and the Exercise Price, showing in reasonable detail the facts upon which such adjustment or readjustment is based. The Officer's Certificate shall be conclusive evidence that the adjustment or readjustment is correct, and the Warrant Agent shall not be deemed to have any knowledge of any adjustments or readjustments unless and until it has received such Officer's Certificate. The Warrant Agent shall not be under any duty or responsibility with respect to any such Officer's Certificate except to exhibit the same to the Global Warrant Holder.

Section 4.11 Warrant Agent Not Responsible for Adjustments or Validity. The Warrant Agent shall at no time be under any duty or responsibility to determine whether any facts exist that may require an adjustment or readjustment of the Exercise Price and the Number of Warrants, or with respect to the nature or extent of any such adjustment or readjustment when made, or with respect to the method employed, herein or in any supplemental agreement provided to be employed, in making the same. The Warrant Agent shall have no duty to verify or confirm any calculation called for hereunder. The Warrant Agent shall have no liability for any failure or delay in performing its duties hereunder caused by any failure or delay of the Company in providing such calculations to the Warrant Agent. The Warrant Agent shall not be accountable with respect to the validity or value (or the kind or amount) of

any Common Shares or of any Securities or property which may at any time be issued or delivered upon the exercise of any Warrant or upon any adjustment or readjustment pursuant to this Article 4, and it makes no representation with respect thereto. The Warrant Agent shall not be responsible for any failure of the Company to issue, transfer or deliver any Common Shares or stock certificates or other securities or property or scrip upon the surrender of any Warrant for the purpose of exercise or upon any adjustment pursuant to this Article 4, or to comply with any of the covenants of the Company contained in this Article 4.

Section 4.12 Statements on Warrants. Other than notation of any applicable increase or decrease in the Number of Warrants on Schedule A of such Global Warrant Certificate, the form of Global Warrant Certificate need not be changed because of any adjustment or readjustment made pursuant to this Article 4, and Global Warrant Certificates issued after such adjustment or readjustment may state the same information (other than the adjusted Exercise Price and the adjusted Number of Warrants) as are stated in the Global Warrant Certificates initially issued pursuant to this Warrant Agreement.

Section 4.13 Effect of Adjustment. The Depository and applicable Participants shall effect any applicable adjustments, changes or payments to the Beneficial Owners with respect to beneficial interests in the Global Warrants resulting from any adjustments or readjustments, changes or payments effected pursuant to this Article 4 in accordance with the procedures of the Depository and the applicable Participants.

Article 5

Other Provisions Relating to Rights of Global Warrant Holder

Section 5.01 No Rights as Stockholders. Nothing contained in this Warrant Agreement or in any Global Warrant Certificate shall be construed as conferring upon any Person, by virtue of holding or having a beneficial interest in the Global Warrant, the right to vote, to consent, to receive any Cash dividends, stock dividends, allotments or rights or other distributions paid, allotted or distributed or distributable to the holders of Common Shares, or to exercise any rights whatsoever as a stockholder of the Company unless, until and only to the extent such Persons become holders of record of Common Shares issued upon settlement of Warrants.

Section 5.02 Mutilated or Missing Global Warrant Certificates. If any Global Warrant Certificate held by the Warrant Agent at any time is mutilated, defaced, lost, destroyed or stolen, then on the terms set forth in this Warrant Agreement, such Global Warrant Certificate may be replaced with a new Global Warrant Certificate, of like date and tenor and representing the same number of Warrants, at the cost of the Company at the office of the Warrant Agent subject to the replacement procedures of the Warrant Agent which shall include obtaining an open penalty surety bond satisfactory to the Warrant Agent holding the Company and the Warrant Agent harmless. Any such new Global Warrant Certificate shall constitute an original contractual obligation of the Company, whether or not the allegedly lost, stolen, mutilated or destroyed Global Warrant Certificate shall be at any time enforceable by anyone. All Global Warrant Certificates shall be issued upon the express condition that the foregoing provisions are exclusive with respect to the substitution for lost, stolen, mutilated or destroyed Global Warrant Certificates, and shall preclude any and all other rights or remedies notwithstanding any Law or statute existing or hereafter enacted to the contrary with respect to the substitution for and replacement of negotiable instruments or other securities without their surrender.

Section 5.03 Modification, Waiver and Meetings.

(a) This Warrant Agreement may be modified or amended by the Company and the Warrant Agent, without the consent of the Global Warrant Holder, any Beneficial Owner of any Warrant, or any applicable Participant with respect to any Warrant, for the purposes of curing any ambiguity or correcting or supplementing any defective provision contained in this Warrant Agreement or to make any other provisions in regard to matters or questions arising in this Warrant Agreement which the Company and the Warrant Agent may deem necessary or desirable; provided that such modification or amendment does not adversely affect the interests of the Global Warrant Holder or the Beneficial Owners in any respect. As a condition precedent to the Warrant Agent's execution of any amendment, the Company shall deliver to the Warrant Agent a certificate from an Appropriate Officer that states that the proposed amendment is in compliance with the terms of this Section 5.03.

(b) Modifications and amendments to this Warrant Agreement or to the terms and conditions of Warrants not contemplated by Section 5.03(a) may also be made by the Company and the Warrant Agent, and noncompliance with any provision of the Warrant Agreement or Warrants may be waived, by the Global Warrant Holder (pursuant to a proper vote or consent of a majority of the Warrants at the time outstanding). Notwithstanding anything to the contrary herein, the Company may amend Schedule I from time to time to accurately reflect the name and address of the Global Warrant Holder after the Closing Date without any further consent or agreement from any other Person and shall deliver such amended Schedule I to the Warrant Agent promptly.

(c) However, no such modification, amendment or waiver may, without the written consent of:

(1) the Global Warrant Holder (pursuant to a proper vote or consent of each Warrant):

(A) change the Expiration Date; or

(B) increase the Exercise Price or decrease the Number of Warrants (except as set forth in Article 4);

(2) the Global Warrant Holder (pursuant to a proper vote or consent of 66.66% of the Warrants affected):

(A) impair the right to institute suit for the enforcement of any payment or delivery with respect to the exercise and settlement of any Warrant;

(B) except as otherwise expressly permitted by provisions of this Warrant Agreement concerning specified reclassifications or corporate reorganizations, impair or adversely affect the exercise rights with respect to Warrants, including any change to the calculation or payment of the number of Common Shares received upon exercise of each Warrant;

(C) reduce the percentage of Warrants outstanding necessary to modify or amend this Warrant Agreement or to waive any past default; or

(D) reduce the percentage in Warrants outstanding required for any other waiver under this Warrant Agreement.

Article 6

Concerning the Warrant Agent and Other Matters

Section 6.01 Payment of Certain Taxes.

(a) The Company shall pay any and all documentary, stamp or similar issue or transfer taxes that may be payable upon the initial issuance of the Global Warrant hereunder and delivery to the Global Warrant Holder.

(b) The Company shall pay any and all documentary, stamp or similar issue or transfer taxes that may be payable upon the issuance of Common Shares upon the exercise of Warrants hereunder.

Section 6.02 Change of Warrant Agent.

(a) The Warrant Agent, or any successor to it hereafter appointed, may resign its duties and be discharged from all further duties and liabilities hereunder after giving sixty days' notice in writing to the Company, except that such shorter notice may be given as the Company shall, in writing, accept as sufficient. If the office of the Warrant Agent becomes vacant by resignation or incapacity to act or otherwise, the Company shall appoint in writing a successor warrant agent in place of the Warrant Agent. If the Company shall fail to make such appointment within a period of thirty days after it has been notified in writing of such resignation or incapacity by the resigning or incapacitated warrant agent or by the Global Warrant Holder, then the Global Warrant Holder may apply to any court of competent jurisdiction for the appointment of a successor warrant agent.

(b) The Warrant Agent may be removed by the Company at any time upon sixty days' written notice to the Warrant Agent; provided, however, that the Company shall not remove the Warrant Agent until a successor warrant agent meeting the qualifications hereof shall have been appointed; provided, further, that, until such successor warrant agent has been appointed, the Company shall compensate the Warrant Agent in accordance with Section 6.03.

(c) Any successor warrant agent, whether appointed by the Company or by such a court, shall be a corporation or banking association organized, in good standing and doing business under the Laws of the United States of America or any state thereof or the District of Columbia, and authorized under such Laws to exercise corporate trust powers and subject to supervision or examination by federal or state authority and having a combined capital and surplus of not less than $50,000,000. The combined capital and surplus of any such successor warrant agent shall be deemed to be the combined capital and surplus as set forth in the most recent report of its condition published prior to its appointment; provided that such reports are published at least annually pursuant to Law or to the requirements of a federal or state supervising or examining authority. After acceptance in writing of such appointment by the successor warrant agent, such successor warrant agent shall be vested with all the authority, powers, rights, immunities, duties and obligations of its predecessor warrant agent with like effect as if originally named as warrant agent hereunder, without any further act or deed; but if for any reason it becomes necessary or appropriate, the predecessor warrant agent shall execute and deliver, at the expense of the Company, an instrument transferring to such successor warrant agent all the authority, powers and rights of such predecessor warrant agent hereunder; and upon request of any successor warrant agent, the Company shall make, execute, acknowledge and deliver any and all instruments in writing to more fully and effectually vest in and conform to such successor warrant agent all such authority, powers, rights, immunities, duties and obligations. Upon assumption by a successor warrant agent of the duties and responsibilities hereunder, the predecessor warrant agent shall deliver and transfer, at the expense of the Company, to the successor warrant agent any property at the time held by it hereunder. As soon as practicable after such appointment, the Company shall give notice thereof to the predecessor warrant agent, the Global Warrant Holder and each transfer agent for its Common Shares. Failure to give such notice, or any defect therein, shall not affect the validity of the appointment of the successor warrant agent.

(d) Any entity into which the Warrant 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 the Warrant Agent shall be a party, or any Person succeeding to all or substantially all of the corporate trust or agency business of the Warrant Agent, shall be the successor warrant agent under this Warrant Agreement without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided that such entity would be eligible for appointment as a successor warrant agent under Section 6.02(c). In case at the time such successor to the Warrant Agent shall succeed to the agency created by this Warrant Agreement, any Global Warrant Certificate shall have been countersigned but not delivered, any such successor to the Warrant Agent may adopt the countersignature of the original Warrant Agent and deliver such Global Warrant Certificate so countersigned, and in case at that time any Global Warrant Certificates shall not have been countersigned, any successor to the Warrant Agent may countersign such Global Warrant Certificate either in the name of the predecessor Warrant Agent or in the name of the successor Warrant Agent; and in all such cases such Global Warrant Certificate shall have the full force provided in the Global Warrant Certificate and in this Warrant Agreement.

(e) In case at any time the name of the Warrant Agent shall be changed and at such time any Global Warrant Certificate shall have been countersigned but not delivered, the Warrant Agent may adopt the countersignatures under its prior name and deliver such Global Warrant Certificate so countersigned; and in case at that time any Global Warrant Certificate shall not have been countersigned, the Warrant Agent may countersign such Global Warrant Certificate either in its prior name or in its changed name; and in all such cases such Global Warrant Certificate shall have the full force provided in the Global Warrant Certificate and in this Warrant Agreement.

Section 6.03 Compensation; Further Assurances. The Company agrees that it will (a) pay the Warrant Agent reasonable compensation for its services as Warrant Agent in accordance with Exhibit C attached hereto and, except as otherwise expressly provided, will pay or reimburse the Warrant Agent upon written demand for all reasonable

and documented expenses, disbursements and advances incurred or made by the Warrant Agent in accordance with any of the provisions of this Warrant Agreement (including the reasonable compensation, expenses and disbursements of its agents and counsel incurred in connection with the execution and administration of this Agreement), and (b) perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further and other acts, instruments and assurances as may reasonably be required by the Warrant Agent for the carrying out or performing of the provisions of this Warrant Agreement.

Section 6.04 Reliance on Counsel. The Warrant Agent may consult with legal counsel (who may be legal counsel for the Company), and the written opinion of such counsel or any advice of legal counsel subsequently confirmed by a written opinion of such counsel shall be full and complete authorization and protection to the Warrant Agent as to any action taken or omitted by it in good faith and in accordance with such written opinion or advice.

Section 6.05 Proof of Actions Taken. Whenever in the performance of its duties under this Warrant Agreement the Warrant Agent shall deem it necessary or desirable that any matter be proved or established by the Company prior to taking or suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Warrant Agent, be deemed to be conclusively proved and established by an Officer's Certificate delivered to the Warrant Agent; and such Officer's Certificate shall, in the absence of bad faith on the part of the Warrant Agent, be full warrant to the Warrant Agent for any action taken, suffered or omitted in good faith by it under the provisions of this Warrant Agreement in reliance upon such Officer's Certificate; but in its discretion the Warrant Agent may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable.

Section 6.06 Correctness of Statements. The Warrant Agent shall not be liable for or by reason of any of the statements of fact or recitals contained in this Warrant Agreement or any Global Warrant Certificate (except its countersignature thereof) or be required to verify the same, and all such statements and recitals are and shall be deemed to have been made by the Company only.

Section 6.07 Validity of Agreement. From time to time, the Warrant Agent may apply to any Appropriate Officer for instruction and the Company shall provide the Warrant Agent with such instructions concerning the services to be provided hereunder. The Warrant Agent shall not be held to have notice of any change of authority of any Person, until receipt of notice thereof from the Company. The Warrant Agent shall not be under any responsibility in respect of the validity of this Warrant Agreement or the execution and delivery hereof or in respect of the validity or execution of any Global Warrant Certificate (except its countersignature thereof); nor shall it be responsible for any breach by the Company of any covenant or condition contained in this Warrant Agreement or in any Global Warrant Certificate; nor shall it by any act hereunder be deemed to make any representation or warranty as to the authorization or reservation of any Common Shares to be issued pursuant to this Warrant Agreement or any Warrants or as to whether any Common Shares will, when issued, be validly issued and fully paid and nonassessable. The Warrant Agent and its agents and subcontractors shall not be liable and shall be indemnified by the Company for any action taken or omitted by Warrant Agent in reliance upon any Company instructions except to the extent that the Warrant Agent had actual knowledge of facts and circumstances that would render such reliance unreasonable.

Section 6.08 Use of Agents. The Warrant Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys or agents provided that the Warrant Agent shall remain responsible for the activities or omissions of any such agent or attorney and reasonable care has been exercised in the selection and in the continued employment of such attorney or agent.

Section 6.09 Liability of Warrant Agent. The Warrant Agent shall incur no liability or responsibility to the Company or to any Global Warrant Holder for any action taken or not taken (i) in reliance on any notice, resolution, waiver, consent, order, certificate, or other paper, document or instrument believed by it to be genuine and to have been signed, sent or presented by the proper party or parties or (ii) in relation to its services under this Warrant Agreement, unless such liability arises out of or is attributable to the Warrant Agent's gross negligence, material breach of this Warrant Agreement, or willful misconduct or bad faith or material breach of any representation or warranty of the Warrant Agent hereunder. The Company agrees to indemnify the Warrant Agent, its employees, officers, directors and affiliates (each, an "**Indemnified Person**") and save any Indemnified Person harmless against

any and all losses, expenses and liabilities, including judgments, costs and reasonable counsel fees, for anything done or omitted in good faith by the Warrant Agent in the execution of this Warrant Agreement or otherwise arising in connection with this Warrant Agreement, except as a result of the Warrant Agent's gross negligence, material breach of this Warrant Agreement, willful misconduct or bad faith (as determined by a court of competent jurisdiction in a final non-appealable judgment) or material breach of any representation or warranty of the Warrant Agent hereunder. The Warrant Agent shall be liable hereunder only for its gross negligence, material breach of this Warrant Agreement, willful misconduct or bad faith (as determined by a court of competent jurisdiction in a final non-appealable judgment) or its material breach of any representation or warranty of the Warrant Agent hereunder. Notwithstanding anything contained herein to the contrary, the Warrant Agent's aggregate liability during any term of this Agreement with respect to, arising from, or arising in connection with this Agreement, or from all services provided or omitted to be provided under this Agreement, whether in contract, or in tort, or otherwise, is limited to, and shall not exceed, the amounts paid hereunder by the Company to the Warrant Agent as fees and charges, but not including reimbursable expenses, during the twelve (12) months immediately preceding the event for which recovery from Warrant Agent is being sought. Neither party to this Agreement shall be liable to the other party for any consequential, indirect, punitive, special or incidental damages under any provisions of this Agreement or for any consequential, indirect, punitive, special or incidental damages arising out of any act or failure to act hereunder even if that party has been advised of or has foreseen the possibility of such damages.

Section 6.10 Legal Proceedings. The Warrant Agent shall be under no obligation to institute any action, suit or legal proceeding or to take any other action likely to involve expense unless the Company, the Global Warrant Holder or any applicable Participant on behalf of a Beneficial Owner shall furnish the Warrant Agent with reasonable indemnity for any costs and expenses which may be incurred, but this provision shall not affect the power of the Warrant Agent to take such action as the Warrant Agent may consider proper, whether with or without any such security or indemnity. The Warrant Agent shall promptly notify the Company and the Global Warrant Holder in writing of any claim made or action, suit or proceeding instituted against it arising out of or in connection with this Warrant Agreement.

Section 6.11 Actions as Agent. The Warrant Agent shall act hereunder solely as agent and not in a ministerial or fiduciary capacity, and its duties shall be determined solely by the provisions hereof. The duties and obligations of the Warrant Agent shall be determined solely by the express provisions of the Warrant Agreement, and the Warrant Agent shall not be liable except for the performance of such duties and obligations as are specifically set forth in the Warrant Agreement. No implied covenants or obligations shall be read into the Warrant Agreement against the Warrant Agent. The Warrant Agent shall not be liable for anything that it may do or refrain from doing in good faith in connection with this Warrant Agreement except for its own gross negligence, willful misconduct or bad faith.

Section 6.12 Appointment and Acceptance of Agency. The Company hereby appoints the Warrant Agent to act as agent for the Company in accordance with the instructions set forth in this Warrant Agreement, and the Warrant Agent hereby accepts the agency established by this Warrant Agreement and agrees to perform the same upon the terms and conditions herein set forth or as the Company and the Warrant Agent may hereafter agree.

Section 6.13 Successors and Assigns. All the covenants and provisions of this Warrant Agreement by or for the benefit of the Company or the Warrant Agent shall bind and inure to the benefit of their respective successors and assigns hereunder.

Section 6.14 Notices. Any notice or demand authorized by this Warrant Agreement to be given or made to the Company shall be sufficiently given or made if sent by mail first-class, postage prepaid, addressed (until another address is filed in writing by the Company with the Warrant Agent), as follows:

Comstock Resources, Inc.
5300 Town & Country Blvd., Suite 500
Frisco, TX 75034
Attn: President
Facsimile: (972) 668-8812
Email: rburns@comstockresources.com

Any notice or demand authorized by this Warrant Agreement to be given or made to the Warrant Agent shall be sufficiently given or made if sent by mail first-class, postage prepaid, addressed (until another address is filed in writing by the Warrant Agent with the Company), as follows:

American Stock Transfer & Trust Company, LLC
6201 15th Avenue
Brooklyn, NY 11219
Attention: Legal Department
Email: legalteam@amstock.com

Any notice or demand authorized by this Warrant Agreement to be given or made to the Global Warrant Holder shall be sufficiently given or made if sent by first-class mail, postage prepaid to the last address of the Global Warrant Holder as it shall appear on the Warrant Register.

Section 6.15 Applicable Law; Jurisdiction. The validity, interpretation and performance of this Warrant Agreement and of the Global Warrant Certificates shall be governed in accordance with the Laws of the State of New York, without giving effect to the principles of conflicts of Laws thereof. The parties hereto irrevocably consent to the exclusive jurisdiction of the courts of the State of New York and any federal court located in such state in connection with any action, suit or proceeding arising out of or relating to this Warrant Agreement.

Section 6.16 Waiver of Jury Trial. EACH OF THE COMPANY AND THE WARRANT AGENT ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS WARRANT AGREEMENT OR A WARRANT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PERSON HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PERSON MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS WARRANT AGREEMENT OR A WARRANT. EACH OF THE COMPANY AND THE WARRANT AGENT CERTIFIES AND ACKNOWLEDGES THAT (a) NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (b) SUCH PERSON UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (c) SUCH PERSON MAKES THIS WAIVER VOLUNTARILY, AND (d) SUCH PERSON HAS BEEN INDUCED TO ENTER INTO THIS WARRANT AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 6.17 Benefit of this Warrant Agreement. Nothing in this Warrant Agreement expressed and nothing that may be implied from any of the provisions hereof is intended, or shall be construed, to confer upon, or give to, any Person or corporation other than the parties hereto and the Global Warrant Holder any right, remedy or claim under or by reason of this Warrant Agreement or of any covenant, condition, stipulation, promise or agreement hereof, and all covenants, conditions, stipulations, promises and agreements in this Warrant Agreement contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the Global Warrant Holder.

Section 6.18 Registered Global Warrant Holder. Prior to due presentment for registration of Transfer, the Company and the Warrant Agent may deem and treat the Person in whose name any Warrants are registered in the Warrant Register as the absolute owner thereof for all purposes whatever (notwithstanding any notation of ownership or other writing thereon made by anyone other than the Company or the Warrant Agent) and neither the Company nor the Warrant Agent shall be affected by any notice to the contrary or be bound to recognize any equitable or other claim to or interest in any Warrants on the part of any other Person and shall not be liable for any registration of Transfer of Warrants that are registered or to be registered in the name of a fiduciary or the nominee of a fiduciary unless made with actual knowledge that a fiduciary or nominee is committing a breach of trust in requesting such registration of Transfer or with such knowledge of such facts that its participation therein amounts to bad faith.

Section 6.19 Headings. The Article and Section headings herein are for convenience only and are not a part of this Warrant Agreement and shall not affect the interpretation thereof.

Section 6.20 Counterparts. This Warrant Agreement may be executed in any number of counterparts on separate counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute one and the same instrument.

Section 6.21 Entire Agreement. This Warrant Agreement and the Global Warrant Certificate constitute the entire agreement of the Company, the Warrant Agent and Global Warrant Holder with respect to the subject matter hereof and supersede all prior agreements and undertakings, both written and oral, among the Company, the Warrant Agent and the Global Warrant Holder with respect to the subject matter hereof.

Section 6.22 Severability. Wherever possible, each provision of this Warrant Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Warrant Agreement shall be prohibited by or invalid under applicable Law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Warrant Agreement.

Section 6.23 Termination. This Warrant Agreement shall terminate at the Expiration Date (or Close of Business on the Settlement Date with respect to any Exercise Notice delivered prior to the Expiration Date). Notwithstanding the foregoing, this Warrant Agreement will terminate on such earlier date on which all outstanding Warrants have been exercised. All provisions regarding indemnification, warranty, liability and limits thereon shall survive the termination or expiration of this Warrant Agreement.

Section 6.24 Confidentiality. The Warrant Agent and the Company agree that (a) inter alia, personal, non-public Global Warrant Holder and Beneficial Owner information which is exchanged or received pursuant to the negotiation or the carrying out of this Agreement and (b) the fees for services set forth in the attached schedule shall remain confidential, and shall not be voluntarily disclosed to any other person, except disclosures pursuant to applicable securities Laws or otherwise as may be required by Law, including, without limitation, pursuant to subpoenas from state or federal government authorities (e.g., in divorce and criminal actions).

Section 6.25 Force Majeure. Notwithstanding anything to the contrary contained herein, the Warrant Agent will not be liable for any delays or failures in performance resulting from acts beyond its control including, without limitation, acts of God, terrorist acts, shortage of supply, breakdowns or malfunctions, interruptions or malfunction of computer facilities, or loss of data due to power failures or mechanical difficulties with information storage or retrieval systems, labor difficulties, war, or civil unrest.

[signature page follows]

IN WITNESS WHEREOF, this Warrant Agreement has been duly executed by the parties hereto as of the day and year first above written.

COMSTOCK RESOURCES, INC.

By: _____
Name: Roland O. Burns
Title: President and Chief Financial Officer

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

By: _____
Name:
Title:

[SIGNATURE PAGE TO WARRANT AGREEMENT]

SCHEDULE A

SCHEDULE OF INCREASES OR DECREASES IN WARRANTS

The initial Number of Warrants is 1,925,500. In accordance with the Warrant Agreement dated as of , 2016 among the Company and American Stock Transfer & Trust Company, LLC, as Warrant Agent, the following increases or decreases in the Number of Warrants have been made:

Date	Amount of increase in Number of Warrants evidenced by this Global Warrant	Amount of decrease in Number of Warrants evidenced by this Global Warrant	Number of Warrants evidenced by this Global Warrant following such decrease or increase	Signature of authorized signatory

EXHIBIT A

FORM OF GLOBAL WARRANT CERTIFICATE

No. CUSIP NO. _____

UNLESS THIS GLOBAL WARRANT IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("**DTC**"), TO COMSTOCK RESOURCES, INC. (THE "**COMPANY**"), THE CUSTODIAN OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFER OF THIS GLOBAL WARRANT SHALL BE LIMITED TO TRANSFERS IN WHOLE, AND NOT IN PART, TO THE COMPANY, DTC, THEIR SUCCESSORS AND THEIR RESPECTIVE NOMINEES.

Comstock Resources, Inc.

, 2016

NUMBER OF WARRANTS: Initially, [1,925,500] Warrants, subject to adjustment as described in the Warrant Agreement dated as of , 2016 between Comstock Resources, Inc. and American Stock Transfer & Trust Company, LLC, as Warrant Agent (as supplemented or amended, the "**Warrant Agreement**"), each of which is exercisable for one Common Share.

EXERCISE PRICE: Initially, $0.01 per Warrant, subject to adjustment as described in the Warrant Agreement.

FORM OF SETTLEMENT:

Full Physical Settlement: If Full Physical Settlement is elected, the Company shall deliver, against payment of the Exercise Price, a number of Common Shares equal to the number of Warrants exercised.

Net Share Settlement: If Net Share Settlement is elected, the Company shall deliver, without any Cash payment therefor, a number of Common Shares equal to the quotient determined by dividing (i) the Fair Value (as of the Exercise Date) of the number of Common Shares deliverable pursuant to Full Physical Settlement minus the Exercise Price that would be payable pursuant to Full Physical Settlement by (ii) the Fair Value determined pursuant to the above clause (i).

DATES OF EXERCISE: At any time, and from time to time, prior to the Close of Business on the Expiration Date. The Global Warrant Holder shall be entitled to exercise all Warrants then represented hereby and outstanding or any portion thereof.

EXPIRATION DATE: The second anniversary of the Closing Date.

This Global Warrant Certificate certifies that:

, or its registered assigns, is the Global Warrant Holder of the Number of Warrants (the "**Warrants**") specified above (such number subject to adjustment from time to time as described in the Warrant Agreement).

Reference is hereby made to the further provisions of this Global Warrant Certificate set forth on the reverse hereof, and such further provisions shall for all purposes have the same effect as though fully set forth in this place.

This Global Warrant Certificate shall not be valid unless authenticated by the Warrant Agent.

In the event of any inconsistency between the Warrant Agreement and this Global Warrant Certificate, the Warrant Agreement shall govern.

IN WITNESS WHEREOF, Comstock Resources, Inc. has caused this instrument to be duly executed as of the date first written above.

COMSTOCK RESOURCES, INC.

By: _____
Name:
Title:

Certificate of Authentication

These are the Warrants referred to in the above-mentioned Warrant Agreement.

Countersigned as of the date above written:

AMERICAN STOCK TRANSFER & TRUST COMPANY, as Warrant Agent

By: _____
Authorized Officer

COMSTOCK RESOURCES, INC.

The Warrants evidenced by this Global Warrant Certificate are part of a duly authorized issue of Warrants issued by the Company pursuant to the Warrant Agreement, dated as of , 2016 (as it may be amended or supplemented, the **"Warrant Agreement**"), between Comstock Resources, Inc. and American Stock Transfer & Trust Company, LLC, as Warrant Agent, and are subject to the terms and provisions contained in the Warrant Agreement, to all of which terms and provisions the Global Warrant Holder consents by issuance of this Global Warrant Certificate. Without limiting the foregoing, all capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Warrant Agreement.

The Warrant Agreement and the terms of the Warrants are subject to amendment as provided in the Warrant Agreement.

This Warrant Certificate shall be governed by, and interpreted in accordance with, the Laws of the State of New York without regard to the conflicts of Laws principles thereof.

FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers the Warrant(s) represented by this Certificate to:

_____

Name, Address and Zip Code of Assignee

and irrevocably appoints _____
Name of Agent

as its agent to transfer this Warrant Certificate on the books of the Warrant Agent.

[Signature page follows]

Name of Assignor

By: _____
Name:
Title:

(Sign exactly as your name appears on this Certificate)

NOTICE: The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to S.E.C. Rule 17Ad-15.

EXHIBIT B

Form of Exercise Notice

American Stock Transfer & Trust Company, LLC
6201 15th Avenue
Brooklyn, NY 11219

Attention: Transfer Department

Re: Warrant Agreement dated as of , 2016 between Comstock Resources, Inc. (the "**Company**") and American Stock Transfer & Trust Company, LLC, as Warrant Agent (as it may be supplemented or amended, the "**Warrant Agreement**")

The undersigned hereby irrevocably elects to exercise the right, represented by the Global Warrant Certificate No. held for its benefit through the book-entry facilities of The Depository Trust Company (the "**Depository**"), to exercise Warrants and receive the consideration deliverable in exchange therefor pursuant to the following settlement method (check one):

Full Physical Settlement

Net Sale Settlement

If Full Physical Settlement is elected, the undersigned shall tender payment of the Exercise Price therefore in accordance with instructions received from the Warrant Agent.

Please check below if this exercise is contingent upon a registered public offering or any Change of Control in accordance with Section 3.02(e) of the Warrant Agreement.

[ ] This exercise is being made in connection with a registered public offering or any other Change of Control; provided, that in the event that such transaction shall not be consummated, then this exercise shall be deemed revoked.

THIS EXERCISE NOTICE MUST BE DELIVERED TO THE WARRANT AGENT, PRIOR TO CLOSE OF BUSINESS ON THE EXPIRATION DATE. THE WARRANT AGENT SHALL NOTIFY YOU OF THE ADDRESS AND PHONE NUMBER WHERE YOU CAN CONTACT THE WARRANT AGENT AND TO WHICH WARRANT EXERCISE NOTICES ARE TO BE SUBMITTED.

ALL CAPITALIZED TERMS USED HEREIN AND NOT OTHERWISE DEFINED SHALL HAVE THE MEANINGS SET FORTH IN THE WARRANT AGREEMENT.

By: _____
Authorized Signature
Address:
Telephone:

EXHIBIT C

Fee Schedule

The Company shall pay the Warrant Agent for performance of its services under this Agreement such compensation as shall be agreed in writing between the Company and the Warrant Agent.

Exhibit 4.11

COMSTOCK RESOURCES, INC.,

AND

EACH OF THE SUBSIDIARY GUARANTORS PARTY HERETO

SENIOR SECURED TOGGLE NOTES DUE 2020

INDENTURE

Dated as of , 2016

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,

as Trustee

TABLE OF CONTENTS

EXHIBITS

This INDENTURE, dated as of , 2016 is among COMSTOCK RESOURCES, INC., a Nevada corporation (the "*Company*"), each SUBSIDIARY GUARANTOR from time to time party hereto, as Subsidiary Guarantors, and AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, as Trustee.

RECITALS

This Indenture is subject to the provisions of the Trust Indenture Act of 1939, as amended (the "*TIA*"), that are required to be part of this Indenture and shall, to the extent applicable, be governed by such provisions.

The Company, the Subsidiary Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Company's Senior Secured Toggle Notes due 2020 issued on the Issue Date (the "*Notes*") and the Additional Notes:

ARTICLE 1.
DEFINITIONS AND INCORPORATION
BY REFERENCE

Section 1.01. Definitions.

"*2019 Convertible Notes Indenture*" means the Indenture, dated as of , 2016, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as trustee, relating to the New 2019 Convertible Notes.

"*2020 Convertible Notes Indenture*" means the Indenture, dated as of , 2016, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as trustee, relating to the New 2020 Convertible Notes.

"*Account Control Agreement*" means each Account Control Agreement executed and delivered by the Company pursuant to this Indenture, in form and substance satisfactory to the parties thereto.

"*Acquired Indebtedness*" means Indebtedness of a Person (1) existing at the time such Person becomes a Restricted Subsidiary or (2) assumed in connection with acquisitions of properties or assets 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 or assets from such Person.

"*Additional Assets*" means:

(1) any assets or property (other than cash, Cash Equivalents or securities) used in the Oil and Gas Business or any business ancillary thereto;

(2) 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;

(3) the acquisition from third parties of Capital Stock of a Restricted Subsidiary; or

(4) capital expenditures by the Company or a Restricted Subsidiary in the Oil and Gas Business.

"*Additional New 2019 Convertible Notes*" means the additional securities issued under the 2019 Convertible Notes Indenture solely in connection with the payment of interest in kind on the New 2019 Convertible Notes.

"*Additional New 2020 Convertible Notes*" means the additional securities issued under the 2020 Convertible Notes Indenture solely in connection with the payment of interest in kind on the New 2020 Convertible Notes.

"*Additional New Convertible Notes*" means, collectively, the Additional New 2019 Convertible Notes and the Additional New 2020 Convertible Notes.

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

(1) 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:

(i) estimated proved oil and gas reserves acquired since such year-end, which reserves were not reflected in such year-end reserve report, and

(ii) 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:

(iii) estimated proved oil and gas reserves produced or disposed of since such year-end, and

(iv) 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 (i) through (iv) above, 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 (1)(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 (i) the net book value on a date no earlier than the date of the Company's latest annual or quarterly financial statements and (ii) 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*

(2) 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 (1)(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 (1)(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 Subsidiary Guarantor at any date shall mean the amount by which the fair value of the properties and assets of such Subsidiary 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 Subsidiary Guarantee, of such Subsidiary 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; and the term "Affiliated" shall have a meaning correlative to the foregoing. 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.

"*Agents*" means, collectively, the Trustee, the Collateral Agent, the Registrar, the Paying Agent and any other agents under the Note Documents from time to time.

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

"*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 Production Payment, net profits interest, overriding royalty interest, sale and leaseback transaction, merger or consolidation) (collectively, for purposes of this definition, a "transfer"), directly or indirectly, in one or a series of related transactions, of (1) any Capital Stock of any Restricted Subsidiary, (2) all or substantially all of the properties and assets of any division or line of business of the Company or any of its Restricted Subsidiaries or (3) any other properties or assets 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 properties 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 or assets (including Capital Stock) that is governed by, and made in accordance with, Section 5.01, (B) any transfer of properties or assets to an Unrestricted Subsidiary, if permitted under Section 4.07; or (C) any transfer (in a single transaction or a series of related transactions) of properties or assets (including Capital Stock) having a Fair Market Value of less than $25,000,000.

"*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 (1) 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 (2) the sum of all such principal payments

"*Bankruptcy Law*" means Title 11 of the United States Code, as amended.

"*Board of Directors*" means:

(1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board;

(2) with respect to a partnership, the board of directors of the general partner of the partnership;

(3) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and

(4) with respect to any other Person, the board or committee of such Person serving a similar function.

"*Business Day*" means any day other than a Saturday, Sunday or any other day on which banking institutions in New York, New York or Dallas, Texas are authorized or required 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 (whether real, personal or mixed) that is required to be classified and accounted for as a capital lease obligation under GAAP, and, for the purpose of this Indenture, the amount of such obligation at any date shall be the capitalized amount thereof at such date, determined in accordance with GAAP. Notwithstanding the foregoing, any lease (whether entered into before or after date of this Indenture) that would have been classified as an operating lease pursuant to GAAP as in effect on the date of this Indenture will be deemed not to represent a Capitalized Lease Obligation.

"*Cash Equivalents*" means:

(1) 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);

(2) 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;

(3) 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-1 by S&P or at least P-1 by Moody's;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (1) of this definition entered into with any commercial bank meeting the specifications of clause (2) of this definition;

(5) overnight bank deposits and bankers acceptances at any commercial bank meeting the qualifications specified in clause (2) above;

(6) deposits available for withdrawal on demand with any commercial bank not meeting the qualifications specified in clause (2) above but which is a lending bank under the Revolving Credit Agreement, provided all such deposits do not exceed $5,000,000 in the aggregate at any one time;

(7) demand and time deposits and certificates of deposit with any commercial bank organized in the United States not meeting the qualifications specified in clause (2) 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

(8) investments in money market or other mutual funds substantially all of whose assets comprise securities of the types described in clauses (1) through (5) of this definition.

"*Change of Control*" means the occurrence of any event or series of events by which:

(1) 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;

(2) 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;

(3) 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 and assets 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);

(4) the Company is liquidated or dissolved; or

(5) the occurrence of any other event that constitutes a "Change of Control" under any of the Convertible Notes Indentures or the Old Indentures.

"*Charter Amendment*" means the amendment of the Company's restated articles of incorporation to increase the number of shares of the Company's common stock authorized for issuance in an amount to provide a sufficient number of authorized shares of the Company's common stock for the issuance of shares upon conversion of all of the outstanding New Convertible Notes and exercise, to the extent necessary, of all of the New Warrants.

"*Clearstream*" means Clearstream Banking, société anonyme, or any successor securities clearing agency.

"*Collateral*" means all property wherever located and whether now owned or at any time acquired after the date of this Indenture by any Collateral Grantor as to which a Lien is granted under the Collateral Agreements to secure the Notes or any Subsidiary Guarantee.

"*Collateral Agent*" means the collateral agent for all holders of Pari Passu Obligations. Bank of Montreal will initially serve as the Collateral Agent.

"*Collateral Agreements*" means, collectively, each Mortgage, the Pledge Agreement, the Security Agreement, the Intercreditor Agreements and each other instrument, including any assignment, security agreement, mortgage, deed of trust, pledge agreement or other security instrument, creating Liens in favor of the Collateral Agent as required by the Pari Passu Documents, including the Intercreditor Agreements, in each case, as the same may be in effect from time to time.

"*Collateral Grantors*" means the Company and each Subsidiary Guarantor that is party to a Collateral Agreement.

"*Commission*" or "*SEC*" means the Securities and Exchange Commission.

"*Commodity Exchange Act*" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"*Company*" has the meaning provided in the introductory paragraph hereto.

"*Company Order*" means a written request or order signed in the name of the Company by its Chairman, its President, any Vice President, its Treasurer or an Assistant Treasurer, and delivered to the Trustee.

"*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: (1) 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, to (2) Consolidated Interest Expense for such period*; provided* that (i) the Consolidated Fixed Charge Coverage Ratio shall be calculated on a pro forma basis assuming 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 4.09 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 or assets 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, (ii) 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 4.09 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, (iii) 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 4.09 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, (iv) notwithstanding clauses (ii) and (iii) of this proviso, 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, (v) in making such calculation, Consolidated Interest Expense shall exclude interest attributable to Dollar-Denominated Production Payments, and (vi) if after the first day of the period referred to in clause (1) 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 (1) 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, (2) 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, (3) 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 (4) 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 Restricted Subsidiaries, less, to the extent included in any of clauses (1) through (4), 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:

(1) net after-tax extraordinary gains or losses (less all fees and expenses relating thereto);

(2) net after-tax gains or losses (less all fees and expenses relating thereto) attributable to Asset Sales;

(3) 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 are attributable to net income (or net loss) of such Person during such period or during any prior period);

(4) 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;

(5) dividends paid in Qualified Capital Stock;

(6) income resulting from transfers of assets received by the Company or any Restricted Subsidiary from an Unrestricted Subsidiary;

(7) Consolidated Exploration Expenses and any write-downs or impairments of non-current assets; and

(8) the cumulative effect of a change in accounting principles.

"*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).

"*Convertible Notes Indentures*" means, collectively, the 2019 Convertible Notes Indenture and the 2020 Convertible Notes Indenture.

"*Default*" means any event, act or condition that is, or after notice or passage of time or both would become, an Event of Default.

"*Definitive Note*" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend set forth in Section 2.06(f) and shall not have the "*Schedule of Increases or Decreases in the Global Note*" attached thereto.

"*Depositary*" means The Depository Trust Company, its nominee and their respective successors and assigns, or such other depository institution hereinafter appointed by the Company.

"*Discharge of Revolving Credit Agreement Obligations*" means, except to the extent otherwise provided in the Pari Passu Intercreditor Agreement, payment in full, in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) of all Revolving Credit Agreement Obligations and, with respect to letters of credit outstanding under the Revolving Credit Agreement Obligations, delivery of cash collateral or backstop letters of credit in respect thereof in a manner consistent with the Revolving Credit Agreement and otherwise reasonably satisfactory to the Revolving Credit Agreement Agent, and termination of and payment in full in cash of, all Secured Swap Obligations, in each case after or concurrently with the termination of all commitments to extend credit thereunder and the termination of all commitments of the Revolving Credit Agreement Secured Parties under the Revolving Credit Agreement Documents*; provided* that the Discharge of Revolving Credit Agreement Obligations shall not be deemed to have occurred if such payments are made with the proceeds of other Revolving Credit Agreement Obligations that constitute an exchange or replacement for or a refinancing of such Revolving Credit Agreement Obligations.

"*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 resolution of the Board of Directors under this Indenture, 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 date that is 91 days after the final Stated Maturity of the Notes or is redeemable at the option of the Holder thereof at any time prior to the date that is 91 days after the final Stated Maturity of the Notes, or is convertible into or exchangeable for debt securities at any time prior to the date that is 91 days after the final Stated Maturity of the Notes. For purposes of Section 4.09, 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* 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 a Restricted Subsidiary recorded as liabilities in accordance with GAAP, together with all undertakings and obligations in connection therewith

"*Engineering Report*" means the Initial Engineering Report and each engineering report delivered pursuant to Section 4.04(b)(3) or (b)(4).

"*Equity Interests*" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"*Euroclear*" means the Euroclear System or any successor securities clearing agency.

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

"*Exchange Offer and Consent Solicitation*" means a series of transactions in which the Company will (i) exchange the Notes and New Warrants for the Old Senior Secured Notes, (ii) exchange the New 2019 Convertible Notes for the Company's 7 3/4% Senior Notes due 2019, (iii) exchange the New 2020 Convertible Notes for the Company's 9 1/2% Senior Notes due 2020 and (iv) solicit the consent of the holders of the Old Senior Secured Notes and Old Unsecured Notes for certain amendments to the Old Indentures, including amendments to eliminate or amend certain restrictive covenants contained in the Old Indentures and release the collateral securing the Old Senior Secured Notes and, to the extent necessary, approve the appointment of American Stock Transfer & Trust Company, LLC as trustee under the Old Indentures.

"*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 with respect to any asset or property, the sale value that would be obtained in an arm's-length free market transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy. Fair Market Value of an asset or property equal to or in excess of $10,000,000 shall be determined by the Board of Directors of the Company acting in good faith, whose determination shall be conclusive and evidenced by a resolution of such Board of Directors delivered to the Trustee, and any lesser Fair Market Value may be determined by an officer of the Company acting in good faith.

"*Financial Officer*" means, with respect to any Person, the chief executive officer, chief financial officer, chief accounting officer or treasurer of such Person.

"*GAAP*" means generally accepted accounting principles in the United States of America as in effect from time to time. All ratios and computations based on GAAP contained in this Indenture will be computed in conformity with GAAP.

"*Global Note*" means a Note in global form registered in the name of the Depositary or its nominee, substantially in the form of Exhibit A hereto, and that bears the Global Note Legend set forth in Section 2.06(f) and that has the "*Schedule of Increases or Decreases in the Global Note*" attached thereto, issued in accordance with Sections 2.01, 2.06(b), 2.06(c), 2.06(d) or 2.06(e).

"*Government Securities*" means direct obligations of, or obligations guaranteed by, the United States of America for the payment of which guarantee or obligations the full faith and credit of the United States is pledged.

"*guarantee*" means, as applied to any obligation, (1) a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner, of any part or all of such obligation and (2) 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.

"*Hedging Agreement*" means (1) 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 similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing and any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act), whether or not any such transaction is governed by or subject to any master agreement, and (2) 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.

"*Holder*" means a Person in whose name a Note (including an Additional Note) is registered in the Note Register.

"*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.

"*Indebtedness*" means, with respect to any Person, without duplication:

(1) 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 Issue Date 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;

(2) 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;

(3) all obligations of such Person with respect to letters of credit;

(4) 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;

(5) all Capitalized Lease Obligations of such Person;

(6) the Attributable Indebtedness (in excess of any related Capitalized Lease Obligations) related to any Sale/Leaseback Transaction of such Person;

(7) 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);

(8) 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

(9) 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.

The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Capital Stock or Preferred Stock in the form of additional shares of the same class of Disqualified Capital Stock or Preferred Stock shall be deemed to be an Incurrence of Indebtedness or an issuance of Disqualified Capital Stock or Preferred Stock for purposes of this definition. In addition, Disqualified Capital Stock shall be deemed to be Indebtedness.

Subject to clause (8) of the first sentence of this definition, neither Dollar-Denominated Production Payments nor Volumetric Production Payments shall be deemed to be Indebtedness.

"*Indenture*" means this Indenture, as amended or supplemented from time to time.

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

"*Initial Engineering Report*" means the engineering report dated as of December 31, 2014, prepared by Lee Keeling & Associates, Inc.

"*Insolvency or Liquidation Proceeding*" means (1) any voluntary or involuntary case or proceeding under any bankruptcy law with respect to any Collateral Grantor, (2) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Collateral Grantor or with respect to any of its assets, (3) any liquidation, dissolution, reorganization or winding up of any Collateral Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy (other than any liquidation, dissolution, reorganization or winding up of any Subsidiary of the Company permitted by the Pari Passu Documents), (4) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Collateral Grantor or (5) any other proceeding of any type or nature in which substantially all claims of creditors of any Collateral Grantor are determined and any payment or distribution is or may be made on account of such claims.

"*Intercreditor Agreements*" means, individually or collectively, as the context may require, the Pari Passu Intercreditor Agreement and the Junior Lien Intercreditor Agreement.

"*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 by such Person to (by means of any transfer of cash or other property or assets to others or any payment for property, assets 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 (1) 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, (2) 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 4.09, 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 (3) endorsements of negotiable instruments and documents in the ordinary course of business. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Restricted Subsidiary that were not sold or disposed of.

"*Issue Date*" means the date of original issuance of the Notes.

"*Junior Lien*" means any Lien which is subordinate to the Liens securing the Pari Passu Obligations pursuant to the Junior Lien Intercreditor Agreement.

"*Junior Lien Collateral Agent*" means, individually or collectively, as the context may require, any collateral agent for the holders of the New Convertible Notes. Bank of Montreal will initially serve as the Junior Lien Collateral Agent.

"*Junior Lien Intercreditor Agreement*" means (1) the Intercreditor Agreement among the Collateral Agent, the Junior Lien Collateral Agent, the Company, each other Collateral Grantor and the other parties from time to time party thereto, to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Senior Secured Notes Indenture and (2) any replacement thereof that contains terms not materially less favorable to the Holders of the New Senior Secured Notes than the Junior Intercreditor Agreement referred to in clause (1).

"*Junior Lien Obligations*" means (1) the New 2019 Convertible Notes, (2) the New 2020 Convertible Notes and (3) Indebtedness of the Company or any Subsidiary Guarantor that is secured on a junior basis with the Pari Passu Obligations by a Junior Lien that was permitted to be Incurred and so secured under each applicable Pari Passu Document*; provided* that, in the case of any Indebtedness referred to in this definition:

(a) on or before the date on which such Indebtedness is Incurred by the Company or any Subsidiary Guarantor, such Indebtedness is designated by the Company (which such designation shall be made in an officers' certificate delivered to the Collateral Agent in respect of Indebtedness referred to in clause (3) above) as "Junior Lien Obligations" for the purposes of this Indenture and any other applicable Pari Passu Document*; provided* that if such Indebtedness is designated as "Junior Lien Obligations," it cannot also be designated as Pari Passu Obligations; and

(b) the collateral agent or other representative with respect to such Indebtedness, the Collateral Agent, the Trustee, the Company and each Subsidiary Guarantor have duly executed and delivered a joinder to the Junior Lien Intercreditor Agreement and all requirements set forth in the Junior Lien Intercreditor Agreement as to the confirmation, grant or perfection of the Liens of the holders of Junior Lien Obligations to secure such Indebtedness in respect thereof are satisfied.

"*Lender Provided Hedging Agreement*" means any Hedging Agreement between the Company or any Subsidiary Guarantor and a Secured Swap Counterparty.

"*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 (1) of an issuer that is not an Affiliate of the Company, (2) that are publicly traded on the New York Stock Exchange, the American Stock Exchange or the Nasdaq Stock Market and (3) 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 (1), (2) and (3) 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 4.10, 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 (1)(a) of the definition of "Adjusted Consolidated Net Tangible Assets"*; provided* that the following will be excluded from the calculation of Material Change: (1) 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 (2) any dispositions of properties and assets during such quarter that were disposed of in compliance with Section 4.10.

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

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

"*Mortgage*" means all mortgages, deeds of trust and similar documents, instruments and agreements (and all amendments, modifications and supplements thereof) creating, evidencing, perfecting or otherwise establishing the Liens on Oil and Gas Properties and other related assets to secure payment of the Notes and the Subsidiary Guarantees or any part thereof.

"*Mortgaged Properties*" means any property owned by a Collateral Grantor that is subject to the Liens existing and to exist under the terms of the Mortgages.

"*Net Available Cash*" from an Asset Sale or Sale/Leaseback Transaction means cash proceeds received therefrom (including (1) 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 (2) 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 assets or 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 (1) and (2)), in each case net of (i) 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, (ii) 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, (iii) 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* 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 (1) all current assets of the Company and its Restricted Subsidiaries, less (2) 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.

"*New 2019 Convertible Notes*" means the Company's 7 ¾% Convertible Secured PIK Notes due 2019. Unless the context otherwise requires, all references to the New 2019 Convertible Notes shall include the Additional New 2019 Convertible Notes.

"*New 2020 Convertible Notes*" means the Company's 9 ½% Convertible Secured PIK Notes due 2020. Unless the context otherwise requires, all references to the New 2020 Convertible Notes shall include the Additional New 2020 Convertible Notes.

"*New Convertible Notes*" means, collectively, the New 2019 Convertible Notes and the New 2020 Convertible Notes.

"*New Warrants*" means the warrants issued to the holders of the Old Senior Secured Notes in the Exchange Offer and Consent Solicitation that are exercisable for shares of the Company's common stock.

"*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 or assets and as to which (i) the holders of such Indebtedness agree that they will look solely to the property or assets 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.

"*Note Documents*" means this Indenture, the Collateral Agreements and any agreement instrument or other document evidencing or governing any Note Obligations.

"*Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Company or any Subsidiary Guarantor arising under this Indenture, the Notes, the Additional Notes, the Subsidiary Guarantees and the Collateral Agreements (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), 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 and fees that accrue after the commencement by or against the Company or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"*Note Register*" means the register maintained by or for the Company in which the Company shall provide for the registration of the Notes and the transfer of the Notes.

"*Notes*" has the meaning provided in the recitals hereto. The Additional Notes shall have the same rights and benefits as the Notes issued on the Issue Date, and shall be treated together with the Notes as a single class for all purposes under this Indenture. Unless the context otherwise requires, all references to the Notes shall include the Additional Notes.

"*Notes Custodian*" means the custodian with respect to a Global Note (as appointed by the Depositary), or any successor Person thereto and shall initially be the Trustee.

"*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.

"*Officer*" means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, the Controller, the Secretary or any Vice President of such Person.

"*Officers' Certificate*" means a certificate signed on behalf of any Person by two Officers, one of whom must be a Financial Officer of such Person.

"*Oil and Gas Business*" means (1) the acquisition, exploration, development, operation and disposition of interests in oil, gas and other hydrocarbon properties, (2) the gathering, marketing, treating, processing, storage, refining, selling and transporting of any production from such interests or properties, (3) 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 (4) any activity necessary, appropriate or incidental to the activities described in the foregoing clauses (1) through (3) of this definition.

"*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 in this definition, 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, rightsofway, easements and servitudes together with all additions, substitutions, replacements, accessions and attachments to any and all of the foregoing.

"*Old Indentures*" means (i) the Indenture, dated as of October 9, 2009 (the "*Base Indenture*"), among the Company, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, as amended and supplemented by the Third Supplemental Indenture, dated as of March 14, 2011, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's 7 ¾% Senior Notes due 2019, (ii) the Base Indenture, as amended and supplemented by the Fourth Supplemental Indenture, dated as of June 5, 2012, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's 9 ½% Senior Notes due 2020 and (iii) the Indenture, dated as of March 13, 2015, among the Company, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's Old Senior Secured Notes.

"*Old Senior Secured Notes*" means the Company's 10% Senior Secured Notes due 2020.

"*Old Unsecured Notes*" means, collectively, the Company's 7 ¾% Senior Notes due 2019 and 9 ½% Senior Notes due 2020.

"*Opinion of Counsel*" means an opinion from legal counsel who is acceptable to the Trustee, that meets the requirements of Section 12.03. The counsel may be an employee of, or counsel to, the Company or any Subsidiary of the Company.

"*Pari Passu Documents*" means, collectively, the Revolving Credit Agreement Documents and the Note Documents.

"*Pari Passu Intercreditor Agreement*" means (1) the Amended and Restated Priority Lien Intercreditor Agreement among the Collateral Agent, the Trustee, the Revolving Credit Agreement Agent, the Company, each other Collateral Grantor, the other parties from time to

time party thereto and American Stock Transfer & Trust Company, LLC, in its capacity as the successor trustee under the Old Senior Secured Notes, to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with this Indenture and (2) any replacement thereof that contains terms not materially less favorable to the Holders than the Pari Passu Intercreditor Agreement referred to in clause (1).

"*Pari Passu Lien*" means a Lien granted (or purported to be granted) by the Company or any Subsidiary Guarantor in favor of the Collateral Agent, at any time, upon any assets or property of the Company or any Subsidiary Guarantor to secure any Pari Passu Obligations.

"*Pari Passu Obligations*" means, collectively, (1) the Revolving Credit Agreement Obligations and (2) the Note Obligations, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding

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

"*Permitted Collateral Liens*" means Liens described in clauses (1), (4), (5), (6), (7), (8), (9), (10), (12), (17), (18), (19), (20), (21), (22) and (23) of the definition of "Permitted Liens" that, by operation of law, have priority over the Liens securing the Notes and the Subsidiary Guarantees.

"*Permitted Investments*" means any of the following:

(1) Investments in Cash Equivalents;

(2) Investments in property, plant and equipment used in the ordinary course of business;

(3) Investments in the Company or any of its Restricted Subsidiaries;

(4) Investments by the Company or any of its Restricted Subsidiaries in another Person, if (a) as a result of such Investment (i) such other Person becomes a Restricted Subsidiary or (ii) such other Person is merged or consolidated with or into, or transfers or conveys all or substantially all of its properties and assets to, the Company or a Restricted Subsidiary and (b) such other Person is primarily engaged in the Oil and Gas Business;

(5) 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;

(6) 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;

(7) entry into any currency exchange contract in the ordinary course of business;

(8) 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;

(9) guarantees of Indebtedness permitted under Section 4.09;

(10) investments in Unrestricted Subsidiaries or joint ventures in an aggregate amount not to exceed at any one time outstanding $15,000,000; and

(11) other Investments, in an aggregate amount not to exceed at any one time outstanding the greater of (a) $25,000,000 and (b) 5% of Adjusted Consolidated Net Tangible Assets.

"*Permitted Liens*" means the following types of Liens:

(1) Liens existing as of the Issue Date (excluding Liens securing Indebtedness of the Company and any Subsidiary Guarantor under the Revolving Credit Agreement);

(2) Liens on any property or assets of the Company and any Subsidiary Guarantor securing the Notes issued on the Issue Date and up to $91,875,000 of Additional Notes, and the Subsidiary Guarantees in respect thereof;

(3) Liens in favor of the Company or any Restricted Subsidiary;

(4) 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;

(5) 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;

(6) 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);

(7) 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;

(8) 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;

(9) any interest or title of a lessor under any capitalized lease or operating lease;

(10) purchase money Liens*; provided* that (a) the related purchase money Indebtedness shall not be secured by any property or assets of the Company or any Restricted Subsidiary other than the property or assets so acquired (including, without limitation, those acquired indirectly through the acquisition of stock or other ownership interests) and any proceeds therefrom, (b) the aggregate principal amount of Indebtedness secured by such Liens it otherwise permitted to be Incurred under this Indenture and does not exceed the cost of the property or assets so acquired and (c) the Liens securing such Indebtedness shall be created within 90 days of such acquisition;

(11) 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;

(12) 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;

(13) Liens securing reimbursement obligations with respect to commercial letters of credit which encumber documents and other property or assets relating to such letters of credit and products and proceeds thereof;

(14) Liens encumbering property or assets under construction arising from progress or partial payments by a customer of the Company or its Restricted Subsidiaries relating to such property or assets;

(15) 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;

(16) Liens securing Interest Rate Protection Obligations which Interest Rate Protection Obligations relate to Indebtedness that is secured by Liens otherwise permitted under this Indenture;

(17) Liens (other than Liens securing Indebtedness) on, or related to, properties or assets to secure all or part of the costs incurred in the ordinary course of business for the exploration, drilling, development or operation thereof;

(18) Liens on pipeline or pipeline facilities which arise by operation of law;

(19) 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;

(20) Liens reserved in oil and gas mineral leases for bonus or rental payments or for compliance with the terms of such leases;

(21) 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, assets or services, and in the aggregate do not materially adversely affect the value of properties and assets of the Company and the Restricted Subsidiaries, taken as a whole, or materially impair the use of such properties and assets for the purposes for which such properties and assets are held by the Company or any Restricted Subsidiaries;

(22) Liens securing Non-Recourse Indebtedness*; provided* that the related Non-Recourse Indebtedness shall not be secured by any property or assets of the Company or any Restricted Subsidiary other than the property and assets 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;

(23) Liens on property existing at the time of acquisition thereof by the Company or any Subsidiary of the Company and Liens on property or assets 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;

(24) 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 so long as such deposit and such defeasance are permitted under Section 4.07;

(25) Junior Liens to secure the New Convertible Notes issued on the Issue Date and the Additional New Convertible Notes, in each case incurred under clause (11) of the definition of "Permitted Indebtedness"; *provided* that such Junior Liens are subject to the Junior Lien Intercreditor Agreement;

(26) Liens to secure any Permitted Refinancing Indebtedness incurred to renew, refinance, refund, replace, amend, defease or discharge, as a whole or in part, Indebtedness that was previously so secured; *provided* that (a) the new Liens shall be limited to all or part of the same property and assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced, (b) the new Liens have no greater priority relative to the Notes and the Subsidiary Guarantees, and the holders of the Indebtedness secured by such Liens have no greater intercreditor rights relative to the Notes and the Subsidiary Guarantees and the Holders thereof, than the original Liens and the related Indebtedness and the holders thereof and (c) such new Liens are subject to the Intercreditor Agreements, as applicable; and

(27) Liens securing Indebtedness of the Company and any Subsidiary Guarantor under the Revolving Credit Agreement in an aggregate principal amount not to exceed $50,000,000 at any time outstanding; *provided* that such Liens are subject to the Pari Passu Intercreditor Agreement.

Notwithstanding anything in clauses (1) through (27) of this definition, the term "Permitted Liens" does 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 or assets 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 Asset Sale Offer) outstanding Indebtedness of the Company or any Restricted Subsidiary*; provided* that (1) if the Indebtedness (including the Notes) being renewed, extended, refinanced, refunded or repurchased is *pari passu* with or subordinated in right of payment to either the Notes or the Subsidiary Guarantees, then such Indebtedness is *pari passu* with or subordinated in right of payment to the Notes or the Subsidiary Guarantees, as the case may be, at least to the same extent as the Indebtedness being renewed, extended, refinanced, refunded or repurchased, (2) 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, (3) if the Company or a Subsidiary Guarantor is the issuer of, or otherwise an obligor in respect of the Indebtedness being renewed, refinanced, refunded or repurchased, such Permitted Refinancing Indebtedness is

not Incurred by any Restricted Subsidiary that is not the Company or a Subsidiary Guarantor, (4) 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 and (5) if the Indebtedness being renewed, extended, refinanced, refunded or repurchased by its terms provides that interest is payable only in kind, then such Indebtedness may not permit the payment of scheduled interest in cash; *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 or 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.

"*Petroleum Industry Standards*" shall mean the Definitions for Oil and Gas Reserves promulgated by the Society of Petroleum Engineers (or any generally recognized successor) as in effect at the time in question.

"*Pledge Agreement*" means each Pledge Agreement and Irrevocable Proxy to be entered into on the Issue Date in favor of the Collateral Agent for the benefit of the Secured Parties and each other pledge agreement in substantially the same form in favor of the Collateral Agent for the benefit of the Secured Parties delivered in accordance with this Indenture and the Collateral Agreements.

"*Preferred Stock*," as applied to the Capital Stock of any Person, means Capital Stock of such Person of any class or classes (however designated) that ranks 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.

"*Production Payments*" means, collectively, Dollar-Denominated Production Payments and Volumetric Production Payments.

"*Proved and Probable Drilling Locations*" means all drilling locations of the Collateral Grantors located in the Haynesville and Bossier shale acreage in the States of Louisiana and Texas that are Proved Reserves or classified, in accordance with the Petroleum Industry Standards, as "Probable Reserves."

"*Proved Developed Non-Producing Reserves*" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and "Developed Non-Producing Reserves."

"*Proved Developed Producing Reserves*" shall mean oil and gas reserves that in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and "Developed Producing Reserves".

"*Proved Developed Reserves*" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and one of the following: (1) "Developed Producing Reserves" or (2) "Developed Non-Producing Reserves."

"*Proved Reserves*" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and one of the following: (1) "Developed Producing Reserves", (2) "Developed Non-Producing Reserves" or (3) "Undeveloped Reserves".

"*PV-9*" means, with respect to any Proved Developed Reserves expected to be produced, the net present value, discounted at 9% per annum, of the future net revenues expected to accrue to the Collateral Grantors' collective interests in such reserves during the remaining expected economic lives of such reserves, calculated by the Revolving Credit Agreement Agent (or, if no Revolving Credit Agreement is then in effect, the Collateral Agent) in its sole and absolute discretion; *provided* that the PV-9 associated with Proved Developed Non-Producing Reserves shall comprise no more than 25% of total PV-9.

"*Qualified Capital Stock*" of any Person means any and all Capital Stock of such Person other than Disqualified Capital Stock.

"*Required Stockholder Approval*" means the approval by (1) a majority of the issued and outstanding shares of common stock of the amendment to the Company's restated articles of incorporation to increase the number of shares of the Company's common stock authorized for issuance in an amount to provide a sufficient number of authorized shares of the Company's common stock for the issuance of shares upon conversion of the New Convertible Notes and, to the extent necessary, exercise of the New Warrants and (2) a majority of the shares of common stock represented at the special meeting and entitled to vote on the issuance of the maximum number of shares of common stock that would be issued upon conversion of all of the outstanding New Convertible Notes and, to the extent necessary, exercise of all of the New Warrants.

"*Responsible Officer*," when used with respect to the Trustee, means any officer within the corporate trust department of the Trustee having direct responsibility for the administration of this Indenture.

"*Restricted Investment*" means (without duplication) (1) the designation of a Subsidiary as an Unrestricted Subsidiary in the manner described in the definition of "Unrestricted Subsidiary" and (2) any Investment other than a Permitted Investment.

"*Restricted Subsidiary*" means any Subsidiary of the Company, whether existing on or after the Issue Date, unless such Subsidiary of the Company is an Unrestricted Subsidiary or is designated as an Unrestricted Subsidiary pursuant to the terms of this Indenture.

"*Revolving Credit Agreement*" means that certain Credit Agreement, dated as of March 4, 2015, among the Company, the lenders from time to time party thereto and the Revolving Credit Agreement Agent, as amended, restated, modified, renewed, refunded, replaced or refinanced, from time to time.

"*Revolving Credit Agreement Agent*" means Bank of Montreal (or other agent designated in the Revolving Credit Agreement), together with its successors and permitted assigns in such capacity.

"*Revolving Credit Agreement Documents*" means the Revolving Credit Agreement, the Collateral Agreements and any other Loan Documents (as defined in the Revolving Credit Agreement).

"*Revolving Credit Agreement Obligations*" means, collectively, (1) the Obligations (as defined in the Revolving Credit Agreement) of the Company and the Subsidiary Guarantors under the Revolving Credit Agreement Documents, in an aggregate principal amount for all such Obligations not to exceed $50,000,000, plus interest and all fees, costs, charges, penalties and expenses, including legal fees and expenses to the extent authorized under the Revolving Credit Agreement Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding, and (2) the Secured Swap Obligations.

"*Revolving Credit Agreement Secured Parties*" means, collectively, the Lenders (as defined in the Revolving Credit Agreement), the Secured Swap Counterparties and the Revolving Credit Agreement Agent.

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

"*Sale/Leaseback Transaction*" means, 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, whereby such property has been or is to be sold or transferred by the Company or any of its Restricted Subsidiaries to such Person.

"*Secured Parties*" means (1) the Collateral Agent, (2) the Trustee and the Holders and (3) the Revolving Credit Agreement Secured Parties.

"*Secured Swap Counterparty*" means, with respect to a Lender Provided Hedging Agreement, a counterparty that at the time such Hedging Agreement is entered into is a Lender (as defined in the Revolving Credit Agreement) or an Affiliate of a Lender (including a Hedging Agreement in existence prior to the date hereof or prior to such Person or its Affiliate becoming a Lender)*; provided* that, for the avoidance of doubt, the term "Lender Provided Hedging

Agreement" shall not include any Hedging Agreement or transactions under any Hedging Agreement entered into after the time that such counterparty ceases to be a Lender or an Affiliate of a Lender.

"*Secured Swap Obligations*" means all obligations of the Company or any Subsidiary Guarantor under any Lender Provided Hedging Agreement.

"*Security Agreement*" means each Pledge Agreement and Irrevocable Proxy dated as of the Issue Date in favor of the Collateral Agent for the benefit of the Secured Parties and each other security agreement in substantially the same form in favor of the Collateral Agent for the benefit of the Secured Parties delivered in accordance with this Indenture and the Collateral Agreements.

"*Senior Indebtedness*" means any Indebtedness of the Company or a Restricted Subsidiary (whether outstanding on the date hereof or hereinafter Incurred), unless such Indebtedness is Subordinated Indebtedness.

"*Significant Subsidiary*" means any Restricted Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date.

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

"*Subordinated Indebtedness*" means Indebtedness of the Company or a Subsidiary Guarantor which is expressly subordinated in right of payment to the Notes or the Subsidiary Guarantees, as the case may be.

"*Subsidiary*" means, with respect to any Person:

(1) any corporation, limited liability company, association or other business entity (other than a partnership) of which more than 50% of the total voting power of its Voting Stock is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership of which (a) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof), whether in the form of general, special or limited partnership interests or otherwise, or (b) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

"*Subsidiary Guarantee*" means any guarantee of the Notes by any Subsidiary Guarantor in accordance with Sections 4.13 and 10.01.

"*Subsidiary Guarantor*" means (1) Comstock Oil & Gas, LP, (2) Comstock Oil & Gas—Louisiana, LLC, (3) Comstock Oil & Gas GP, LLC, (4) Comstock Oil & Gas Investments, LLC, (5) Comstock Oil & Gas Holdings, Inc., (6) each of Comstock's other Restricted Subsidiaries, if any, executing a supplemental indenture in which such Subsidiary agrees to be bound by the terms of this Indenture and (7) any Person that becomes a successor guarantor of the Notes in compliance with Sections 4.13 and 10.01.

"*TIA*" has the meaning provided in the recitals hereto.

"*Trustee*" means American Stock Transfer & Trust Company, LLC, a New York limited liability company, in its capacity as trustee under this Indenture, until a successor replaces it in accordance with the applicable provisions of this Indenture, and thereafter "Trustee" means each Person who is then a Trustee thereunder.

"*Uniform Commercial Code*" means the Uniform Commercial Code as in effect in any applicable jurisdiction from time to time.

"*Unrestricted Subsidiary*" means:

(1) 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

(2) any Subsidiary of an Unrestricted Subsidiary.

The Company may designate any Subsidiary of the Company (other than a Collateral Grantor) as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of, the Company or any Restricted Subsidiary (other than solely any Subsidiary of the Subsidiary to be so designated)*; provided* that the Subsidiary to be so designated and each Subsidiary of such Subsidiary:

(1) has no Indebtedness other than Non-Recourse Indebtedness;

(2) is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;

(3) is a Person with respect to which neither the Company nor any of the Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; and

(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of the Restricted Subsidiaries.

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

"*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*" of any specified Person as of any date means the Capital Stock of such Person entitling the holders thereof (whether at all times or only so long as no senior class of Capital Stock has voting power by reason of any contingency) to vote in the election of members of the Board of Directors of such Person*; provided* that with respect to a limited partnership or other entity which does not have a Board of Directors, Voting Stock means the managing membership interest or the Capital Stock of the general partner of such limited partnership or other business entity with the ultimate authority to manage the business and operations of such Person, as applicable.

"*Wholly Owned Restricted Subsidiary*" means any Restricted Subsidiary of the Company to the extent (1) all of the Capital Stock or other ownership interests in such Restricted Subsidiary, other than directors' qualifying shares mandated by applicable law, is owned directly or indirectly by the Company or (2) 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 1.02. Other Definitions.

Term	Defined in Section
"Act"	9.07
"Additional Notes"	Exhibit A
"Affiliate Transaction"	4.11
"Asset Sale Offer"	4.10
"Asset Sale Offer Amount"	3.08
"Asset Sale Offer Notice"	3.08
"Asset Sale Offer Period"	3.08
"Base Indenture"	1.01
"Cash Interest"	Exhibit A
"Change of Control Offer"	4.15
"Change of Control Payment"	4.15
"Change of Control Payment Date"	4.15
"Covenant Defeasance"	8.03
"Covenant Suspension Period"	4.17
"Discharge"	8.08
"DTC"	2.06
"Event of Default"	6.01
"Excess Proceeds"	4.10
"Incur"	4.09
"Investment Grade Rating"	4.17
"Legal Defeasance"	8.02
"Paying Agent"	2.03
"Payment Default"	6.01
"Payment Restriction"	4.08
"Permitted Consideration"	4.10
"Permitted Indebtedness"	4.09
"PIK Interest"	Exhibit A
"Purchase Date"	3.08
"Register"	2.03
"Registrar"	2.03
"Restricted Payments"	4.07
"Successor Guarantor"	5.01
"Surviving Entity"	5.01
"Suspended Covenants"	4.17

Section 1.03. Rules of Construction.

Unless the context otherwise requires:

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

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

(3) "or" is not exclusive;

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

(5) the meanings of the words "will" and "shall" are the same when used to express an obligation;

(6) references to sections of or rules under the Securities Act or the Exchange Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;

(7) “herein,” “hereof” and other words of similar import refer to this Indenture as a whole (as amended or supplemented from time to time) and not to any particular Article, Section or other subdivision of this Indenture

(8) “including” means “including, without limitation”; and

(9) references herein to Articles, Sections and Exhibits are to be construed as references to articles of sections of, and exhibits to, this Indenture, unless the context otherwise requires.

ARTICLE 2.
THE NOTES

Section 2.01. Form and Dating.

(a) *General*. The Notes and the Trustee’s certificate of authentication therefor shall be substantially in the form of Exhibit A hereto, which is hereby incorporated in and expressly made a part of this Indenture. The Notes may have other notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The terms of the Notes set forth in Exhibit A are part of the terms of this Indenture. The Notes shall be in minimum denominations of integral multiples of $1.00. On any Interest Payment Date on which the Company makes a payment by issuing Additional Notes, the principal amount of any such Additional Note issued to any Holder, for the relevant interest period as of the relevant record date for such Interest Payment Date, shall be rounded down to the nearest whole dollar.

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

(b) *Global Notes*. Notes issued in global form will be substantially in the form of Exhibit A hereto (including the Global Note Legend thereon and the “Schedule of Increases or Decreases in the Global Note” attached thereto). Notes issued in definitive form will be substantially in the form of Exhibit A hereto (but without the Global Note Legend thereon and without the “Schedule of Increases or Decreases in the Global Note” attached thereto). Each Global Note will represent such of the outstanding Notes as will be specified therein and each represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon. The aggregate principal amount of outstanding Notes represented by such Global Note may from time to time be reduced or increased, as appropriate, to reflect exchanges, redemptions and the issuance of Additional Notes. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby will be made by the Trustee or the Notes Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 or by a Company Order in connection with the issuance of Additional Notes as required by Section 2.02(d).

Section 2.02. Execution and Authentication.

(a) At least one Officer of the Company shall sign the Notes on behalf of the Company by manual or facsimile signature.

(b) If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

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

(d) On the Issue Date, the Trustee shall authenticate and deliver Notes in an aggregate principal amount of $[ ]. If interest is paid by issuing Additional Notes, then not later than 10 business days prior to the relevant Interest Payment Date, the Company shall deliver to the Trustee and the Paying Agent (if other than the Trustee), (i) with respect to Notes represented by Definitive Notes, the required amount of Additional Notes represented by Definitive Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such Additional Notes or (ii) with respect to Notes represented by one or more Global Notes, a Company Order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the Depositary or otherwise, the required amount of Additional Notes represented by Global Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such new Global Notes). Other than as described above, no other Notes may be issued by the Company or any Subsidiary Guarantor and authenticated and delivered pursuant to this Indenture (except for Notes authenticated and delivered at the times and in the manner specified in Sections 2.06, 2.07, 2.10, 3.06, 4.10, 4.15 or 9.05 of this Indenture).

(e) The Trustee may appoint an authenticating agent reasonably acceptable to the Company to authenticate the Notes. Unless limited by the terms of such appointment, an authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

Section 2.03. Registrar and Paying Agent.

(a) The Company shall at all times maintain an office or agency in the United States where Notes may be presented for registration of transfer or for exchange (the "*Registrar*") and an office or agency in New York, New York where Notes may be presented for payment (the "*Paying Agent*"). The Registrar shall keep a register of the Notes and of their transfer and exchange (the "*Register*"). The Company may have one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar, and the term "Paying Agent" includes any additional paying agent.

(b) The Company shall enter into an appropriate agency agreement with any Registrar or Paying Agent not a party to this Indenture, which shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee in writing 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. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

(c) The Company initially appoints the Trustee as Registrar and Paying Agent in connection with the Notes at the Corporate Trust Office of the Trustee. The Company may change the Registrars and the Paying Agents without prior notice to the Holders.

Section 2.04. Paying Agent to Hold Money in Trust.

Prior to 10:00 a.m. New York City time, on each date on which any principal, premium, if any, or Cash Interest on any Note is due and payable, the Company shall deposit with the Paying Agent a sum sufficient to pay such principal, premium, if any, and Cash Interest when so becoming due. The Company shall require each Paying Agent (other than the Trustee) to agree in writing that such Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal of, or premium, if any, or Cash Interest, if any, on, the Notes and shall notify the Trustee of any default by the Company in making any such payment. If the Company or any of its Subsidiaries acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund for the benefit of the Holders. The Company at any time may require a Paying Agent (other than the Trustee) to pay all money held by it to the Trustee, and the Trustee may at any time during the continuance of any Event of Default under Section 6.01(a) or (b), upon written request to a Paying Agent, require such Paying Agent to forthwith pay to the Trustee all sums so held in trust by such Paying Agent and, in each case, to account for any funds disbursed by such Paying Agent. Upon complying with this Section 2.04, the Paying Agent (if other than the Company or any of its Subsidiaries) shall have no further liability for the money delivered to the Trustee. Upon any bankruptcy, reorganization or similar proceeding with respect to the Company, the Trustee shall serve as Paying Agent for the Notes.

Section 2.05. 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 Holders. If the Trustee is not the Registrar, the Company shall furnish to the Trustee in writing, at least 5 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 Holders.

Section 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes

A Global Note may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All beneficial interests in the Global Notes will be exchanged by the Company for Definitive Notes if:

(1) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 90 days after the date of such notice from the Depositary;

(2) the Company, at its option but subject to DTC's requirements, determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and deliver a written notice to such effect to the Trustee; or

(3) there has occurred and is continuing an Event of Default with respect to the Notes, and the Depositary notifies the Trustee of its decision to exchange the Global Notes for Definitive Notes.

Upon the occurrence of the preceding events in (1), (2) or (3) above, Definitive Notes shall be issued in such names as the Depositary shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.09 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or Section 2.09 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a); *provided* that beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes

The transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures.

(1) *Transfer of Beneficial Interests in the Same Global Note*. Beneficial interests in any Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(1).

(2) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes*. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(1), the transferor of such beneficial interest must deliver to the Registrar either:

(A) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase; or

(B) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect such transfer or exchange.

(c) *Transfer and Exchange of Beneficial Interests in Global Notes to Definitive Notes*.

If any holder of a beneficial interest in a Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(2) hereof, the Trustee will cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company will execute and the Trustee will authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest requests through instructions to the Registrar from or through the Depositary and the Participant or Indirect Participant. The Trustee will deliver such Definitive Notes to the Persons in whose names such Notes are so registered.

(d) *Transfer and Exchange of Definitive Notes for Beneficial Interests*.

Other than following an exchange of beneficial interest in a Global Note for Definitive Notes as contemplated by Section 2.06(a)(2), a Holder of a Definitive Note may exchange such Note for a beneficial interest in a Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Global Notes.

(e) *Transfer and Exchange of Definitive Notes for Definitive Notes*.

Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar will register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. A Holder of Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of a Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Definitive Note pursuant to the instructions from the Holder thereof.

(f) *Legends*.

In addition to the legend appearing on the face of the form of the Notes in Exhibit A hereto relating to original issue discount, the following legend will appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(1) *Global Note Legend*. Each Global Note will bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("*DTC*"), TO THE COMPANY OR ITS AGENTS FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY

TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

(g) *Cancellation and/or Adjustment of Global Notes*.

At such time as all beneficial interests in a particular Global Note have been exchanged for beneficial interests in another Global Note or for Definitive Notes, or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note will be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note will be reduced accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note will be increased accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) *General Provisions Relating to Transfers and Exchanges*.

(1) To permit registrations of transfers and exchanges, the Company will execute and the Trustee will authenticate Global Notes and Definitive Notes upon receipt of a Company Order in accordance with Section 2.02 hereof or at the Registrar's request.

(2) No service charge will be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.08, 4.10, 4.15 and 9.05 hereof).

(3) The Registrar will not be required to register the transfer of or exchange of any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(4) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes will be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(5) Neither the Registrar nor the Company will be required:

(A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection;

(B) to register the transfer of or to exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part; or

(C) to register the transfer of or to exchange a Note between a record date and the next succeeding interest payment date.

(6) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(7) The Trustee will authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

(8) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06, or requested by the Trustee pursuant to Section 7.02, to effect a registration of transfer or exchange may be submitted by facsimile or electronic image scan.

Section 2.07. Replacement Notes.

(a) If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall, upon its receipt of a Company Order, authenticate a replacement Note 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 Registrar or the Company, such Holder shall furnish an indemnity bond sufficient in the judgment of the Registrar, the Trustee and the Company to protect the Company, the Trustee, the Paying Agent and the Registrar from any loss which any of them may suffer if a Note is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Note.

(b) Every replacement Note is an additional obligation of the Company.

Section 2.08. Outstanding Notes.

(a) The Notes outstanding at any time are all Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

(b) If the Paying Agent (other than the Company or a Subsidiary thereof) holds in trust, in accordance with this Indenture, by 11:00 a.m. New York City time, on a redemption date or other maturity date money sufficient to pay all principal, interest and premium, if any, payable on that date with respect to the Notes (or portions thereof) to be redeemed or maturing, as the case may be, then on and after that date such Notes (or portions thereof) shall cease to be outstanding and interest on them shall cease to accrue.

Section 2.09. Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any Subsidiary Guarantor, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any Subsidiary Guarantor, will be considered as though not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Notes that the Trustee actually knows are so owned will be so disregarded.

Section 2.10. Temporary Notes.

Until Definitive Notes are ready for delivery, the Company may prepare and the Trustee shall, upon its receipt of a Company Order, authenticate temporary Notes. Temporary Notes shall be substantially in the form of Definitive Notes but may have variations that the Company considers appropriate for temporary Notes. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate Definitive Notes and deliver them in exchange for temporary Notes. Holders of temporary Notes shall be entitled to all of the benefits under this Indenture.

Section 2.11. Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange, replacement or payment. The Trustee and no one else shall cancel and destroy (subject to the record retention requirements of the Exchange Act) all Notes surrendered for registration of transfer, exchange, replacement, payment or cancellation. Upon written request, the Trustee will deliver a certificate of such cancellation to the Company unless the Company directs the Trustee in writing to deliver canceled Notes to the Company instead. The Company may not issue new Notes to replace Notes it has redeemed, paid or delivered to the Trustee for cancellation.

Section 2.12. Defaulted Interest.

If the Company defaults in a payment of interest on the Notes, the Company shall pay defaulted interest at the rate specified in the second paragraph of Section 4.01 (plus interest on such defaulted interest to the extent lawful) in any lawful manner. The Company may pay the defaulted interest to the Persons who are Holders on a subsequent special record date. The Company shall fix or cause to be fixed any such special record date and payment date (which special record date shall not be less than 10 days prior to the related 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 2.13. CUSIP and ISIN Numbers.

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

ARTICLE 3.
REDEMPTION AND PREPAYMENT

Section 3.01. Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07, it shall furnish to the Trustee, at least 5 Business Days (unless a shorter period shall be agreeable to the Trustee) before the date of giving notice of the redemption pursuant to Section 3.03, an Officers' Certificate setting forth (i) the clause of Section 3.07 pursuant to which the redemption shall occur, (ii) the redemption date, (iii) the principal amount of Notes to be redeemed, (iv) the redemption price or the method by which it will be determined, and (v) whether the Company requests that the Trustee give notice of such redemption.

Section 3.02. Selection of Notes to Be Redeemed.

(a) If less than all of the Notes are to be redeemed at any time, the Trustee will select the Notes to be redeemed on a *pro rata* basis, by lot to the extent practicable or, in the case of Global Notes, by such other method in accordance with the applicable procedures of the Depositary, unless otherwise required by law or applicable stock exchange or Depositary requirements, from the outstanding Notes not previously called for redemption. In the event of partial redemption other than on a *pro rata* basis, the particular Notes to be redeemed shall be selected, not less than 5 Business Days (unless a shorter period shall be agreeable to the Trustee) prior to the giving of notice of the redemption pursuant to Section 3.03, by the Trustee from the outstanding Notes not previously called for redemption.

(b) The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

Section 3.03. Notice of Redemption.

(a) At least 30 days but not more than 60 days before a redemption date (except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is

issued in connection with a Legal Defeasance, Covenant Defeasance or Discharge), the Company shall mail or cause to be mailed, by first class mail, or otherwise given in accordance with the procedures of the Depositary, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address (with a copy to the Trustee). Notices of redemption may not be conditional.

(b) The notice shall identify the Notes to be redeemed and shall state:

(1) the redemption date;

(2) the redemption price or, if the redemption price is not then determinable, the manner in which it is to be determined;

(3) if any Note is to be redeemed in part only, the portion of the principal amount of such Note that is to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in a principal amount equal to the unredeemed portion of the original Note will be issued in the name of the applicable Holder upon cancellation of the original Note;

(4) the name and address of the Paying Agent;

(5) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(6) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption shall cease to accrue on and after the redemption date and the only remaining right of the Holders of such Notes is to receive payment of the redemption price upon surrender to the Paying Agent of the Notes redeemed;

(7) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed;

(8) the CUSIP (or ISIN) number, if any, and that no representation is made as to the correctness or accuracy of the CUSIP (or ISIN) number, if any, listed in such notice or printed on the Notes; and

(9) a description of any conditions to the Company's obligations to complete the redemption.

(c) If any of the Notes to be redeemed is in the form of a Global Note, then the Company shall modify such notice to the extent necessary to accord with the procedures of the Depositary applicable to redemption.

(d) At the Company's request, the Trustee shall give the notice of optional redemption in the Company's name and at its expense*; provided* that the Company shall have delivered to the Trustee, as provided in Section 3.01, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the second preceding paragraph.

Section 3.04. Effect of Notice of Redemption.

Once notice of redemption is mailed in accordance with Section 3.03, Notes (or portions thereof) called for redemption become irrevocably due and payable on the applicable redemption date at the applicable redemption price, subject to the satisfaction of any conditions to the redemption specified in the notice of redemption. If mailed in the manner provided for in Section 3.03, the notice of redemption shall be conclusively presumed to have been given whether or not a Holder receives such notice. Failure to give timely notice or any defect in the notice shall not affect the validity of the redemption.

Section 3.05. Deposit of Redemption Price.

(a) Prior to 10:00 a.m., New York City time, on any redemption date, the Company shall deposit with the Paying Agent (or, if the Company or a Subsidiary thereof is acting as Paying Agent, segregate and hold in trust as provided in Section 2.04) money sufficient in same day funds to pay the redemption price of and accrued interest on all Notes to be redeemed on that date. The Paying Agent shall promptly return to the Company any money deposited with the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of and accrued interest on all Notes to be redeemed.

(b) If the Company complies with the provisions of the preceding paragraph, on and after the redemption date, interest shall cease to accrue on the Notes or the portions of Notes called for redemption whether or not such Notes are presented for payment, and the only remaining right of the Holders of such Notes shall be to receive payment of the redemption price upon surrender to the Paying Agent of the Notes redeemed. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption date until such principal is paid, and to the extent lawful, on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01.

Section 3.06. Notes Redeemed in Part.

Upon surrender of a Note that is redeemed in part, the Company shall issue in the name of the applicable Holder and the Trustee shall, upon its receipt of a Company Order, authenticate for such Holder at the expense of the Company a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

Section 3.07. Optional Redemption.

(a) The Company may, at its option, redeem the Notes, in whole or in part, in cash, at one time or from time to time, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest, if any, on the Notes redeemed, to the applicable redemption date, subject to the rights of Holders on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on March 15 of the years indicated below (or the Issue Date for the Notes redeemed prior to March 15, 2017):

YEAR	PERCENTAGE
2016	110.000%
2017	107.500%
2018	105.000%
2019 and thereafter	100.000%

(b) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Section 3.01 through 3.06. For the avoidance of doubt, the redemption price plus accrued and unpaid interest on any Notes redeemed shall be paid solely in cash.

Section 3.08. Offer to Purchase by Application of Excess Proceeds.

(a) In the event that, pursuant to Section 4.10, the Company shall be required to commence an Asset Sale Offer, it shall follow the additional procedures specified below.

(b) Within 30 days after the 365th day following the date of an Asset Sale, the Company shall, if it is obligated to make an Asset Sale Offer, deliver a written Asset Sale Offer notice to the Trustee and the Holders of the Notes (the "*Asset Sale Offer Notice*"), accompanied by such information regarding the Company and its Subsidiaries as the Company believes shall enable such Holders of the Notes to make an informed decision with respect to the Asset Sale Offer (which at a minimum shall include (A) 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 4.03), (B) a description of material developments in the Company's business subsequent to the date of the latest of such reports and (C) if material, appropriate pro forma financial information).

(c) The Asset Sale Offer Notice shall state, among other things:

(1) that the Company is offering to purchase Notes pursuant to the provisions of this Indenture;

(2) that any Note (or any portion thereof) accepted for payment (and duly paid on the Purchase Date) pursuant to the Asset Sale Offer shall cease to accrue interest on the Purchase Date;

(3) that any Notes (or portions thereof) not properly tendered shall continue to accrue interest;

(4) 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*");

(5) the aggregate principal amount of Notes to be purchased;

(6) a description of the procedure which Holders of Notes must follow in order to tender their Notes and the procedures that Holders of Notes must follow in order to withdraw an election to tender their Notes for payment; and

(7) all other instructions and materials necessary to enable Holders to tender Notes pursuant to the Asset Sale Offer.

(d) Not later than the date upon which the Asset Sale Offer Notice is delivered to the Trustee as provided in clause (c) of this Section 3.08, the Company shall deliver to the Trustee an Officers' Certificate as to (1) the amount of the Asset Sale Offer (the "*Asset Sale Offer Amount*"), (2) the allocation of the Net Available Cash from the Asset Sales pursuant to which such Asset Sale Offer is being made and (3) the compliance of such allocation with the provisions of Section 4.10(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 Asset Sale Offer Amount to be held for payment in accordance with the provisions of this Section. Upon the expiration of the period for which the Asset Sale Offer remains open (the "*Asset Sale Offer Period*"), the Company shall deliver to the Trustee for cancellation the Notes 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 Notes delivered by the Company to the Trustee is less than the Asset Sale Offer Amount, the Trustee or the Paying Agent shall deliver the excess to the Company immediately after the expiration of the Asset Sale Offer Period for application in accordance with this Section 3.08.

(e) Holders electing to have a Note purchased shall be required to surrender the Note, with an appropriate form duly completed, to the Company or its agent at the address specified in the notice at least 3 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 1 Business Day prior to the Purchase Date, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note which was delivered for purchase by the Holder and a statement that such Holder is withdrawing his election to have such Note purchased. If at the expiration of the Asset Sale Offer Period the aggregate principal amount of Notes surrendered by Holders exceeds the Asset Sale Offer Amount, the Company shall select the Notes to be purchased on a *pro rata* basis. Holders whose Notes are purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered; *provided* that each such new Note will be in a principal amount that is in integral multiples of $1.00.

(f) At the time the Company delivers Notes to the Trustee which are to be accepted for purchase, the Company shall also deliver an Officers' Certificate stating that such Notes are to be accepted by the Company pursuant to and in accordance with the terms of this Section 3.08. A Note 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. For the avoidance of doubt, an Asset Sale Offer shall be made solely in cash.

Section 3.09. No Mandatory Sinking Fund.

Except as set forth under Sections 4.10 and 4.15, the Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes or to repurchase the Notes at the option of the Holders.

ARTICLE 4.
COVENANTS

Section 4.01. Payment of Notes.

(a) The Company shall pay or cause to be paid the principal of, interest, premium, if any, on, the Notes on the dates and in the manner provided in the Notes. Principal, Cash Interest and premium, if any, shall be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 10:00 a.m., New York City time, on the due date money deposited by the Company or a Subsidiary Guarantor in immediately available funds and designated for and sufficient to pay all principal, Cash Interest and premium, if any, then due. PIK Interest shall be considered paid on the date due if not later than 10 business days prior to the relevant Interest Payment Date, the Company delivers to the Trustee and the Paying Agent (if other than the Trustee), (i) with respect to Notes represented by Definitive Notes, the required amount of Additional Notes represented by Definitive Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such Additional Notes or (ii) with respect to Notes represented by one or more Global Notes, a Company Order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the Depositary or otherwise, the required amount of Additional Notes represented by Global Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such new Global Notes). All payments made by the Company under or with respect to the Notes will be made free and clear of and without withholding or deduction for, or on account of, any Taxes, unless the withholding or deduction of such Taxes is then required by law.

(b) The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at a rate equal to the then-applicable interest rate on the Notes; and it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (whether Cash Interest or PIK Interest), if any (without regard to any applicable grace period), at the same rate as on overdue principal to the extent lawful.

Section 4.02. Maintenance of Office or Agency.

(a) The Company shall maintain an office or agency (which may be an office of the Trustee, an affiliate of the Trustee, the Registrar or the Paying Agent) in New York, New York where Notes may be presented or surrendered for payment and shall maintain an office or agency in the United States (which may be an office of the Trustee, an affiliate of the Trustee, the Registrar or the Paying Agent) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company shall 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.

(b) The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations*; provided* that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in New York, New York for such purposes. The Company shall 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.

(c) The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03(a).

Section 4.03. Reports.

(a) Whether or not the Company is subject to the reporting requirements of Section 13 or Section 15(d) of the Exchange Act, to the extent not prohibited by the Exchange Act, the Company will file with the Commission, and make available to the Trustee and the Holders of the Notes without cost to any Holder, the annual reports and the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) that are specified in Sections 13 and 15(d) of the Exchange Act and applicable to a U.S. corporation within the time periods specified therein with respect to an accelerated filer. In the event that the Company is not permitted to file such reports, documents and information with the Commission pursuant to the Exchange Act, the Company will nevertheless make available such Exchange Act information to the Trustee and the Holders without cost to any Holder as if the Company were subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act within the time periods specified therein with respect to a non-accelerated filer.

(b) If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then, to the extent material, the quarterly and annual financial information required by Section 4.03 will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

(c) The availability of the foregoing materials on the Commission's website or on the Company's website shall be deemed to satisfy the delivery obligations under clauses (a) and (b) of this Section 4.03.

(d) In addition, the Company and the Subsidiary Guarantors, for so long as any Notes remain outstanding, shall be required to deliver all reports and other information required to be delivered under the TIA within the time periods set forth in the TIA.

Section 4.04. Certificates and Other Information.

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year ending after the Issue Date, an Officers' Certificate stating (1) that a review of the activities of the Company and the Restricted Subsidiaries during the preceding fiscal year 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 Indenture and the other Note Documents, and further stating, as to each such Officer signing such certificate, that, to the best of his or her knowledge, the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and the other Note Documents applicable to the Company and is not in default in the performance or observance of any of the terms, provisions and conditions thereof (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and (2) either (x) that all action has been taken with respect to the recording, filing, re-recording and refiling of this Indenture and all amendments, supplemental indentures, financing statements, continuation statements and other documents, as are necessary to maintain the perfected Liens created under the Collateral Agreements under applicable law and reciting the details of such action or referring to prior Officers' Certificates in which such details are given or (y) that no such action is necessary to maintain such Liens.

(b) The Company shall deliver to the Trustee and the Collateral Agent, promptly after delivery to the Revolving Credit Agreement Agent or the lenders under the Revolving Credit Agreement or, if no Revolving Credit Agreement is then in effect, upon the reasonable request of the Collateral Agent in form and detail satisfactory to the Collateral Agent or otherwise as required by Section 11.01:

(1) a schedule of all oil, gas, and other mineral production attributable to all material Oil and Gas Properties of the Collateral Grantors, and in any event all such Oil and Gas Properties included in the most recent Engineering Report;

(2) all title or other information received after the Issue Date by the Collateral Grantors which discloses any material defect in the title to any material asset included in the most recent Engineering Report;

(3) (I) as soon as available and in any event within 90 days after each January 1, commencing with January 1, 2017, an annual reserve report as of each December 31 with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by an independent engineering firm of recognized standing acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent) in accordance with accepted industry practices, and (II) within 90 days after each July 1 commencing with July 1, 2016, a reserve report as of each June 30, with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by the Company in accordance with accepted industry practices;

(4) an updated reserve report with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by an independent engineering firm of recognized standing acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent) in accordance with accepted industry practices;

(5) title opinions (or other title reports or title information) and other opinions of counsel, in each case in form and substance acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent), with respect to at least ninety percent (90%) of the PV-9 of the Proved Reserves included in the most recent Engineering Report and the Proved and Probable Drilling Locations, for which satisfactory title reports have not been previously delivered to the Revolving Credit Agreement Agent or Collateral Agent as applicable, if any; and

(6) concurrently with the delivery of each Engineering Report hereunder:

(I) a certificate of an Officer (in form and substance reasonably satisfactory to the Collateral Agent in the case of delivery upon the request of the Collateral Agent):

(A) setting forth as of a recent date, a true and complete list of all Hedging Agreements of the Company and each Restricted Subsidiary, the material terms thereof (including the type, term, effective date, termination date and notional amounts or volumes), the net mark-to-market value therefor, any new credit support agreements relating thereto, any margin required or supplied under any credit support document, and the counterparty to each such agreement; and

(B) comparing aggregate notional volumes of all Hedging Agreements of the Company and each Restricted Subsidiary, which were in effect during such period (other than basis differential hedgings) and the actual production volumes for each of natural gas and crude oil during such period, which certificate shall certify that the hedged volumes for each of natural gas and crude oil did not exceed 100% of actual production or if such hedged volumes did exceed actual production, specify the amount of such excess;

(II) a report, prepared by or on behalf of the Company detailing on a monthly basis for the next twelve month period (A) the projected production of Hydrocarbons by the Company and the Restricted Subsidiaries and the assumptions used in calculating such projections, (B) an annual operating budget for the Company and the Restricted Subsidiaries, and (C) such other information as may be reasonably requested by the Collateral Agent (in the case of delivery upon the request of the Collateral Agent);

(III) an Officer’s Certificate, certifying whether the Company is in compliance with the mortgage and title requirements set forth in Section 11.01

and setting forth the actual percentages as to which compliance has been achieved and if the Company is not in compliance the Company shall identify which Oil and Gas Properties are required to be mortgaged and/or as to which adequate title information has not been delivered; and

(7) prompt written notice (and in any event within 30 days prior thereto) of any change (I) in any Collateral Grantor's corporate name or in any trade name used to identify such Person in the conduct of its business or in the ownership of its properties, (II) in the location of any Collateral Grantor's chief executive office or principal place of business, (III) in any Collateral Grantor's identity or corporate structure or in the jurisdiction in which such Person is incorporated or formed, (IV) in any Collateral Grantor's jurisdiction of organization or such Person's organizational identification number in such jurisdiction of organization, and (V) in any Collateral Grantor's federal taxpayer identification number.

Section 4.05. Taxes.

The Company shall pay, and shall cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders.

Section 4.06. Stay, Extension and Usury Laws.

Each of the Company and the Subsidiary Guarantors covenants (to the extent that it may lawfully do so) that it shall 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 wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and each of the Company and the Subsidiary 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 shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.07. Limitation on Restricted Payments.

(a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly:

(1) declare or pay any dividend on, or make any other 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 in options, warrants or other rights to purchase Qualified Capital Stock of the Company);

(2) 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);

(3) 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 (excluding any intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries), except in any case out of the net cash proceeds of Permitted Refinancing Indebtedness; or

(4) make any Restricted Investment;

(all such payments or other actions described in these clauses (1) through (4) being collectively referred to as "*Restricted Payments*"), unless at the time of and after giving effect to such Restricted Payment:

(I) no Default or Event of Default shall have occurred and be continuing;

(II) the Company could Incur $1.00 of additional Indebtedness in accordance with the Fixed Charge Coverage Ratio test set forth in Section 4.09(a); and

(III) the aggregate amount of all Restricted Payments declared or made after January 1, 2015, shall not exceed the sum (without duplication) of the following:

(A) 50% of the Consolidated Net Income of the Company accrued on a cumulative basis during the period beginning on January 1, 2015, 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 is a loss, minus 100% of such loss); *plus*

(B) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after January 1, 2015, 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*

(C) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after January 1, 2015, 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*

(D) the aggregate Net Cash Proceeds received after January 1, 2015, 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*

(E) 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 January 1, 2015, 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 January 1, 2015.

(b) Notwithstanding the preceding provisions, the Company and its Restricted Subsidiaries may take the following actions so long as (in the case of clauses (3), (4), (5) and (8) of this Section 4.07(b)) no Default or Event of Default shall have occurred and be continuing:

(1) 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 the preceding paragraph (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 the preceding paragraph);

(2) the payment of any dividend payable from a Restricted Subsidiary to the Company or any other Restricted Subsidiary of the Company;

(3) 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 from, a substantially concurrent issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of the Company;

(4) the purchase, 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 issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of the Company;

(5) 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 Notes 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 Notes 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 Notes;

(6) loans made to officers, directors or employees of the Company or any Restricted Subsidiary approved by the Board of Directors 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 (6);

(7) the repurchase of Equity Interests deemed to occur upon the exercise of stock or other equity options to the extent such Equity Interests represent a portion of the exercise price of those stock or other equity options and any repurchase or other acquisition of Equity Interests is made in lieu of or to satisfy withholding taxes in connection with any exercise or exchange of stock options, warrants, incentives or other rights to acquire Equity Interests; and

(8) other Restricted Payments in an aggregate amount not to exceed $35,000,000.

(c) The actions described in clauses (1), (3), (4) and (6) of Section 4.07(b) shall be Restricted Payments that shall be permitted to be made in accordance with Section 4.07(b) but shall reduce the amount that would otherwise be available for Restricted Payments under Section 4.07(a)(III) (provided that any dividend paid pursuant to clause (1) of Section 4.07(b) shall reduce the amount that would otherwise be available under Section 4.07(a)(III) when declared, but not also when subsequently paid pursuant to such clause (1)), and the actions described in clauses (2), (5), (7) and (8) of Section 4.07(b) shall be permitted to be taken in accordance with this clause (c) and shall not reduce the amount that would otherwise be available for Restricted Payments under Section 4.07(a)(III).

(d) The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

Section 4.08. Limitation on Dividend and Other Payment Restrictions Affecting Subsidiaries.

(a) The Company will not, and will 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:

(1) to pay dividends, in cash or otherwise, or make any other distributions on its Capital Stock, or make payments on any Indebtedness owed, to the Company or any other Restricted Subsidiary*; provided* that the priority that any series of preferred stock of a Restricted Subsidiary has in receiving dividends or liquidating distributions before dividends or liquidating distributions are paid in respect of common stock of such Restricted Subsidiary shall not constitute a restriction on the ability to make dividends or distributions on Capital Stock for purposes of this Section 4.08;

(2) to make loans or advances to the Company or any other Restricted Subsidiary; or

(3) to transfer any of its property or assets to the Company or any other Restricted Subsidiary.

(b) The restrictions in Section 4.08(a) are collectively referred to herein as a "*Payment Restriction*." However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(1) 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;

(2) 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 or assets of the Person, so acquired, provided that such Indebtedness was not Incurred in anticipation of such acquisition;

(3) any instrument governing Indebtedness or Disqualified Capital Stock of a Restricted Subsidiary that is not a Subsidiary Guarantor, provided that (a) such Indebtedness or Disqualified Capital Stock is permitted under Section 4.09 and (b) the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement and this Indenture as in effect on the Issue Date;

(4) the Revolving Credit Agreement as in effect on the Issue Date or any agreement that amends, modifies, supplements, restates, extends, renews, refinances or replaces the Revolving Credit Agreement, provided that the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement as in effect on the Issue Date;

(5) this Indenture, the Notes and the Subsidiary Guarantees; or

(6) the Convertible Notes Indentures, the New Convertible Notes and any subsidiary guarantees thereof, in each case as in effect on the Issue Date.

Section 4.09. Limitation on Indebtedness and Disqualified Stock.

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, create, incur, issue, assume, guarantee or in any manner become directly or indirectly liable for the payment of (collectively, "*Incur*," "*Incurrence*," "*Incurred*" and "*Incurring*" shall have meanings correlative to the foregoing) any Indebtedness (including any Acquired Indebtedness), and the Company will not issue any Disqualified Capital Stock and will not permit any of its Restricted Subsidiaries to issue any Disqualified Capital Stock or Preferred Stock*; provided* that the Company may Incur Indebtedness (including Acquired Indebtedness) or issue Disqualified Capital Stock, and any Restricted Subsidiary that is a Subsidiary Guarantor may Incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Capital Stock or Preferred Stock if (1) 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 2.25 to 1.0 and (2) 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 or Preferred Stock is issued or would occur as a consequence of the Incurrence of the additional Indebtedness or the issuance of the Disqualified Capital Stock or Preferred Stock.

(b) The restrictions in Section 4.09(a) will not prohibit the Incurrence of any of the following items of Indebtedness (collectively, "*Permitted Indebtedness*"):

(1) Indebtedness under the Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation and up to $91,875,000 of Additional Notes issued in connection with the payment of interest thereon;

(2) Indebtedness outstanding or in effect on the Issue Date (and not exchanged in connection with the Exchange Offer and Consent Solicitation);

(3) (I) 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; (II) obligations under currency exchange contracts entered into in the ordinary course of business; and (III) 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;

(4) the Subsidiary Guarantees (and any assumption of the obligations guaranteed thereby) issued in respect of the Notes issued on the Issue Date and with respect to any Additional Notes issued in connection with the payment of interest thereon;

(5) the Incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries*; provided* that:

(I) if the Company is the obligor on such Indebtedness and a Subsidiary Guarantor is not the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Note Obligations with respect to the Notes, or if a Subsidiary Guarantor is the obligor on such Indebtedness and neither the Company nor another Subsidiary Guarantor is the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Subsidiary Guarantee of such Subsidiary Guarantor; and

(II) (A) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (B) any sale or other transfer of any such Indebtedness to a Person that is neither the Company nor a Restricted Subsidiary of the Company will be deemed, in each case, to constitute an Incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (5);

(6) Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge, in whole or in part, any Indebtedness (other than intercompany Indebtedness) that was permitted by the Indenture to be incurred under the first paragraph of this covenant or clauses (1), (2) or clause (11) of this Section 4.09(b) or this clause (6);

(7) Non-Recourse Indebtedness;

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

(9) 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);

(10) Indebtedness under the Revolving Credit Agreement in an aggregate principal amount not in excess of $50,000,000 at any one time outstanding and any guarantee thereof by a Subsidiary Guarantor; and

(11) (a) Indebtedness under the New 2019 Convertible Notes issued on the Issue Date in an aggregate principal amount not to exceed $288,516,000 and any

guarantee thereof by a Subsidiary Guarantor; (b) Indebtedness under any Additional New 2019 Convertible Notes and any guarantee thereof by a Subsidiary Guarantor; (c) Indebtedness under the New 2020 Convertible Notes issued on the Issue Date in an aggregate principal amount not to exceed $174,607,000 and any guarantee thereof by a Subsidiary Guarantor, and (d) Indebtedness under any Additional New 2020 Convertible Notes and any guarantee thereof by a Subsidiary Guarantor.

(c) For purposes of determining compliance with this Section 4.09, in the event that an item of Indebtedness meets the criteria of one or more of the categories of Permitted Indebtedness described in clauses (1) through (11) described above or is entitled to be Incurred pursuant to clause (a) of this Section 4.09, the Company may, in its sole discretion, classify such item of Indebtedness in any manner that complies with this Section 4.09 and such item of Indebtedness will be treated as having been Incurred pursuant to 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*; provided* that all Indebtedness outstanding on the Issue Date under the Revolving Credit Agreement shall be deemed Incurred under Section 4.09(b)(10) and not under Section 4.09(a) or Section 4.09(b)(2) and may not be later reclassified; *provided*, *further*, that all Indebtedness under the New Convertible Notes and Additional New Convertible Notes shall be deemed Incurred under Section 4.09(b)(11) and not under Section 4.09(a) or Section 4.09(b)(2) and may not be later reclassified.

(d) The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount or liquidation preference thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

(e) For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness*; provided* that if such Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced (plus all accrued interest on the Indebtedness being refinanced and the amount of all expenses and premiums incurred in connection therewith).

(f) Notwithstanding any other provision of this Section 4.09, the maximum amount of Indebtedness that the Company or any Restricted Subsidiary may Incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

Section 4.10. Limitation on Asset Sales.

(a) The Company will not, and will not permit any Restricted Subsidiary to, consummate any Asset Sale unless:

(1) 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 assets and property subject to such Asset Sale; and

(2) 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 Notes) or liabilities of any Subsidiary Guarantor that made such Asset Sale (other than liabilities of a Subsidiary Guarantor that are by their terms subordinated to such Subsidiary Guarantor's Subsidiary Guarantee), in each case as a result of which the Company and its remaining Restricted Subsidiaries are no longer liable for such liabilities (the "*Permitted Consideration*");

provided that the Company and its Restricted Subsidiaries shall be permitted to receive assets and property other than Permitted Consideration, so long as the aggregate Fair Market Value of all such assets and property other than Permitted Consideration received from Asset Sales since the Issue Date and held by the Company or any Restricted Subsidiary at any one time shall not exceed 10% of Adjusted Consolidated Net Tangible Assets.

(b) 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

(1) purchase, repay or prepay Pari Passu Obligations or other Indebtedness of the Company or any Subsidiary Guarantor secured by Permitted Collateral Liens (and, to the extent required pursuant to the terms of the Revolving Credit Agreement (as in effect on the Issue Date) in the case of revolving obligations, to correspondingly reduce commitments with respect thereto); or

(2) 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)*; provided* that if such Asset Sale includes Oil and Gas Properties or Proved and Probable Drilling Locations, after giving effect to such Asset Sale, the Company is in compliance with the Collateral requirements of this Indenture.

(c) Any Net Available Cash from an Asset Sale not applied in accordance with clause (b) of this Section 4.10 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 will be required to make an offer (the "*Asset Sale Offer*") to all Holders of Notes in accordance with Section 3.08 and all holders of other Indebtedness that is *pari passu* with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other *pari passu* Indebtedness that may be purchased out of the Excess Proceeds; *provided* to the extent such Excess Proceeds were received in respect of the sale or transfer of assets that constituted Collateral, an Asset Sale Offer will be made solely to the holders of Pari Passu Obligations. The offer price in any Asset Sale Offer will be equal to 100% of principal amount plus accrued and unpaid interest, if any, to the Purchase Date (subject to the right of Holders of record on the relevant record date to receive interest due on an interest payment date that is on or prior to the Purchase Date), and will be payable in cash. If the aggregate principal amount of Notes tendered by Holders thereof exceeds the amount of available Excess Proceeds allocated for repurchases of Notes pursuant to the Asset Sale Offer, then such Excess Proceeds will be allocated *pro rata* according to the principal amount of the Notes tendered and the Trustee will select the Notes to be purchased in accordance with this Indenture. To the extent that any portion of the amount of Excess Proceeds remains after compliance with the second sentence of this clause (c) and provided that all Holders of Notes have been given the opportunity to tender their Notes for purchase as described in Section 4.10(d), the Company and its Restricted Subsidiaries may use such remaining amount for purposes permitted by this Indenture and the amount of Excess Proceeds will be reset to zero.

(d) The Company will 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 Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions relating to the Asset Sale Offer, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 4.10 by virtue of such compliance.

Section 4.11. Limitation on Transactions with Affiliates.

(a) The Company will not, and will not permit any Restricted Subsidiary 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 assets or 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) (each, an "*Affiliate Transaction*"), unless

(1) 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 those that would be available in a comparable arm's length transaction with unrelated third parties; and

(2) the Company delivers to the Trustee:

(I) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $10,000,000 but no greater than $25,000,000, an Officers' Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this covenant; and

(II) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $25,000,000, an Officers' Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this Section 4.11 and that such Affiliate Transaction or series of Affiliate Transactions has been approved by a majority of the Disinterested Directors of the Company.

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of Section 4.11(a):

(1) 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;

(2) 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;

(3) 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;

(4) the Company's employee compensation and other benefit arrangements;

(5) 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 Indenture; and

(6) any Restricted Payment permitted to be paid pursuant to Section 4.07.

Section 4.12. Limitation on Liens.

The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness on any of its property or assets, except for Permitted Liens.

Section 4.13. Future Subsidiary Guarantees.

If the Company or any of its Restricted Subsidiaries acquires or creates another Wholly Owned Restricted Subsidiary on or after the Issue Date, or any Subsidiary of the Company that is not already a Subsidiary Guarantor has outstanding or guarantees any Indebtedness under the Revolving Credit Agreement, then the Company will (1) (x) cause such Subsidiary to execute

and deliver to the Trustee a supplemental indenture pursuant to which such Subsidiary will become a Subsidiary Guarantor and (y) execute amendments to the Collateral Agreements pursuant to which it will grant a Pari Passu Lien on any Collateral held by it in favor of the Collateral Agent, for the benefit of the Secured Parties, and become a Collateral Grantor thereunder, and cause such Liens to be perfected as required thereby and (2) deliver to the Trustee or any other Agent one or more Officers' Certificates and Opinions of Counsel in connection with the foregoing as specified in this Indenture.

Section 4.14. Existence.

Subject to Article 5, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

Section 4.15. Offer to Repurchase Upon Change of Control.

(a) If a Change of Control occurs, the Company will make an offer (a "*Change of Control Offer*") to each Holder to repurchase all or any part in integral multiples of $1.00 of that Holder's Notes at a purchase price in cash (the "*Change of Control Payment*") equal to 101% (or, at the Company's election, a higher percentage) of the aggregate principal amount of Notes repurchased, plus accrued and unpaid interest, if any, on the Notes repurchased to the date of purchase (the "*Change of Control Payment Date*"), subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date. No later than 30 days following any Change of Control, the Company will deliver a notice to the Trustee and Paying Agent and each Holder describing the transaction or transactions that constitute the Change of Control and stating:

(1) that the Change of Control Offer is being made pursuant to this Section 4.15 and that all Notes properly tendered and not withdrawn pursuant to the Change of Control Offer will be accepted for payment;

(2) the Change of Control Payment and the Change of Control Payment Date, which will be no earlier than 30 days and no later than 60 days from the date such notice is mailed;

(3) that any Note not properly tendered will continue to accrue interest;

(4) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest on and after the Change of Control Payment Date;

(5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender the Notes, properly endorsed for transfer, together with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes completed and such customary documents as the Company may reasonably request, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day prior to the Change of Control Payment Date;

(6) that Holders will be entitled to withdraw their election if the Paying Agent receives, prior to the close of business on third Business Day preceding the Change of Control Payment Date, a facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing its election to have the Notes purchased; and

(7) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered in integral multiples of $1.00.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations to the extent those requirements, laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Section 4.15, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 4.15 by virtue of such compliance. For the avoidance of doubt, a Change of Control Offer shall be made solely in cash.

(b) On or before the Change of Control Payment Date, the Company will, to the extent lawful:

(1) accept for payment all Notes or portions of Notes properly tendered and not withdrawn pursuant to the Change of Control Offer;

(2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered and not withdrawn; and

(3) deliver or cause to be delivered to the Trustee and the Paying Agent the Notes properly accepted together with an Officers' Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Company.

(c) The Paying Agent will promptly deliver to each Holder properly tendered and not withdrawn the Change of Control Payment for such Notes (or if all Notes are then in global form, make such payment through the facilities of the Depositary), and the Trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any*; provided* that each such new note will be in a principal amount that is in integral multiples of $1.00. The Company will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(d) Notwithstanding anything to the contrary in this Section 4.15, the Company will not be required to make a Change of Control Offer upon a Change of Control if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Company and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of redemption has been given pursuant to Section 3.07 unless and until there is a default in payment of the applicable redemption price.

(e) Notwithstanding anything to the contrary contained herein, a Change of Control Offer may be made in advance of a Change of Control, conditioned upon the consummation of such Change of Control, if a definitive agreement is in place for the Change of Control at the time the Change of Control Offer is made.

(f) If Holders of not less than 90% in aggregate principal amount of the outstanding Notes validly tender and do not withdraw such Notes in a Change of Control Offer and the Company, or any third party making a Change of Control Offer in lieu of the Company as described in this Section 4.15, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Company will have the right, upon not less than 30 nor more than 60 days' prior notice, given not more than 30 days following such purchase pursuant to the Change of Control Offer described in clause (a) of this Section 4.15(a), to redeem all Notes that remain outstanding following such purchase at a redemption price in cash equal to the applicable Change of Control Purchase Price plus, to the extent not included in the Change of Control Purchase Price, accrued and unpaid interest, if any, to the date of redemption

Section 4.16. Future Designation of Restricted and Unrestricted Subsidiaries.

(a) The Board of Directors of the Company may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if:

(1) the Company would be permitted to make (i) a Permitted Investment or (ii) an Investment pursuant to Section 4.07, in either case, in an amount equal to the Fair Market Value of all outstanding Investments owned by the Company and the Restricted Subsidiaries in such Subsidiary at the time of such designation;

(2) such Restricted Subsidiary meets the definition of an "Unrestricted Subsidiary";

(3) the designation would not constitute or cause (with or without the passage of time) a Default or Event of Default and no Default or Event of Default would be in existence following such designation; and

(4) the Company delivers to the Trustee a certified copy of a resolution of the Board of Directors of Company giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.07.

(b) If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Company and the Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under Section 4.07 or under one or more clauses of the definition of Permitted Investments, as determined by the Company.

(c) If, at any time, any Unrestricted Subsidiary designated as such would fail to meet the preceding requirements as an Unrestricted Subsidiary, then such Subsidiary will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary will be deemed to be Incurred by a Restricted Subsidiary as of such date and, if such Indebtedness is not permitted to be Incurred as of such date under the covenant set forth under Section 4.09, the Company or the applicable Restricted Subsidiary will be in default of such covenant.

(d) The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary if:

(1) the Company and the Restricted Subsidiaries could Incur the Indebtedness which is deemed to be Incurred upon such designation under Section 4.09, equal to the total Indebtedness of such Subsidiary calculated on a pro forma basis as if such designation had occurred on the first day of the four-quarter reference period;

(2) the designation would not constitute or cause a Default or Event of Default; and

(3) the Company delivers to the Trustee a certified copy of a resolution of the Board of Directors of the Company giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions, including the Incurrence of Indebtedness under Section 4.09.

Section 4.17. Suspended Covenants.

(a) During any period that the Notes have a rating equal to or higher than BBB- (or the equivalent) by S&P and Baa3 (or the equivalent) by Moody's ("*Investment Grade Ratings*") and no Default or Event of Default has occurred and is continuing (such period, a "*Covenant Suspension Period*"), the Company and the Restricted Subsidiaries will not be subject to the following Sections (collectively, the "*Suspended Covenants*"):

(1) Section 4.07;

(2) Section 4.08;

(3) Section 4.09;

(4) Section 4.11;

(5) Section 4.10; and

(6) Section 5.01(a)(3).

(b) In the event that the Company and the Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the preceding paragraph and either S&P or Moody's subsequently withdraws its rating or downgrades its rating of the Notes below the applicable Investment Grade Rating, or a Default or Event of Default occurs and is

continuing, then the Company and its Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants, and compliance with the Suspended Covenants with respect to Restricted Payments made after the time of such withdrawal, downgrade, Default or Event of Default will be calculated in accordance with the covenant described under Section 4.07 as though such covenant had been in effect during the entire period of time from the Issue Date.

(c) During any Covenant Suspension Period, the Board of Directors of the Company may not designate any of the Company's Subsidiaries as Unrestricted Subsidiaries pursuant to this Indenture. The Company shall give the Trustee written notice of the commencement of any Covenant Suspension Period promptly, and in any event not later than 5 Business Days, after the commencement thereof. In the absence of such notice, the Trustee shall assume the Suspended Covenants apply and are in full force and effect. The Company shall give the Trustee written notice of the termination of any Covenant Suspension Period not later than 5 Business Days after the occurrence thereof. After any such notice of the termination of any Covenant Suspension Period, the Trustee shall assume the Suspended Covenants apply and are in full force and effect.

Section 4.18. Further Assurances.

(a) The Company shall, and shall cause each other Collateral Grantor to, at the Company's sole cost and expense:

(1) at the request of the Collateral Agent, acting in accordance with the Pari Passu Intercreditor Agreement, execute and deliver all such agreements and instruments and take all further action as may be reasonably necessary or desirable (a) to describe more fully or accurately the property intended to be Collateral or the obligations intended to be secured by any Collateral Agreement and/or (b) to continue and maintain the Collateral Agent's first-priority perfected Lien in the Collateral (subject to the payment priority in favor of the holders of Revolving Credit Agreement Obligations set forth in the Pari Passu Intercreditor Agreement and subject to Permitted Collateral Liens); and

(2) at the request of the Collateral Agent, acting in accordance with the Pari Passu Intercreditor Agreement, file any such notice filings or other agreements or instruments as may be reasonably necessary or desirable under applicable law to perfect the Liens created by the Collateral Agreements.

(b) From and after the Issue Date, if the Company or any other Collateral Grantor acquires any property or asset that constitutes Collateral for the Pari Passu Obligations, if and to the extent that any Pari Passu Document requires any supplemental security document for such Collateral or other actions to achieve a first-priority perfected Lien on such Collateral, the Company shall, or shall cause any other applicable Collateral Grantor to, promptly (but not in any event no later than the date that is 10 Business Days after which such supplemental security documents are executed and delivered (or other action taken) under such Pari Passu Documents), to execute and deliver to the Collateral Agent appropriate security documents (or amendments thereto) in such form as shall be necessary to grant the Collateral Agent a first-priority perfected Lien in such Collateral or take such other actions in favor of the Collateral Agent as shall be reasonably necessary to grant a perfected Lien in such Collateral to the Collateral Agent, subject to the terms of this Indenture, the Intercreditor Agreements and the other Note Documents.

(c) The Company and the Subsidiary Guarantors will (i) maintain with financially sound and reputable insurance companies not Affiliates of the Company, 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, and (ii) cause all property and general liability insurance policies to name the Collateral Agent on behalf of the Secured Parties as additional insured (with respect to liability and property policies), loss payee (with respect to property policies) or lender's loss payee (with respect to property policies), as appropriate, and to provide that no cancellation, material addition in amount or material change in coverage shall be effective until after 30 days' written notice to the Collateral Agent. So long as an Event of Default is not then continuing, the Collateral Agent, on behalf of the Secured Parties, shall release, endorse and turn over to the Company or the applicable Subsidiary Guarantor any insurance proceeds received by the Collateral Agent; *provided* that the application of such proceeds is not in violation of the Revolving Credit Agreement or the Pari Passu Intercreditor Agreement.

Section 4.19. Limitation on Certain Agreements.

The Company shall not permit any Collateral Grantor to enter into any agreement that requires the proceeds received from any sale of Collateral to be applied to repay, redeem, defease or otherwise acquire or retire any Indebtedness of any Person, other than (i) the Notes, (ii) any other Pari Passu Obligations or (iii) otherwise as may be permitted or required by this Indenture, the Pari Passu Intercreditor Agreement and the other Collateral Agreements, including with respect to any Permitted Collateral Liens*; provided* that subject to Section 4.09, any such agreement may be entered into to the extent that it permits such proceeds to be applied to Pari Passu Obligations prior to or instead of such other Indebtedness.

Section 4.20. 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 (1) 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 (2) the Company or such Restricted Subsidiary receives proceeds from such Sale/Leaseback Transaction at least equal to the Fair Market Value thereof 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.

ARTICLE 5.
SUCCESSORS

Section 5.01. Merger, Consolidation, or Sale of Assets.

(a) The Company will not, in any single transaction or 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 of the properties and assets of the Company and its Restricted Subsidiaries on a consolidated basis to any Person or group of Affiliated Persons, and the Company will 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 the sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the properties and assets 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 effect thereto:

(1) 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 and assets 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 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 a supplemental indenture to this Indenture executed and delivered to the Trustee, in form satisfactory to the Trustee, and pursuant to agreements reasonably satisfactory to the Trustee and the Collateral Agent, as applicable, all the obligations of the Company under the Notes, this Indenture and the other Note Documents to which the Company is a party, and, in each case, such Note Documents shall remain in full force and effect;

(2) 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 an obligation of the Company or any of its Restricted Subsidiaries in connection with or as a result of such transaction as having been incurred at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(3) except in the case of the consolidation or merger of any Restricted Subsidiary with or into the Company or another Restricted Subsidiary, either:

(I) 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 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 Indenture) could Incur $1.00 of additional Indebtedness under Section 4.09(a); or

(II) 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 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 Fixed Charge Coverage Ratio of the Company (or the Surviving Entity if the Company is not the continuing obligor under this Indenture) will be equal to or greater than the Fixed Charge Coverage Ratio of the Company immediately before such transaction or transactions;

(4) if the Company is not the continuing obligor under this Indenture, then each Subsidiary Guarantor, unless it is the Surviving Entity, shall have by supplemental indenture to this Indenture confirmed that its Subsidiary Guarantee of the Notes shall apply to the Surviving Entity's obligations under this Indenture and the Notes;

(5) any Collateral owned by or transferred to the Surviving Entity shall (i) continue to constitute Collateral under this Indenture and the Collateral Agreements and (ii) be subject to a Pari Passu Lien in favor of the Collateral Agent for the benefit of the Secured Parties;

(6) the Surviving Entity shall take such action (or agree to take such action) as may be reasonably necessary to cause any property or assets that constitute Collateral owned by or transferred to the Surviving Entity to be subject to the Pari Passu Liens in the manner and to the extent required under the Collateral Agreements and shall deliver an opinion of counsel as to the enforceability of any amendments, supplements or other instruments with respect to the Collateral Agreements to be executed, delivered, filed and recorded, as applicable, and such other matters as the Trustee or Collateral Agent, as applicable, may reasonably request; and

(7) the Company (or the Surviving Entity if the Company is not the continuing obligor under this Indenture) shall have delivered to the Trustee, in form and substance reasonably satisfactory to the Trustee, an Officers' Certificate and an Opinion of Counsel each stating that such consolidation, merger, transfer, lease or other disposition and any supplemental indenture in respect thereto comply with the requirements under this Indenture and that the requirements of this paragraph have been satisfied.

(b) A Subsidiary Guarantor may not sell or otherwise dispose of, in one or more related transactions, all or substantially all of its properties or assets to, or consolidate with or merge with or into (whether or not such Subsidiary Guarantor is the surviving Person) another Person, other than with respect to a Subsidiary Guarantor, the Company or another Subsidiary Guarantor, unless:

(1) immediately after giving effect to such transaction or series of transactions, no Default or Event of Default exists;

(2) either:

(I) (A) such Subsidiary Guarantor is the surviving Person or (B) the Person acquiring the properties or assets in any such sale or other disposition or the Person formed by or surviving any such consolidation or merger is a Person organized and existing under the laws of the United States of America, any state thereof or the District of Columbia (such Subsidiary Guarantor or such Person, as the case may be, being herein called the "*Successor Guarantor*") and the Successor Guarantor (if other than such Subsidiary Guarantor) unconditionally

assumes all the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee, this Indenture and all other Note Documents pursuant to a supplemental indenture in form reasonably satisfactory to the Trustee and such other agreements as are reasonably satisfactory to the Trustee and the Collateral Agent; or

(II) with respect to a Subsidiary Guarantor, such transaction or series of transactions does not violate Section 4.10;

(3) any Collateral owned by or transferred to the Successor Guarantor shall (i) continue to constitute Collateral under this Indenture and the Collateral Agreements and (ii) be subject to a Pari Passu Lien in favor of the Collateral Agent for the benefit of the Secured Parties;

(4) the Successor Guarantor shall take such action (or agree to take such action) as may be reasonably necessary to cause any property or assets that constitute Collateral owned by or transferred to the Successor Guarantor to be subject to the Pari Passu Liens in the manner and to the extent required under the Collateral Agreements and shall deliver an opinion of counsel as to the enforceability of any amendments, supplements or other instruments with respect to the Collateral Agreements to be executed, delivered, filed and recorded, as applicable, and such other matters as the Trustee or Collateral Agent, as applicable, may reasonably request; and

(5) the Company delivers to the Trustee an Officers' Certificate and opinion of counsel, each stating that such sale or other disposition or merger or consolidation and such supplemental indenture and each such amendment comply with this covenant.

Section 5.02. 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 and assets of the Company and its Restricted Subsidiaries on a consolidated basis in accordance with Section 5.01, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture and the other Note Documents 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 Indenture or any successor Person which shall theretofore become such in the manner described in Section 5.2), except in the case of a lease, shall be discharged from all obligations and covenants under this Indenture, the Notes and the other Note Documents, 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 6.
DEFAULTS AND REMEDIES

Section 6.01. Events of Default.

Each of the following is an "*Event of Default*":

(a) default in any payment of interest with respect to the Notes when due, which default continues for 30 days;

(b) default in the payment when due (at maturity, upon optional redemption, upon declaration of acceleration or otherwise) of the principal of, or premium, if any, on, the Notes;

(c) failure by the Company to comply with the provisions described under Section 4.10, 4.15 or 5.01;

(d) (1) except with respect to Section 4.03, failure by the Company or any of the Restricted Subsidiaries for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with any covenant or agreement (other than a default referred to in clauses (a), (b) and (c) above) contained in this Indenture, the Collateral Agreements or the Notes, or (2) failure by the Company for 120 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with Section 4.03;

(e) default under the Revolving Credit Agreement, if that default:

(1) is caused by a failure to pay principal of, or interest or premium, if any, on, any Revolving Credit Agreement Obligation prior to the expiration of the grace period, if any, provided in the Revolving Credit Agreement on the date of such default; or

(2) permits the Revolving Credit Agreement Agent or any Revolving Credit Agreement Secured Parties to accelerate all or any part of the Revolving Credit Agreement Obligations prior to their Stated Maturity,

provided that if any such default is cured or waived, or the Discharge of Revolving Credit Agreement Obligations occurs, within a period of 30 days from the occurrence of such default, such Event of Default and any consequential acceleration of the Notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;

(f) default (other than a default referred to in clause (e) above) under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Company or any of the Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of the Restricted Subsidiaries), whether such Indebtedness or guarantee now exists or is created after the Issue Date, if that default:

(1) is caused by a failure to pay principal of, or interest or premium, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "*Payment Default*"); or

(2) results in the acceleration of such Indebtedness prior to its Stated Maturity,

and, in either case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates $25,000,000 or more*; provided* that if any such default is cured or waived or any such acceleration rescinded, or such Indebtedness is repaid, within a period of 60 days from the continuation of such default beyond the applicable grace period or the occurrence of such acceleration, as the case may be, such Event of Default and any consequential acceleration of the Notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;

(g) failure by the Company or any of the Restricted Subsidiaries to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of $25,000,000, which judgments are not paid, discharged or stayed for a period of 60 days;

(h) the occurrence of the following:

(1) except as permitted by the Note Documents, any Collateral Agreement establishing the Pari Passu Liens ceases for any reason to be enforceable*; provided* that it will not be an Event of Default under this clause (h)(1) if the sole result of the failure of one or more Collateral Agreements to be fully enforceable is that any Pari Passu Lien purported to be granted under such Collateral Agreements on Collateral, individually or in the aggregate, having a fair market value of not more than $10,000,000, ceases to be an enforceable and perfected first-priority Lien, subject only to the payment priorities in favor of the holders of Revolving Credit Agreement Obligations pursuant to the terms of the Pari Passu Intercreditor Agreement and subject to Permitted Collateral Liens*; provided, further*, that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period;

(2) except as permitted by the Note Documents, any Pari Passu Lien purported to be granted under any Collateral Agreement on Collateral, individually or in the aggregate, having a fair market value in excess of $10,000,000, ceases to be an enforceable and perfected first-priority Lien, subject only to the payment priorities in favor of the holders of Revolving Credit Agreement Obligations pursuant to the terms of the Pari Passu Intercreditor Agreement and subject to Permitted Collateral Liens*; provided* that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period; and

(3) the Company or any other Collateral Grantor, or any Person acting on behalf of any of them, denies or disaffirms, in writing, any obligation of the Company or any other Collateral Grantor set forth in or arising under any Collateral Agreement establishing Pari Passu Liens;

(i) except as permitted by this Indenture, any Subsidiary Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Subsidiary Guarantor, or any Person duly acting on behalf of any such Subsidiary Guarantor, denies or disaffirms its obligations under its Subsidiary Guarantee;

(j) the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, pursuant to or within the meaning of Bankruptcy Law:

(1) commences a voluntary case,

(2) consents in writing to the entry of an order for relief against it in an involuntary case,

(3) consents in writing to the appointment of a Custodian of it or for all or substantially all of its property,

(4) makes a general assignment for the benefit of its creditors, or

(5) admits in writing it generally is not paying its debts as they become due;

(k) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(1) is for relief against the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, in an involuntary case;

(2) appoints a Custodian (x) of the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, or (y) for all or substantially all of the property of the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary; or

(3) orders the liquidation of the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days; or

(l) the Required Stockholder Approval is not obtained and the Charter Amendment has not become effective, in each case by December 31, 2016, and such failure shall continue for a period of 90 days.

Section 6.02. Acceleration.

(a) If any Event of Default occurs and is continuing, the Trustee, by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes, by notice to the Company and the Trustee, may declare all the Notes to be due and payable immediately. Upon any such declaration, the Notes shall become due and payable immediately, together with all accrued and unpaid interest and premium, if any, thereon. Notwithstanding the preceding, if an Event of Default specified in clause (j) or (k) of Section 6.01 occurs with respect to the Company or any Guarantor, all outstanding Notes shall become due and payable immediately without further action or notice, together with all accrued and unpaid interest and premium, if any, thereon.

(b) The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may, on behalf of the Holders of all of the Notes, rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if (1) all existing Events of Default (except with respect to nonpayment of principal, interest or premium, if any, that have become due solely because of the acceleration) have been cured or waived and (2) the Company has deposited with the Trustee a sum sufficient to pay all sums and advances paid by the Trustee and its agents and counsel and the reasonable compensation, expenses and disbursements of the Trustee incurred in connection with such Event of Default. No such rescission shall affect any subsequent Default or impair any right consequent thereon.

(c) If the Notes are accelerated or otherwise become due prior to their Stated Maturity, the amount of principal of, accrued and unpaid interest and premium on the Notes that becomes due and payable shall equal the redemption price applicable with respect to an optional redemption of the Notes pursuant to Section 3.07, in effect on the date of such acceleration as if such acceleration were an optional redemption of the Notes accelerated.

(d) Without limiting the generality of the foregoing, it is understood and agreed that if the Notes are accelerated or otherwise become due prior to their Stated Maturity, in each case, in respect of any Event of Default (including, but not limited to, upon the occurrence of a bankruptcy or insolvency event (including the acceleration of claims by operation of law)), the premium applicable with respect to an optional redemption of the Notes will also be due and payable, in cash, as though the Notes were optionally redeemed pursuant to Section 3.07 and shall constitute part of the Note Obligations, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Holder's lost profits as a result thereof. Any premium payable above shall be presumed to be the liquidated damages sustained by each Holder as the result of the early redemption and the Company agrees that it is reasonable under the circumstances currently existing. The premium shall also be payable in the event the Notes (and/or this Indenture) are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other means. THE COMPANY EXPRESSLY WAIVES

(TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Company expressly agrees (to the fullest extent it may lawfully do so) that: (1) the premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (2) the premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (3) there has been a course of conduct between Holders and the Company giving specific consideration in this transaction for such agreement to pay the premium; and (4) the Company shall be estopped hereafter from claiming differently than as agreed to in this paragraph. The Company expressly acknowledges that its agreement to pay the premium to Holders as herein described is a material inducement to Holders to purchase the notes.

Section 6.03. Other Remedies.

(a) If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of and interest, premium, if any, on, the Notes or to enforce the performance of any provision of the Notes or this Indenture.

(b) The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04. Waiver of Past Defaults.

The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may, on behalf of the Holders of all of the Notes, waive any existing Default or Event of Default and its consequences under this Indenture except a continuing Default or Event of Default in the payment of principal of, premium, if any, or interest, if any, on, the Notes (other than a payment Default or payment Event of Default that resulted from an acceleration that has been rescinded). 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 6.05. Control by Majority.

The Holders of a majority in aggregate principal amount of the then outstanding Notes will have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in any financial or personal liability. In case an Event of Default has occurred and is continuing, prior to taking any action hereunder, the Trustee shall be entitled to satisfactory indemnification or security (or both) against all loss, liability and expenses caused by the taking or not taking of such action.

Section 6.06. Limitation on Suits.

(a) Except to enforce the right to receive payment of principal, premium, if any, or interest, if any, when due pursuant to Section 6.07, no Holder may pursue any remedy with respect to this Indenture or the Notes unless:

(1) such Holder has previously given the Trustee written notice that an Event of Default is continuing;

(2) Holders of at least 25% in aggregate principal amount of the then outstanding Notes have made a written request to the Trustee to pursue the remedy;

(3) such Holders have offered the Trustee, and the Trustee has received (if requested), security or indemnity (or both) satisfactory to it against any loss, liability or expense;

(4) the Trustee has not complied with such request within 60 days after its receipt of the request and the offer of security or indemnity (or both) satisfactory to it; and

(5) Holders of a majority in aggregate principal amount of the then outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period.

(b) A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder.

Section 6.07. Rights of Holders of Notes to Receive Payment.

Notwithstanding any other provision of this Indenture, the rights of any Holder to receive payment of principal of, premium, if any, interest, if any, on the Notes, on or after the respective due dates expressed in the Notes (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.08. Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(a) or (b) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company and the Subsidiary Guarantors for the whole amount of principal of, interest and premium, if any, remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful and interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09. Trustee is Authorized to File Proofs of Claim.

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims, and any custodian 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 to 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 Section 7.06. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10. Priorities.

(a) If the Trustee collects any money pursuant to this Article, subject to the Intercreditor Agreements, it shall pay out the money in the following order:

(1) *First*: to the Trustee and its agents and attorneys for amounts due under Section 7.06, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and costs and expenses of collection incurred by the Trustee;

(2) *Second*: to the Holders for amounts due and unpaid on the Notes for principal, premium, if any, and interest, if any, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any, and interest, if any, respectively; and

(3) *Third*: to the Company or to such other Person as a court of competent jurisdiction shall direct.

(b) The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

Section 6.11. Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

Section 6.12. The Collateral Agent.

Whenever in the exercise of any remedy available to the Trustee or the exercise of any trust or power conferred on it with respect to the Notes, the Trustee may also direct the Collateral Agent in the exercise of any of the rights and remedies available to the Collateral Agent pursuant to the Collateral Agreements.

ARTICLE 7.
TRUSTEE

Section 7.01. Duties of Trustee.

(a) If 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 its exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(1) the duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and 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. However, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of Section 7.01(b);

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

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to clauses (a), (b) and (c) of Section 7.01.

(e) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law. All money received by the Trustee shall, until applied as herein provided, be held in trust for the payment of the principal of, premium, if any, interest, if any, on the Notes.

(f) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability.

(g) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its rights to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder and in its capacity as Trustee under any other agreement executed in connection with this Indenture to which the Trustee is a party.

Section 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel of its own selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed by it with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture*; provided* that the Trustee's conduct does not constitute willful misconduct or gross negligence.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

(f) If an Event of Default occurs and is continuing, the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any Holders unless such Holders have offered to the Trustee, and the Trustee has received, indemnity or security (or both) satisfactory to it against any loss, liability or expense.

(g) The Trustee shall not be charged with knowledge of any Default or Event of Default with respect to the Notes unless a written notice of such Default or Event of Default shall have been given to a Responsible Officer of the Trustee by the Company or any Holder.

(h) The permissive rights of the Trustee to act hereunder shall not be construed as a duty.

(i) In no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(j) The Trustee may request that the Company deliver an Officers' Certificate setting forth the names of individuals and titles of officers authorized at such times to take specified actions pursuant to this Indenture.

(k) The Trustee shall at no time have any responsibility or liability for or in respect to the legality, validity or enforceability of any Collateral or any arrangement or agreement between the Company and any other Person with respect thereto, or the perfection or priority of any security interest created in any of the Collateral or maintenance of any perfection and priority, or for or with respect to the sufficiency of the Collateral following an Event of Default.

Section 7.03. Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company, any Guarantor or any of their Affiliates with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest (as defined in the TIA), it must eliminate that conflict within 90 days or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Section 7.09.

Section 7.04. Trustee's Disclaimer.

(a) The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture, the Notes or any other Note Document, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

(b) Notwithstanding anything to the contrary contained herein, the Trustee shall have no responsibility for (i) preparing, recording, filing, re-recording, or re-filing any financing statement, perfection statement, continuation statement or other instrument in any public office or for otherwise ensuring the perfection or maintenance of any security interest granted pursuant to, or contemplated by, any document; (ii) taking any necessary steps to preserve rights against any parties with respect to the Collateral; or (iii) taking any action to protect against any diminution in value of the Collateral.

Section 7.05. Notice of Defaults.

If a Default or Event of Default occurs and is continuing and if, in accordance with Section 7.02(g), the Trustee has knowledge thereof, the Trustee shall mail to the Holders a notice of the Default or Event of Default within 90 days after it occurs. The Trustee may withhold from Holders notice of any continuing Default or Event of Default if it determines that withholding notice is in their interest, except a Default or Event of Default relating to the payment of principal of, or premium, if any, or interest on the Notes.

Section 7.06. Compensation and Indemnity.

(a) The Company shall pay to the Trustee from time to time such reasonable compensation as the Company and the Trustee may agree in writing for the Trustee's acceptance of this Indenture and services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(b) The Company and the Subsidiary Guarantors shall indemnify the Trustee, jointly and severally, against any and all losses, liabilities, damages, claims or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses (including, without limitation, fees and expenses of counsel) of enforcing this Indenture against the Company and the Subsidiary Guarantors (including this Section 7.06) and defending itself against any claim (whether asserted by the Company, any Subsidiary Guarantor or any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability, damage, claim or expense may be attributable to its gross negligence or willful misconduct. The Trustee shall notify the Company and the Subsidiary Guarantors promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company and the Subsidiary Guarantors shall not relieve the Company or the Subsidiary Guarantors of their obligations hereunder. The Company and the Subsidiary Guarantors shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel and the Company and the Subsidiary Guarantors shall pay the reasonable fees and expenses of such counsel. Neither the Company nor any Subsidiary Guarantor need pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

(c) The obligations of the Company and the Subsidiary Guarantors under this Section 7.06 shall survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee.

(d) To secure the Company's and the Subsidiary Guarantors' payment obligations in this Section 7.06, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal, premium, if any, and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee.

(e) When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(j) or (k) occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

(f) The immunities, protections and exculpations available to the Trustee under this Indenture shall also be available to each Agent, and the Company's and each Subsidiary Guarantor's obligations under this Section 7.06 to compensate and indemnify the Trustee shall extend likewise to each Agent.

Section 7.07. Replacement of Trustee.

(a) A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.07.

(b) The Trustee may resign in writing upon thirty 30 days' notice at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing and may appoint a successor trustee with the consent of the Company. The Company may remove the Trustee if:

(1) the Trustee fails to comply with Section 7.09;

(2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(3) a receiver, Custodian or public officer takes charge of the Trustee or its property; or

(4) the Trustee becomes incapable of acting.

(c) If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

(d) If a successor Trustee does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of at least 10% of the aggregate principal amount of the then outstanding Notes may petition any court of competent jurisdiction, at the expense of the Company, for the appointment of a successor Trustee.

(e) If the Trustee, after written request by any Holder of a Note who has been a Holder of a Note for at least six months, fails to comply with Section 7.09, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to the Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.06. Notwithstanding replacement of the Trustee pursuant to this Section 7.07, the Company's and the Subsidiary Guarantors' obligations under Section 7.06 shall continue for the benefit of the retiring Trustee.

Section 7.08. Successor Trustee by Merger, etc.

If the Trustee consolidates with, or merges or converts into, or transfers or sells all or substantially all of its corporate trust business or assets to, another corporation or banking association, the successor corporation or banking association without any further act shall be the successor Trustee. As soon as practicable, the successor Trustee shall mail a notice of its succession to the Company and the Holders.

Section 7.09. Eligibility; Disqualification.

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least $100 million as set forth in its most recent published annual report of condition. No obligor upon the Notes shall serve as a Trustee.

ARTICLE 8.
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01. Option to Effect Legal Defeasance or Covenant Defeasance.

The Company may, at any time, elect to have either Section 8.02 or 8.03 be applied with respect to all outstanding Notes and all obligations of the Subsidiary Guarantors upon compliance with the conditions set forth below in this Article 8.

Section 8.02. Legal Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.02, subject to the satisfaction of the conditions set forth in Section 8.04, the Company shall be deemed to have discharged its obligations with respect to all outstanding Notes and, to the extent related to the Notes and the Subsidiary Guarantees, the Collateral Agreements to which it is a party, each Subsidiary Guarantor shall be deemed to have discharged its obligations with respect to its Subsidiary Guarantee and, to the extent related to the Notes and the Subsidiary Guarantees, the Collateral Agreements to which it is a party and each other Collateral Grantor shall be deemed to have discharged its obligations with respect to the Collateral Agreements, to the extent related to the Notes and the Subsidiary Guarantees, to which it is a party, on the date the conditions set forth in Section 8.04 below are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, and each Subsidiary Guarantor shall be deemed to have paid and discharged its Subsidiary Guarantee (which in each case shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 and the other Sections of this Indenture referred to in clauses (1) and (2) below) and to have satisfied all its other obligations under the Notes or such Subsidiary Guarantees and this Indenture, and the Company and the other Collateral Grantors shall be deemed to have satisfied all of their obligations under the Collateral Agreements, to the extent related to the Notes and the Subsidiary Guarantees (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder:

(a) the rights of Holders of outstanding Notes to receive payments in respect of, the principal of, and premium or interest, if any, on, such Notes when such payments are due from the trust referred to in Section 8.04;

(b) the Company's obligations with respect to the Notes under Sections 2.03, 2.04, 2.06, 2.07, 2.10 and 4.02;

(c) the rights, powers, trusts, duties, indemnities and immunities of the Agents, and the Company's and the Subsidiary Guarantors' obligations in connection therewith and under Section 7.06; and

(d) the Legal Defeasance and Covenant Defeasance provisions of this Article 8.

Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03.

Section 8.03. Covenant Defeasance.

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.03, the Company and each of the Subsidiary Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04, be released from their respective obligations under the covenants contained in Article 4 (other than those in Sections 4.01, 4.02, 4.04, 4.06, 4.14 and 4.17) and in Section 5.01(a)(3) and under all Collateral Agreements (including its obligation to make Change of Control Offers and Asset Sale Offers), to the extent related to the Notes and the

Subsidiary Guarantees, to which it is a party on and after the date the conditions set forth in Section 8.04 are satisfied (hereinafter, "*Covenant Defeasance*"), and the Notes shall thereafter be deemed not "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 (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes and Subsidiary Guarantees, the Company and any Subsidiary 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 6.01, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Sections 8.04, 6.01(d) through (h) shall not constitute Events of Default.

Section 8.04. Conditions to Legal or Covenant Defeasance.

In order to exercise either Legal Defeasance or Covenant Defeasance:

(a) the Company must irrevocably deposit with the Paying Agent, in trust, for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient without consideration of any reinvestment of interest, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay the principal of, and premium, if any, and interest, if any, on, the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the Notes are being defeased to such stated date for payment or to a particular redemption date;

(b) in the case of an election under Section 8.02, the Company shall have delivered to the Trustee, the Registrar and the Paying Agent an Opinion of Counsel in the U.S. who is acceptable to the Trustee confirming that:

(1) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or

(2) since the Issue Date, there has been a change in the applicable federal income tax law,

in either case to the effect that, and based thereon such opinion of counsel will confirm that, the Holders of the outstanding Notes 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;

(c) in the case of an election under Section 8.03, the Company must deliver to the Trustee, the Registrar and Paying Agent an opinion of counsel reasonably acceptable to the Trustee confirming that the Holders of the outstanding Notes 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;

(d) no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from, or otherwise in connection with, the borrowing of funds to be applied to such deposit pursuant to this Section 8.04 (and any similar concurrent deposit relating to other Indebtedness) and the grant of any Lien securing such borrowing);

(e) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which the Company or any of its Restricted Subsidiaries is a party or by which the Company or any of its Restricted Subsidiaries is bound;

(f) the Company must deliver to the Trustee, registrar and paying agent an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders over the other creditors of the Company or any Subsidiary Guarantor with the intent of defeating, hindering, delaying or defrauding any creditors of the Company, any Subsidiary Guarantor or others; and

(g) the Company must deliver to the Trustee, the Registrar and the Paying Agent an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05. Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions.

(a) Subject to Section 8.06, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee pursuant to Section 8.04 or 8.08 in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company or any of its Subsidiaries acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, interest, and premium, if any, but such money need not be segregated from other funds except to the extent required by law.

(b) The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.04 or 8.08 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 Notes.

(c) Anything in this Article 8 to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the written request of the Company any

money or non-callable Government Securities held by it as provided in Section 8.04 or 8.08 which, in the opinion of a nationally recognized investment banking, appraisal firm or firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(a)), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance, Covenant Defeasance or Discharge, as the case may be.

Section 8.06. Repayment to the Company.

Subject to applicable escheat and abandoned property laws, any money or non-callable Government Securities deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, or interest, or premium, if any, on, any Note and remaining unclaimed for two years after such principal, interest, and premium, if any, has become due and payable shall be paid to the Company on its written request or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter be permitted to look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money or non-callable Government Securities, and all liability of the Company as trustee thereof, shall thereupon cease*; provided* that the Trustee or such Paying Agent, before being required to make any such repayment, shall at the written request and expense of the Company cause to be published once, in the *New York Times* or *The Wall Street Journal* (national edition), 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 notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 8.07. Reinstatement.

If the Trustee or the Paying Agent is unable to apply any money or non-callable Government Securities in accordance with Section 8.05, 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 Subsidiary Guarantors' obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 until such time as the Trustee or the Paying Agent is permitted to apply all such money in accordance with Section 8.05*; provided* that, if the Company or any Subsidiary Guarantor makes any payment of principal of, interest, or premium, if any, on, any Note following the reinstatement of its obligations, the Company or such Subsidiary Guarantor, as applicable, shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities deposited with or held by the Trustee or the Paying Agent.

Section 8.08. Discharge.

This Indenture, the Subsidiary Guarantees and, to the extent related to the Notes and the Subsidiary Guarantees, all Collateral Agreements shall be discharged and shall cease to be of further effect as to all Notes issued hereunder (except as to (x) the rights of Holders of outstanding Notes to receive solely from the trust fund described in Section 8.08(a)(2), and as more fully set forth in such Section, payments in respect of the principal of and interest, and

premium, if any, on, such Notes when such payments are due, (y) the Company's obligations with respect to such Notes under Sections 2.03, 2.04, 2.05, 2.06, 2.07, 2.10 and 4.02 and (z) the rights, powers, trusts, duties and immunities of the Trustee and each Agent hereunder and the Company's obligations in connection therewith), and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture with respect to all the Notes, when:

(a) either:

(1) all Notes that have been authenticated, except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has been deposited in trust and thereafter repaid to the Company, have been delivered to the registrar for cancellation; or

(2) all Notes that have not been delivered to the registrar for cancellation have become due and payable or will become due and payable within one year by reason of the mailing of a notice of redemption or otherwise and the Company or any Subsidiary Guarantor has irrevocably deposited or caused to be deposited with the Paying Agent as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient, without consideration of any reinvestment of interest, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge the entire Indebtedness on the Notes not delivered to the registrar for cancellation of principal, premium, if any, and accrued interest, if any, on, the Notes to the date of maturity or redemption;

(b) in respect of clause Section 8.08(a)(2) of this Section 8.8, the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Subsidiary Guarantor is a party or by which the Company or any Subsidiary Guarantor is bound (other than with respect to the borrowing of funds to be applied concurrently to make the deposit required to effect such satisfaction and discharge and any similar concurrent deposit relating to other Indebtedness, and in each case the granting of Liens to secure such borrowings);

(c) the Company or any Subsidiary Guarantor has paid or caused to be paid all sums payable by it under this Indenture;

(d) the Company has delivered irrevocable instructions to the Trustee, the Registrar and the Paying Agent under this Indenture to apply the deposited money toward the payment of the Notes at maturity or on the redemption date, as the case may be; and

(e) the Company has delivered (a) an Officers' Certificate to the Trustee, the Registrar and the Paying Agent stating that all conditions precedent to satisfaction and discharge of this Indenture ("*Discharge*") have been satisfied and (b) an Opinion of Counsel to the Trustee, the Registrar and the Paying Agent stating that all conditions precedent to Discharge have been satisfied.

ARTICLE 9.
AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01. Without Consent of Holders of Notes.

(a) Notwithstanding the provisions of Section 9.02, without the consent of any Holder, the Company, the Subsidiary Guarantors, the Trustee and, to the extent applicable, the Collateral Agent, may amend or supplement any of the Note Documents in the following circumstances:

(1) to cure any ambiguity, defect or inconsistency;

(2) to provide for uncertificated Notes in addition to or in place of certificated Notes;

(3) to provide for the assumption of the Company's or a Subsidiary Guarantor's obligations to Holders and Subsidiary Guarantees in the case of a merger or consolidation or sale of all or substantially all of the Company's or such Subsidiaries Guarantor's assets, as applicable;

(4) to make any change that would provide any additional rights or benefits to the Holders or that does not adversely affect the legal rights under this Indenture of any such Holder in any material respect;

(5) to conform the text of any Note Document to any provision of this Description of Notes to the extent that such provision in the "Description of Notes" in the Offering Memorandum to the extent that such provision in such "Description of Notes" was intended to set forth, verbatim or in substance, a provision of such Note Document, which intent may be evidenced by an Officers' Certificate to that effect;

(6) to evidence and provide for the acceptance of the appointment under the Note Documents of a successor Trustee or Collateral Agent;

(7) to make, complete or confirm any grant of Collateral permitted or required by this Indenture or any of the Pari Passu Documents;

(8) to add any additional Subsidiary Guarantor or Collateral or to evidence the release of any Subsidiary Guarantor from its Subsidiary Guarantee or the release of any Liens, in each case as provided in this Indenture or the other Note Documents, as applicable;

(9) with respect to the Collateral Agreements, as provided in the Intercreditor Agreements; and

(10) to comply with any requirement in order to effect or maintain the qualification of the Indenture under the TIA.

(b) Each Intercreditor Agreement may be amended in accordance with its terms and without the consent of any Holder, the Trustee, the Collateral Agent or the Junior Lien Collateral Agent to add other parties (or any authorized agent thereof or trustee therefor) holding Indebtedness subject thereto and to establish that the Liens on any Collateral securing such Indebtedness shall rank equally with or subordinate to the Liens on such Collateral securing the Pari Passu Obligations then outstanding.

(c) Upon the request of the Company, and upon receipt by the Trustee of the documents described in Section 9.06, the Trustee shall join with the Company and the Subsidiary Guarantors in the execution of any amendment or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into any such amendment or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02. With Consent of Holders of Notes.

(a) Except as provided above in Section 9.01 and below in this Section 9.02, the Company, the Subsidiary Guarantors, the Trustee and, to the extent applicable, the Collateral Agent may amend or supplement the Note Documents with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), and, subject to Section 6.04 and 6.07, and any existing Default or Event of Default or compliance with any provision of Note Documents may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), in each case in addition to any required consent of holders of other Pari Passu Obligations that may be required with respect to an amendment of or waiver under a Collateral Agreement, including any Intercreditor Agreement. However, without the consent of each Holder of an outstanding Note affected thereby, an amendment, supplement or waiver may not:

(1) reduce the percentage of principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(2) reduce the principal of, or change the fixed maturity of, any Note or alter the provisions with respect to the redemption of the Notes (other than with respect to minimum notice required for redemption or the provisions of Sections 4.10 and 4.15), including any provision relating to the premium payable upon any such purchase or redemption;

(3) reduce the rate of or change the time for payment of interest, including default interest, on any Note;

(4) impair the right of any Holder to institute suit for the enforcement of any payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the redemption date);

(5) waive a Default or Event of Default in the payment of principal of, or interest, or premium, if any, on, the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);

(6) make any Note payable in money other than that stated in the Notes;

(7) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders to receive payments of principal of, or interest, or premium, if any, on, the Notes;

(8) waive a redemption payment with respect to any Note (other than a payment required by Section 3.08, 4.10 or 4.15);

(9) release any Subsidiary Guarantor from any of its obligations under its Subsidiary Guarantee or this Indenture, except in accordance with the terms of this Indenture; or

(10) make any change in the preceding amendment, supplement and waiver provisions.

(b) The consent of Holders representing at least two-thirds of outstanding Notes will be required to release the Liens for the benefit of the Holders of the Notes on all or substantially all of the Collateral, other than in accordance with the Note Documents.

(c) Upon the request of the Company and upon the receipt by the Trustee of evidence satisfactory to the Trustee of the consent of the Holders as aforesaid, and upon receipt by the Trustee of the documents described in Section 9.06, the Trustee shall join with the Company and the Subsidiary Guarantors in the execution of such amendment, supplement or waiver, unless such amendment, supplement or waiver affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amendment, supplemental indenture or waiver.

(d) It shall not be necessary for the consent of the Holders under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

(e) After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company shall mail to the Holders a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

Section 9.03. Consents in connection with Purchase, Tender or Exchange.

A consent to any amendment, supplement or waiver under this Indenture by any Holder given in connection with a purchase, tender or exchange of such Holder's Notes shall not be rendered invalid by such purchase, tender or exchange.

Section 9.04. Revocation and Effect of Consents.

(a) Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of such Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and, except as provided in clause (c) of this Section 9.04, thereafter binds every Holder.

(b) The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver. If a record date is fixed, then notwithstanding the second to last sentence of the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to consent to such amendment, supplement or waiver or revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No consent shall be valid or effective for more than 90 days after such record date except to the extent that the requisite number of consents to the amendment, supplement or waiver have been obtained within such 90-day period or as set forth in clause (c) of this Section 9.04.

(c) After an amendment, supplement or waiver becomes effective, it shall bind every Holder, unless it makes a change described in any of clauses (1) through (10) of Section 9.02(a), in which case, the amendment, supplement or waiver shall bind only each Holder of a Note who has consented to it and every subsequent Holder of a Note or portion of a Note that evidences the same indebtedness as the consenting Holder's Note.

Section 9.05. Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company, in exchange for all Notes, may issue and the Trustee shall authenticate new Notes that reflect the amendment, supplement or waiver. Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06. Trustee to Sign Amendments, etc.

The Trustee shall sign any amendment or supplemental indenture or grant any waiver authorized pursuant to this Article 9 if the amendment or supplemental indenture or waiver does not adversely affect its rights, duties, liabilities or immunities. If any such amendment, supplemental indenture or waiver does adversely affect the rights, duties, liabilities or

immunities of the Trustee, the Trustee may, but need not, sign such amendment, supplemental indenture or grant such waiver. In executing any such amendment, supplemental indenture or waiver, the Trustee shall be entitled to receive and (subject to Section 7.01) shall be fully protected in relying upon, in addition to the documents required by Section 12.02, an Officers' Certificate and an Opinion of Counsel each stating that the execution of such amendment, supplemental indenture or waiver is authorized or permitted by this Indenture.

Section 9.07. Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given, made or taken by Holders shall be in writing may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an 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. 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 7.01) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section 9.07.

(b) Without limiting the generality of this Section 9.07, unless otherwise provided in or pursuant to this Indenture, (i) a Holder, including the Depositary or its nominee that is a Holder of a Global Note, may give, make or take, by an agent or agents duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in or pursuant to this Indenture to be given, made or taken by Holders, and the Depositary or its nominee that is a Holder of a Global Note may duly appoint in writing as its agent or agents members of, or participants in, the Depositary holding interests in such Global Note in the records of the Depositary; and (ii) with respect to any Global Note, any consent or other action given, made or taken by an Agent Member by electronic means in accordance with the "Automated Tender Offer Procedures" system or other customary procedures of, and pursuant to authorization by, the Depositary shall be deemed to constitute the Act of the Holder of such Global Note, and such Act shall be deemed to have been delivered to the Company and the Trustee upon the delivery by the Depositary of an "agent's message" or other notice of such consent or other action having been so given, made or taken in accordance with the applicable policies and procedures of the Depositary.

(c) 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 Person acting in a capacity other than such Person's individual capacity, such certificate or affidavit shall also constitute sufficient proof of the authority of the Person executing the same. 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.

(d) The ownership of Notes shall be proved by the Register.

(e) Without limiting the foregoing, a Holder entitled hereunder to give, make or take any action hereunder with regard to any particular Note may do so, or duly appoint in writing any Person or Persons as its agent or agents to do so, with regard to all or any part of the principal amount of such Note.

ARTICLE 10.
GUARANTEES OF NOTES

Section 10.01. Subsidiary Guarantees of Notes.

(a) Subject to this Article 10, each of the Subsidiary Guarantors hereby absolutely and unconditionally guarantees, jointly with the other Subsidiary Guarantors and severally, as primary obligor and not merely as surety, on a senior basis to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and their respective successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the Obligations of the Company hereunder and thereunder, that:

(1) the principal of, and premium, if any, interest, if any, on, the Notes will be promptly paid in full when due, whether at Stated Maturity, by acceleration, upon repurchase or redemption or otherwise, and interest on the overdue principal of, and premium, if any, and (to the extent permitted by law) interest, if any, on, the Notes, and all other payment Obligations of the Company to the Holders or the Trustee under this Indenture or the Notes will be promptly paid in full and performed, all in accordance with the terms hereof and thereof; and

(2) in case of any extension of time of payment or renewal of any Notes or any of 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, subject to any applicable grace period, whether at Stated Maturity, by acceleration, upon repurchase or redemption or otherwise.

(b) Failing payment when so due of any amount so guaranteed for whatever reason, the Subsidiary Guarantors will be jointly and severally obligated to pay the same immediately. Each Subsidiary Guarantor agrees that this is an absolute, unconditional, present and continuing guarantee of payment and performance (and not a guarantee of collection) and is in no way conditioned upon any attempt to collect from the Company or any other Subsidiary Guarantor or any other action, occurrence or circumstance whatsoever.

(c) The Subsidiary Guarantors hereby agree that their obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder 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 (other than complete performance) which might otherwise constitute a legal or equitable discharge or defense of a Subsidiary Guarantor. Each Subsidiary Guarantor further, to the extent permitted by law, hereby waives 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 Subsidiary Guarantee will not be discharged except by complete performance of the Obligations contained in the Notes and this Indenture.

(d) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Subsidiary Guarantors, or any Custodian, trustee or other similar official acting in relation to any of the Company or the Subsidiary Guarantors, any amount paid by the Company or any Subsidiary Guarantor to the Trustee or such Holder, the Subsidiary Guarantees, to the extent theretofore discharged, shall be reinstated in full force and effect.

(e) Each Subsidiary Guarantor further agrees that, as between the Subsidiary Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the Obligations guaranteed hereby may be accelerated as provided in Article 6 for the purposes of its Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Obligations guaranteed thereby, and (2) in the event of any declaration of acceleration of such Obligations as provided in Article 6, such Obligations (whether or not due and payable) shall forthwith become due and payable by each Subsidiary Guarantor for the purpose of its Subsidiary Guarantee. The Subsidiary Guarantors shall have the right to seek contribution from any non-paying Subsidiary Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Subsidiary Guarantees.

Section 10.02. Releases of Subsidiary Guarantees.

(a) The Subsidiary Guarantee of a Subsidiary Guarantor will be automatically and unconditionally released:

(1) in connection with any sale or other disposition of all or substantially all of the assets of such Subsidiary Guarantor (including by way of merger, consolidation or amalgamation) to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary, if the sale or other disposition is conducted in accordance with Section 4.10 and 5.01(b), as applicable;

(2) in connection with any sale or other disposition of Capital Stock of such Subsidiary Guarantor, following which such Subsidiary Guarantor is no longer a Restricted Subsidiary of the Company, if the sale or other disposition is conducted in accordance with conducted in accordance with Sections 4.10 and 5.01(b), as applicable;

(3) upon Legal Defeasance, Covenant Defeasance or Discharge in accordance with Article 8; and

(4) unless an Event of Default has occurred and is continuing, upon the dissolution or liquidation of the Subsidiary Guarantor in compliance with Section 5.01(b).

(b) Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect and stating that any of the conditions described in clauses (1)

through (4) of Section 10.02(a) has occurred, the Trustee shall execute any documents reasonably requested by the Company at the Company's expense in order to evidence the release of any Subsidiary Guarantor (other than the Company) from its obligations under its Subsidiary Guarantee. Any Subsidiary Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest, premium, if any, on, the Notes and for the other obligations of such Subsidiary Guarantor under this Indenture as provided in this Article 10.

Section 10.03. Limitation on Subsidiary Guarantor Liability.

Each Subsidiary Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Subsidiary Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state or foreign law to the extent applicable to any Subsidiary Guarantee. The obligations of each Subsidiary Guarantor under its Subsidiary Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Subsidiary Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Subsidiary Guarantor in respect of the obligations of such other Subsidiary Guarantor under its Subsidiary Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state or foreign law and not otherwise being void or voidable under any similar laws affecting the rights of creditors generally. Each Subsidiary Guarantor that makes a payment or distribution under a Subsidiary Guarantee shall be entitled to a contribution from each other Subsidiary Guarantor in a *pro rata* amount based on the Adjusted Net Assets of each Subsidiary Guarantor.

Section 10.04. "Trustee" to Include Paying Agent.

In case at any time any Paying Agent other than the Trustee shall have been appointed and be then acting hereunder, the term "Trustee" as used in this Article 10 shall in each case (unless the context shall otherwise require) be construed as extending to and including such Paying Agent within its meaning as fully and for all intents and purposes as if such Paying Agent were named in this Article 10 in place of the Trustee.

Section 10.05. Execution and Delivery of Guaranty.

The execution by each Subsidiary Guarantor of this Indenture (or a supplemental indenture hereto) evidences the Subsidiary Guarantee of such Subsidiary Guarantor, whether or not the person signing as an Officer of the Subsidiary Guarantor still holds that office at the time of authentication of any Note. The delivery of any Note by the Trustee after authentication constitutes due delivery of the Subsidiary Guarantee set forth in this Indenture on behalf of each Subsidiary Guarantor.

Section 10.06. Subrogation.

Each Subsidiary Guarantor shall be subrogated to all rights of Holders against the Company in respect of any amounts paid by the Subsidiary Guarantor pursuant to the provisions

of Section 10.01*; provided* that no Subsidiary Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Company under this Indenture or the Notes shall have been paid in full.

ARTICLE 11.
SECURITY

Section 11.01. Collateral Agreements; Additional Collateral.

(a) In order to secure the due and punctual payment of the Note Obligations, on the Issue Date, simultaneously with the execution and delivery of this Indenture, the Subsidiary Guarantors have executed the Collateral Agreements granting to the Collateral Agent for the benefit of the Secured Parties (in accordance with the Pari Passu Intercreditor Agreement) a first-priority perfected Lien in the Collateral.

(b) The Company shall promptly deliver, and to cause each of the other Collateral Grantors to deliver, but in each case not later than the date that is 30 days following the Issue Date, to further secure the Pari Passu Obligations, deeds of trust, Mortgages, chattel mortgages, security agreements, financing statements and other Collateral Agreements in form and substance satisfactory to the Collateral Agent for the purpose of granting, confirming, and perfecting first-priority liens or security interests in (1) prior to the occurrence of a default under the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the Issue Date) or, if no Revolving Credit Agreement is then in effect, a Default under this Indenture, (A) at least ninety percent (90%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties constituting Proved Reserves and the Proved and Probable Drilling Locations, (B) after the occurrence of a default under the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the Issue Date) or, if no Revolving Credit Agreement is then in effect, a Default under this Indenture, at least ninety-five percent (95%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties and the Proved and Probable Drilling Locations, (2) all of the equity interests of the Company or any Subsidiary Guarantor in any other Subsidiary Guarantor now owned or hereafter acquired by the Company or any Subsidiary Guarantor and (3) all property of the Collateral Grantors of the type described in the Security Agreement. If no Engineering Report is delivered pursuant to Section 4.04(b), the Company shall deliver to the Collateral Agent semi-annually on or before April 1 and October 1 in each calendar year an Officers' Certificate certifying that as of the date of such certificate, (i) no Default has occurred and is continuing and (ii) at least ninety percent (90%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties constituting Proved Reserves and the Proved and Probable Drilling Locations.

(c) In connection with each delivery of an Engineering Report, the Company shall review the Engineering Report and the list of current Mortgaged Properties to ascertain whether the Mortgaged Properties represent at least ninety percent (90%) of the PV-9 of (i) the Oil and Gas Properties constituting Proved Reserves evaluated in the most recently completed Engineering Report after giving effect to exploration and production activities, acquisitions, dispositions and production and (ii) the Proved and Probable Drilling Locations. In the event that the Mortgaged Properties do not represent at least such required percentages, then the

Company shall, and shall cause its Restricted Subsidiaries to, promptly grant to the Collateral Agent as security for the Pari Passu Obligations a first-priority perfected Lien on additional Oil and Gas Properties and Proved and Probable Drilling Locations not already subject to a Lien created by Collateral Agreements such that after giving effect thereto, the Mortgaged Properties will represent at least such required percentages. All such Liens will be created and perfected by and in accordance with the provisions of deeds of trust, security agreements and financing statements or other Collateral Agreements, all in form and substance reasonably satisfactory to the Collateral Agent and in sufficient executed (and acknowledged where necessary or appropriate) counterparts for recording purposes. In order to comply with the foregoing, if any Restricted Subsidiary places a Lien on its Oil and Gas Properties or Proved and Probable Drilling Locations and such Subsidiary is not a Subsidiary Guarantor, then it shall become a Subsidiary Guarantor and comply. To the extent that any Oil and Gas Properties constituting Collateral are disposed of after the date of any applicable Engineering Report or certificate delivered pursuant to clause (b) of this Section 11.01, any Proved Reserves attributable to such Oil and Gas Properties shall be deemed excluded from such Engineering Report or certificate for the purpose of determining whether such minimum Mortgage requirement is met after giving effect to such release.

(d) The Company also agrees to promptly deliver, or to cause to be promptly delivered, to the extent not already delivered, whenever requested by the Collateral Agent in its sole and absolute discretion (1) favorable title information (including, if reasonably requested by the Collateral Agent, title opinions) acceptable to the Collateral Agent with respect to any Collateral Grantor's Oil and Gas Properties constituting at least ninety percent (90%) of the PV-9 of the Oil and Gas Properties constituting Proved Reserves and the Proved and Probable Drilling Locations, and demonstrating that such Collateral Grantor has good and defensible title to such properties and interests, free and clear of all Liens (other than Permitted Liens) and covering such other matters as the Collateral Agent may reasonably request and (2) favorable opinions of counsel satisfactory to the Collateral 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.

(e) If (1) a Collateral Grantor acquires any asset or property of a type that is required to constitute Collateral pursuant to the terms of this Indenture and such asset or property is not automatically subject to a first-priority perfected Lien in favor of the Collateral Agent, (2) a Subsidiary of the Company that is not already a Subsidiary Guarantor is required to become a Subsidiary Guarantor pursuant to Section 4.13 or (3) any Collateral Grantor creates any additional Lien upon any Oil and Gas Properties, Proved and Probable Drilling Locations or any other assets or properties to secure any Pari Passu Obligations or Junior Lien Obligations (or takes additional actions to perfect any existing Lien on Collateral), then such Collateral Grantor or such other Subsidiary shall, as soon as practicable after the acquisition of the applicable asset or property, the occurrence of the event requiring such Subsidiary to become a Subsidiary Guarantor or the creation of any such additional Lien or taking of any such additional perfection action (and, in any event, within 10 Business Days after such acquisition, event or creation), (i) grant to the Collateral Agent a first-priority perfect Lien in all assets and property of such Collateral Grantor or such other Subsidiary that are required to, but do not already, constitute Collateral, (ii) deliver any certificates to the Collateral Agent in respect thereof and (iii) take all other appropriate actions as necessary to ensure the Collateral Agent has a first-priority perfect Lien therein.

(f) In addition and not by way of limitation of the foregoing, in the case of the Company or any Subsidiary Guarantor granting a Lien in favor of the Collateral Agent upon any assets having a present value in excess of $10,000,000 located in a new jurisdiction, the Company or Subsidiary Guarantor will at its own expense, promptly obtain and furnish to the Collateral Agent all such opinions of legal counsel as the Collateral Agent may reasonably request in connection with any such security or instrument.

(g) Commencing on a date no later than 60 days after the Issue Date, the Company and its Restricted Subsidiaries shall keep and maintain each deposit account and each securities account with a financial institution reasonably acceptable to the Collateral Agent and subject to an Account Control Agreement, other than deposit accounts holding in the aggregate less than $3,000,000.

(h) The Company shall cause every Subsidiary Guarantor to make all filings (including filings of continuation statements and amendments to Uniform Commercial Code financing statements in the United States (or the applicable political subdivision, territory or possession thereof) that may be necessary to continue the effectiveness of such Uniform Commercial Code financing statements) and take all other actions as are reasonably necessary or required by the Collateral Agreements to maintain (at the sole cost and expense of the Subsidiary Guarantors) the security interest created by the Collateral Agreements in the Collateral as a first-priority perfected Lien.

(i) All references to a "first-priority perfected Lien" in this Section 11.01 shall be understood to be subject to the terms of the Pari Passu Intercreditor Agreement and the Permitted Collateral Liens, if any.

(j) The Company shall, and shall cause every other Collateral Grantor to, from time to time take the actions required by Section 4.18.

Section 11.02. Release of Liens Securing Notes.

The Collateral Grantors shall be entitled to releases of assets included in the Collateral from the Liens securing Note Obligations under any one or more of the following circumstances:

(a) upon the full and final payment in cash and performance of all Note Obligations of the Company and the Subsidiary Guarantors;

(b) with respect to any asset constituting Collateral, if such Collateral is sold or otherwise disposed of to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary in accordance with Section 4.10 (other than the provisions thereof relating to the future use of proceeds of such sale or other disposition)*; provided* that to the extent that any Collateral is sold or otherwise disposed of in accordance with Section 4.10, the non-cash consideration received is pledged as Collateral under the Collateral Agreements contemporaneously with such sale, in accordance with the requirements set forth in this Indenture and the Collateral Agreements*; provided*, *further*, that the Liens securing the Note Obligations will not be released if the sale or disposition is subject to Section 5.01;

(c) upon Legal Defeasance, Covenant Defeasance or satisfaction and discharge of the Notes in accordance with Article 8;

(d) if any Subsidiary Guarantor is released from its Subsidiary Guarantee in accordance with the terms of this Indenture, that Subsidiary Guarantor's assets and property included in the Collateral shall be released from the Liens securing the Note Obligations;

(e) with the requisite consent of Holders given in accordance with this Indenture; or

(f) as provided in the Pari Passu Intercreditor Agreement or the other Collateral Agreements.

Section 11.03. Release Documentation.

Upon compliance with the conditions to release of all or any portion of the Collateral set forth in Section 11.02, the Collateral Agent and the Trustee shall forthwith take all necessary action (at the written request of and the expense of the Company, accompanied by an Officers' Certificate and Opinion of Counsel that the conditions precedent to such release have been satisfied) to release and re-convey to the applicable Collateral Grantor the applicable portion of the Collateral that is authorized to be released pursuant to Section 11.02, and shall deliver such Collateral in its possession to the applicable Collateral Grantor, including, without limitation, executing and delivering releases and satisfactions wherever required.

Section 11.04. No Impairment of the Security Interests.

The Company shall not, and shall not permit any other Collateral Grantor to take any action, or knowingly omit to take any action, which action or omission would have the result of materially impairing the validity, perfection or priority of the security interests in the Collateral created by the Collateral Agreements (except as permitted in this Indenture, the Pari Passu Intercreditor Agreement or the other Collateral Agreements, including any action that would result in a Permitted Collateral Lien).

Section 11.05. Collateral Agent.

(a) The Trustee and each of the Holders by acceptance of the Notes hereby authorize the appointment of the Collateral Agent as the Trustee's and the Holders' collateral agent under the Collateral Agreements, and the Trustee and each of the Holders by acceptance of the Notes hereby irrevocably authorize the Collateral Agent to take such action on their behalf under the provisions of the Collateral Agreements, including the Intercreditor Agreements, and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Indenture, the Intercreditor Agreements and the other Collateral Agreements, together with such powers as are reasonably incidental thereto.

(b) The Collateral Agent may resign and its successor appointed in accordance with the terms of the Intercreditor Agreements.

(c) The Trustee is authorized and directed by the Holders and the Holders by acquiring the Notes are deemed to have authorized the Trustee, as applicable, to (1) enter into the Intercreditor Agreements, (2) bind the Holders on the terms as set forth in the Intercreditor Agreements, (3) perform and observe its obligations and exercise its rights and powers under the Intercreditor Agreements, including entering into amendments permitted by the terms of this Indenture, the Intercreditor Agreements or the other Collateral Agreements and (4) cause the Collateral Agent to enter into and perform its obligations under the Collateral Agreements. The Collateral Agent is authorized and directed by the Trustee and the Holders and the Holders by acquiring the Notes are deemed to have authorized the Collateral Agent, to (i) enter into the other Collateral Agreements to which it is a party, (ii) bind the Trustee and the Holders on the terms as set forth in such Collateral Agreements and (iii) perform and observe its obligations and exercise its rights and powers under such Collateral Agreements, including entering into amendments permitted by the terms of this Indenture or the Collateral Agreements. Each Holder, by its acceptance of a Note, is deemed to have consented and agreed to the terms of the Intercreditor Agreements and each other Collateral Agreement, as originally in effect and as amended, restated, replaced, supplemented or modified from time to time in accordance with its terms or the terms of this Indenture. Each of the Trustee and the Holders by acquiring the Notes is hereby deemed to (A) agree that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreements and (B) acknowledge that it has received a copy of the Intercreditor Agreements and that the exercise of certain of the Trustee's rights and remedies hereunder may be subject to, and restricted by, the provisions of the Intercreditor Agreements. NOTWITHSTANDING ANY OTHER PROVISION CONTAINED IN THIS INDENTURE, IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THE PROVISIONS OF THIS INDENTURE AND EITHER OF THE INTERCREDITOR AGREEMENTS, THE APPLICABLE INTERCREDITOR AGREEMENT SHALL CONTROL.

(d) The Collateral Agent shall have no obligation whatsoever to the Trustee or any of the Holders to assure that the Collateral exists or is owned by the Company or any of the Collateral Grantors or is cared for, protected or insured or has been encumbered, or that the Collateral Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, maintained or enforced or are entitled to any particular priority, or to determine whether all of the applicable Collateral Grantor's property constituting Collateral intended to be subject to the Lien and security interest of the Collateral Agreements has been properly and completely listed or delivered, as the case may be, or the genuineness, validity, marketability or sufficiency thereof or title thereto.

(e) The grant of permissive rights or powers to the Collateral Agent shall not be construed to impose duties to act. For the avoidance of doubt, nothing herein shall require the Collateral Agent to file financing statements or continuation statements, or be responsible for maintaining the security interests purported to be created by the Collateral Agreements and such responsibility shall be solely that of the Company.

Section 11.06. Purchaser Protected.

No purchaser or grantee of any property or rights purporting to be released from the Liens in favor of the Collateral Agent shall be bound to ascertain the authority of the Collateral Agent or Trustee to execute the release or to inquire as to the existence of any conditions herein prescribed for the exercise of such authority so long as the conditions set forth in Section 11.03 have been satisfied.

Section 11.07. Authorization of Receipt of Funds by the Trustee Under the Collateral Agreements.

The Trustee is authorized to receive any funds for the benefit of Holders distributed under the Collateral Agreements and to apply such funds as provided in Section 6.10.

Section 11.08. Powers Exercisable by Receiver or Trustee.

In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article 11 upon the Company or any other Collateral Grantor, as applicable, with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Company or any other Collateral Grantor, as applicable, or of any officer or officers thereof required by the provisions of this Article 11.

Section 11.09. Compensation and Indemnification.

The Collateral Agent shall be entitled to the compensation and indemnification set forth in Section 7.06 (with the references to the Trustee therein being deemed to refer to the Collateral Agent).

ARTICLE 12.
MISCELLANEOUS

Section 12.01. Notices.

(a) All notices and other communications by the Company, any Subsidiary Guarantor or the Trustee to the other parties hereto shall be duly given if in writing in the English language and delivered in person or mailed by first class mail (registered or certified, return receipt requested), facsimile transmission or overnight air courier guaranteeing next day delivery, to their respective addresses set forth below:

If to the Company or any Guarantor:

Comstock Resources, Inc.
5300 Town and Country Blvd., Suite 500
Frisco, Texas 75034
Attention: Roland O. Burns
Facsimile: 972.668.8812

If to the Trustee:

American Stock Transfer & Trust Company, LLC
6201 15th Avenue
Brooklyn, New York 11219
Attention: Corporate Trust Department
Facsimile: 718.331.1852

with a copy to:

American Stock Transfer & Trust Company, LLC
48 Wall Street, 22nd Floor
New York, New York 10005
Attention: Legal Department
Facsimile:

(b) All notices and communications (other than those sent to Holders) shall be deemed to have been duly given (1) at the time delivered by hand, if personally delivered, (2) 5 Business Days after being deposited in the mail, postage prepaid, if mailed, (3) when receipt is acknowledged, if transmitted by facsimile, and (4) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery, in each case to the address shown above or to such other address or addresses as the Company, any Subsidiary Guarantor or the Trustee, by written notice to the other parties hereto, may designate from time to time.

(c) Any notice or communication to a Holder shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the Register kept by the Registrar. All notices and communications to a Holder shall be deemed to have been duly given (1) 5 Business Days after being deposited in the mail, postage prepaid, if mailed, and (2) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery, in each case to the address of the Holder shown on the Register kept by the Registrar. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

(d) If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

(e) If either the Company or any Subsidiary Guarantor mails a notice or communication to any Holder, it shall mail a copy to the Trustee and each Agent at the same time.

(f) 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 any Holder 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.

(g) Notwithstanding anything to the contrary contained herein, as long as the Notes are in the form of a Global Note, notice to the Holders thereof may be made electronically in accordance with the applicable procedures of the Depositary.

(h) The Trustee shall accept electronic transmissions; *provided* that (1) the Trustee shall not have any duty or obligation to verify or confirm that the Person sending instructions, directions, reports, notices or other communications or information by electronic transmission is, in fact, a Person authorized to give such instructions, directions, reports, notices or other communications or information on behalf of the party purporting to send such electronic transmission; and the Trustee shall not have any liability for any losses, liabilities, costs or expenses incurred or sustained by any party as a result of such reliance upon or compliance with such instructions, directions, reports, notices or other communications or information and (2) each other party agrees to assume all risks arising out of the use of electronic methods to submit instructions, directions, reports, notices or other communications or information to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, notices, reports or other communications or information, and the risk of interception and misuse by third parties.

Section 12.02. Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Company to the Trustee or any other Agent to take any action or refrain from taking any action under this Indenture, the Trustee or such other Agent shall be entitled to receive from the Company:

(a) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee or such Agent (which shall include the statements set forth in Section 12.03) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee or such Agent (which shall include the statements set forth in Section 12.03) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 12.03. Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(a) a statement that the person making such certificate or opinion has read such condition or covenant;

(b) 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;

(c) a statement that, in the opinion of such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such condition or covenant has been satisfied; and

(d) a statement as to whether or not, in the opinion of such person, such condition or covenant has been satisfied.

Section 12.04. Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 12.05. No Personal Liability of Directors, Officers, Employees and Stockholders.

No director, officer, employee, incorporator, stockholder, member, partner or trustee of the Company or any Subsidiary Guarantor, as such, shall have any liability for any obligations of the Company or any Subsidiary Guarantor under the Note Documents or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 12.06. Governing Law.

This Indenture, the notes, the Subsidiary Guarantees and the Intercreditor AgreementS are governed by, and construed and enforced in accordance with, the laws of the State of New York.

Section 12.07. Waiver of Jury Trial.

THE PARTIES HERETO AND EACH HOLDER BY ITS ACCEPTANCE OF THE NOTES EACH HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR EACH OTHER NOTE DOCUMENT OR ANY TRANSACTION RELATED HERETO OR THERETO TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

Section 12.08. No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company, the Company or their respective Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.09. Successors.

All agreements of the Company and the Subsidiary Guarantors in this Indenture and the Notes shall bind their respective successors. All agreements of the Trustee and the Collateral Agent in this Indenture shall bind their respective successors.

Section 12.10. Severability.

In case any provision in this Indenture or in the Notes 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 12.11. Table of Contents, Headings, etc.

The Table of Contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 12.12. Counterparts.

The parties hereto may sign any number of copies of this Indenture. This Indenture may be signed in counterparts and by the different parties hereto in separate counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile or portable document format (.pdf) transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signature of the parties hereto transmitted by facsimile or .pdf shall be deemed to be their original signatures for all purposes.

Section 12.13. Language of Notices, Etc.

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

Section 12.14. U.S.A. PATRIOT Act.

The parties hereto acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act), all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Indenture agree that they will provide to the Trustee such information as it may request, from time to time, in order for the Trustee to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

Section 12.15. Force Majeure.

Neither the Trustee nor any Agent shall incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Trustee or such Agent that prevents the Trustee or such Agent from performing

such act or fulfilling such duty, obligation or responsibility hereunder (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire, facsimile or other wire or communication facility).

Section 12.16. Foreign Sanction Regulations.

The Company agrees to comply in all material respects with applicable foreign sanctions regulations, including but not limited to, those administered by the Office of Foreign Assets Control of the U.S. Treasury Department, it being understood that this covenant is for the benefit of the Trustee only, no Holder or other Person shall have rights under this covenant as a third party beneficiary, and any breach of this covenant shall not be the basis for a Default or Event of Default under Section 6.01.

[Signatures on following pages]

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed and delivered as of the date first set forth above.

COMPANY:

COMSTOCK RESOURCES INC.

By: _____
Name:
Title:

GUARANTORS:

COMSTOCK OIL & GAS, LP

By: _____
Name:
Title:

COMSTOCK OIL & GAS - LOUISIANA, LLC

By: _____
Name:
Title:

COMSTOCK OIL & GAS GP, LLC

By: _____
Name:
Title:

COMSTOCK OIL & GAS INVESTMENTS LLC

By: _____
Name:
Title:

COMSTOCK OIL & GAS HOLDINGS, INC.

By: _____
Name:
Title:

Signature Page to Indenture in respect of
Senior Secured Toggle Notes due 2020

TRUSTEE:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS TRUSTEE

By: _____
Name:
Title:

EXHIBIT A

[FORM OF FACE OF NOTE]

(Face of Note)

[THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (*"DTC"*), TO THE COMPANY OR ITS AGENTS FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.][1]

1 For Global Notes only.

No. [ ] Principal Amount $[ ]

CUSIP NO. [ ]

ISIN NO. [ ]

Comstock Resources, Inc.

Senior Secured Toggle Note due 2020

Comstock Resources, Inc., a Nevada corporation, promises to pay to _____, or registered assigns, the principal sum of ____ Dollars on March 15, 2020 [or such greater or lesser amount as may be indicated on Schedule A hereto][2].

Interest Payment Dates: March 15 and September 15, commencing March 15, 2017

Record Dates: March 1 and September 1

Additional provisions of this Note are set forth on the other side of this Note.

IN WITNESS WHEREOF, Comstock Resources, Inc. has caused this instrument to be duly executed.

COMSTOCK RESOURCES, INC.

By: _____
Name:
Title:

2 If this Note is a Global Note, add this provision.

TRUSTEE'S CERTIFICATE OF
AUTHENTICATION

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,
as Trustee, certifies that this is one of the
Notes referred to in the Indenture.

By: _____
Authorized Signatory

Dated: _____, 20__

[FORM OF REVERSE SIDE OF NOTE]

Senior Secured Toggle Note due 2020

Capitalized terms used herein but not defined shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest. Comstock Resources, Inc., a Nevada corporation (the "*Company*"), promises to pay interest on the unpaid principal amount of this Note at the rate of 10.0% per annum, if the Company elects to pay Cash Interest, or at the rate of 12.25% per annum, if the Company elects to pay PIK Interest; *provided* that not more than $91,875,000 of interest may be paid as PIK Interest. The Company will pay interest semi-annually in arrears on March 15 and September 15 of each year (each an "*Interest Payment Date*"), commencing March 15, 2017. If any date for payment on the Notes falls on a day that is not a Business Day, such payment may be made on the next succeeding Business Day with the same force and effect as if made on the due date, and no additional interest will accrue solely as a result of such delayed payment. Interest on the Notes will accrue from the most recent date to which interest has been paid as Cash Interest or PIK Interest or, if no interest has been paid as Cash Interest or PIK Interest, from the date of original issuance; *provided* that if there is no existing Default or Event of Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date, except in the case of the original issuance of Notes, in which case interest shall accrue from the date of authentication. The Company shall pay (i) interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that is equal to the then applicable interest rate on the Notes and (ii) interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

Interest will be payable, at the election of the Company (made by delivering a notice to the Trustee at least 10 business days before the end of the interest period) (i) entirely in cash ("*Cash Interest*") or (ii) by issuing additional securities ("*Additional Notes*") with the same terms as the Notes in a principal amount equal to all or any portion the applicable amount of interest for the interest period (rounded down to the nearest whole dollar) ("*PIK Interest*"); *provided* that notwithstanding anything to the contrary herein, interest paid as PIK Interest shall not exceed $91,875,000 in the aggregate, and once $91,875,000 of PIK Interest has been paid, all interest on the Notes (including, for the avoidance of doubt, the Additional Notes) shall be paid entirely in cash. All Additional Notes issued pursuant to an interest payment as described above will mature on March 15, 2020 and will be governed by, and subject to the terms, provisions and conditions of, the Indenture. The Additional Notes shall have the same rights and benefits as the Notes issued on the Issue Date, and shall be treated together with such Notes as a single class for all purposes under the Indenture.

If interest is paid as PIK Interest, then not later than 10 business days prior to the relevant Interest Payment Date, the Company shall deliver to the Trustee and the Paying Agent (if other than the Trustee), (i) with respect to Definitive Notes, the required amount of Notes represented

by Definitive Notes (rounded down to the nearest whole dollar) and a company order to authenticate and deliver such Additional Notes or (ii) with respect to Notes represented by one or more Global Notes, a company order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the Depositary or otherwise, the required amount of Additional Notes represented by Global Notes (rounded down to the nearest whole dollar) and a company order to authenticate and deliver such new Global Notes).

Notwithstanding anything to the contrary herein or in the Indenture, and for the avoidance of doubt, accrued and unpaid interest that is due and payable at the Stated Maturity of this Note, with respect to an optional redemption, or any requirement of the Company to purchase this Note on a Change of Control Payment Date or Purchase Date in connection with a Change of Control Offer or Asset Sale Offer, shall be Cash Interest.

2. Method of Payment. The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the March 1 or September 1 immediately preceding the Interest Payment Date, even if such Notes are cancelled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. Holders must surrender Notes to the Paying Agent to collect payments of principal and premium, if any, together with accrued and unpaid interest due at maturity. Any Definitive Notes will be payable as to principal, premium, if any, and interest, if any, at the office or agency of the Paying Agent and Registrar maintained for such purpose within the City and State of New York, or, at the option of the Company, payment of Cash Interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and provided that payment by wire transfer of immediately available funds to an account in the United States will be required with respect to any amounts due on all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Notwithstanding the foregoing, if this Note is a Global Note, payment may be made pursuant to the applicable procedures of the Depositary as permitted in the Indenture. Such payment shall be 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.

3. Paying Agent and Registrar. Initially, American Stock Transfer & Trust Company, LLC, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may appoint and change any Paying Agent or Registrar without notice to any Holder. Other than for purposes of effecting a redemption or an offer to purchase described in Sections 3.07, 3.08, 3.09, 4.10 and 4.15 of the Indenture or in connection with a Legal Defeasance, Covenant Defeasance or Discharge, the Company or any of its Subsidiaries may act in any such capacity.

4. Indenture. The Company issued the Notes under an Indenture dated as of , 2016 ("*Indenture*") among the Company, the Subsidiary Guarantors and the Trustee. The Notes are subject to the terms of the Indenture, and Holders are referred to the Indenture for a statement of such terms. The Notes are senior secured obligations of the Company. In the event of a conflict between the Indenture and this Note, the terms of the Indenture shall control.

5. Optional Redemption.

(a) The Company may, at its option, redeem the Notes, in whole or in part, at one time or from time to time, at the redemption prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid interest, if any, on the Notes redeemed, to the applicable redemption date, subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on March 15 of the years indicated below (or the Issue Date for Notes redeemed prior to March 15, 2017):

YEAR	PERCENTAGE
2016	110.000%
2017	107.500%
2018	105.000%
2019 and thereafter	100.000%

6. Notice of Redemption. Notice of optional redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address (except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a Legal Defeasance, Covenant Defeasance or Discharge). On and after the redemption date, interest ceases to accrue on the Notes or portions thereof called for redemption, subject to satisfaction of any conditions thereto.

7. Mandatory Redemption.

Except as set forth in Paragraph 8 below, the Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes or to repurchase the Notes at the option of the Holders.

8. Repurchase at Option of Holder.

(a) If a Change of Control occurs, the Company will be required to make an offer (a "*Change of Control Offer*") to repurchase all or any part in integral multiples of $1.00 of each Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount of Notes repurchased, plus accrued and unpaid interest, if any, to the date of purchase (the "*Change of Control Payment Date*"), subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant Interest Payment Date. Within 30 days following a Change of Control, the Company shall mail a notice of the Change of Control Offer to each Holder and the Trustee and the Paying Agent describing the transaction or transactions that constitutes the Change of Control and setting forth the procedures governing the Change of Control Offer as required by Section 4.15 of the Indenture.

(b) If the Company or any Restricted Subsidiary consummates an Asset Sale, within 30 days after the 365th day following each date on which the aggregate amount of Excess Proceeds exceeds $10,000,000, the Company may be required to make an Asset Sale Offer in accordance with Sections 3.08 and 4.10 of the Indenture.

9. Guarantees. The payment by the Company of the principal of, and premium, if any, or interest, if any, on, on, the Notes is absolutely and unconditionally guaranteed on a joint and several basis by each of the Subsidiary Guarantors, as primary obligor and not merely as a surety, to the extent set forth in the Indenture.

10. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in denominations of integral multiples of $1.00. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents, and the Company may require a Holder to pay any taxes due on transfer or exchange. The Registrar need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company and the Registrar need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.

11. Persons Deemed Owners. The registered Holder of a Note may be treated as its owner for all purposes.

12. Amendment, Supplement and Waiver. Subject to certain exceptions, the Indenture, the Notes and the Collateral Agreements may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange for, the Notes), and any existing Default or Event of Default or compliance with any provision of the Indenture, the Notes or the Collateral Agreements may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange for, Notes). Without the consent of any Holder of, the Indenture, the Notes, the Intercreditor Agreements and the other Collateral Agreements may be amended or supplemented with respect to certain matters specified in the Indenture.

13. Defaults and Remedies. If any Event of Default occurs and is continuing, the Trustee, by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes, by notice to the Company and the Trustee, may declare all the Notes to be due and payable immediately. Notwithstanding the preceding, in the case of an Event of Default arising from such events of bankruptcy, insolvency or reorganization described in Section 6.01(j) or (k) of the Indenture with respect to the Company or a Subsidiary Guarantor, all outstanding Notes shall become due and payable immediately without further action or notice. Holders may not enforce the Indenture, the Notes or the Collateral Agreements except as provided in the Indenture. Subject to certain limitations, Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power conferred on it with respect to the Notes. The Trustee may withhold from Holder notice of any continuing Default or Event of Default if it determines that withholding notice is in their interest, except a Default or Event of Default relating to the payment of principal of, or interest or premium, if any, on, the Notes. The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may, on behalf of the Holders of all the Notes, rescind an acceleration or waive any existing Default or Event of Default and its

consequences under the Indenture, except as provided in the Indenture. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and within 10 Days of any of its Officers or any of the Company's Officers becoming aware of any Default or Event of Default, the Company is required to deliver to the Trustee a statement specifying such Default or Event of Default.

14. Defeasance and Discharge. The Notes are subject to defeasance and discharge upon the terms and conditions specified in the Indenture.

15. No Recourse Against Others. No present, past or future director, officer, employee, incorporator or stockholder of the Company or any Subsidiary Guarantor, as such, will have any liability for any obligations of the Company or any Subsidiary Guarantor under the Notes, the Indenture, the Subsidiary Guarantees or the Collateral Agreements or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder, by accepting a Note, waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

16. Collateral Agreements. The obligations of the Company and the Subsidiary Guarantors under the Indenture, the Notes and the Subsidiary Guarantees will be secured by a first-priority perfected Lien granted to the Collateral Agent in the Collateral, subject to the terms of the Intercreditor Agreements.

17. Authentication. This Note shall not be valid until authenticated by the manual signature of an authorized signatory of the Trustee or an authenticating agent.

18. Abbreviations. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

19. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers and corresponding ISIN numbers to be printed on the Notes and the Trustee may use CUSIP numbers and corresponding ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

20. Governing Law. THE INDENTURE AND THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

21. Successors. In the event a successor entity assumes all the obligations of its predecessor under the Notes and the Indenture, in accordance with the terms thereof, the predecessor entity will be released from all such obligations.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to:

Comstock Resources Inc.
5300 Town and Country Blvd., Suite 500
Frisco, Texas 75034
Attention: Roland O. Burns
Facsimile: 972.668.8812

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to

_____

(Print or type assignee's name, address and zip code)

_____

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint _____ agent to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: _____ Your Signature: _____

Sign exactly as your name appears on the other side of this Note.

Signature Guarantee:

_____

(signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture, check the box below:

☐ Section 4.10 ☐ Section 4.15

If you want to elect to have only part of this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture, state the amount in integral multiples of $1.00 that you elect to have purchased: $____

Date: Your Signature _____
(Sign exactly as your name appears on the other side of this Note)

Soc. Sec. or Tax Identification No.: _____

Signature Guarantee: _____
(signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

[TO BE ATTACHED TO GLOBAL NOTE]

SCHEDULE A

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

Date	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized officer of Trustee or Notes Custodian

EXHIBIT B

COMSTOCK RESOURCES, INC.

and

the Subsidiary Guarantors named herein

SENIOR SECURED TOGGLE NOTES DUE 2020

FORM OF SUPPLEMENTAL INDENTURE

DATED AS OF _____, ____

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,

as Trustee

This SUPPLEMENTAL INDENTURE, dated as of _____, ____ (this "*Supplemental Indenture*") is among Comstock Resources, Inc., (the "*Company*"), [_____] (the "*Guaranteeing Subsidiary*"), which is a subsidiary of the Company, each of the existing Subsidiary Guarantors (as defined in the Indenture referred to below) and American Stock Transfer & Trust Company, LLC, as Trustee.

RECITALS

WHEREAS, the Company, the Subsidiary Guarantors and the Trustee entered into an Indenture, dated as of , 2016 (as heretofore amended, supplemented or otherwise modified, the "*Indenture*"), providing for the issuance of the Company's Senior Secured Toggle Notes due 2020 (the "*Notes*") and the Additional Notes;

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall become a Subsidiary Guarantor (as defined in the Indenture);

WHEREAS, Section 9.01(a)(8) of the Indenture provides that the Company, the Subsidiary Guarantors and the Trustee may amend or supplement the Indenture in order to add any additional Subsidiary Guarantor with respect to the Notes, without the consent of the Holders of the Notes; and

WHEREAS, all acts and things prescribed by the Indenture, by law and by the Certificate of Incorporation and the Bylaws (or comparable constituent documents) of the Company, of the Subsidiary Guarantors and of the Trustee necessary to make this Supplemental Indenture a valid instrument legally binding on the Company, the Subsidiary Guarantors and the Trustee, in accordance with its terms, have been duly done and performed;

NOW, THEREFORE, to comply with the provisions of the Indenture and in consideration of the above premises, the Company, the Guaranteeing Subsidiary, the other Subsidiary Guarantors and the Trustee covenant and agree for the equal and proportionate benefit of the respective Holders of the Notes as follows:

Section 1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings ascribed to them in the Indenture.

Section 2. Relation to Indenture. This Supplemental Indenture is supplemental to the Indenture and does and shall be deemed to form a part of, and shall be construed in connection with and as part of, the Indenture for any and all purposes.

Section 3. Effectiveness of Supplemental Indenture. This Supplemental Indenture shall become effective immediately upon its execution and delivery by each of the Company, the Guaranteeing Subsidiary, the other Subsidiary Guarantors and the Trustee.

Section 4. Agreement to Guarantee. The Guaranteeing Subsidiary hereby agrees, by its execution of this Supplemental Indenture, to be bound by the provisions of the Indenture applicable to Subsidiary Guarantors to the extent provided for and subject to the limitations therein, including Article 10 thereof.

Section 5. Ratification of Obligations. Except as specifically modified herein, the Indenture and the Notes are in all respects ratified and confirmed (*mutatis mutandis*) and shall remain in full force and effect in accordance with their terms.

Section 6. The Trustee. Except as otherwise expressly provided herein, no duties, responsibilities or liabilities are assumed, or shall be construed to be assumed, by the Trustee by reason of this Supplemental Indenture. This Supplemental Indenture is executed and accepted by the Trustee subject to all the terms and conditions set forth in the Indenture with the same force and effect as if those terms and conditions were repeated at length herein and made applicable to the Trustee with respect hereto. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture or to the recitals contained herein, all of which are made exclusively by the Company and the Subsidiary Guarantors.

Section 7. Governing Law. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 8. Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of such executed copies together shall represent the same agreement. Signature of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

[*Signatures on following pages*]

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

COMPANY:

COMSTOCK RESOURCES, INC.

By: _____
Name:
Title:

GUARANTEEING SUBSIDIARY:

[_____]

By: _____
Name:
Title:

EXISTING SUBSIDIARY GUARANTORS:

[Insert signature blocks for each of the Subsidiary Guarantors existing at the time of execution of this Supplemental Indenture**]**

TRUSTEE:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS TRUSTEE

By: _____
Name:
Title:

Exhibit 4.12

COMSTOCK RESOURCES, INC.,

AND

EACH OF THE SUBSIDIARY GUARANTORS PARTY HERETO

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7 ¾% Convertible Secured PIK Notes due 2019

INDENTURE

Dated as of , 2016

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

as Trustee

TABLE OF CONTENTS

EXHIBITS

This INDENTURE, dated as of , 2016 is among COMSTOCK RESOURCES, INC., a Nevada corporation (the "*Company*"), each Subsidiary Guarantor from time to time party hereto, as Subsidiary Guarantors, and AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, as Trustee.

RECITALS

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

The Company, the Subsidiary Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Company's 7 ¾% Convertible Secured PIK Notes due 2019 issued on the Issue Date (the "*Notes*") and the Additional Notes:

ARTICLE 1.
DEFINITIONS AND INCORPORATION
BY REFERENCE

Section 1.01. Definitions.

"*2009 Notes Issue Date*" means October 9, 2009.

"*2020 Convertible Notes Indenture*" means the Indenture, dated as of , 2016, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as trustee, relating to the New 2020 Convertible Notes.

"*Account Control Agreement*" means each Account Control Agreement executed and delivered by the Company pursuant to this Indenture, in form and substance satisfactory to the parties thereto.

"*Acquired Indebtedness*" means Indebtedness of a Person (1) existing at the time such Person becomes a Restricted Subsidiary or (2) 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 14.03.

"*Additional Assets*" means:

(1) any Properties (other than cash, Cash Equivalents or securities) used in the Oil and Gas Business or any business ancillary thereto;

(2) 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;

(3) the acquisition from third parties of Capital Stock of a Restricted Subsidiary; or

(4) capital expenditures by the Company or a Restricted Subsidiary in the Oil and Gas Business.

"*Additional New 2020 Convertible Notes*" means the additional securities issued under the 2020 Convertible Notes Indenture solely in connection with the payment of interest in kind on the New 2020 Convertible Notes.

"*Additional New Senior Secured Notes*" means the additional securities issued under the Senior Secured Notes Indenture solely in connection with the payment of interest in kind on the New Senior Secured Notes.

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

(1) 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:

(i) estimated proved oil and gas reserves acquired since such year-end, which reserves were not reflected in such year-end reserve report, and

(ii) 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:

(iii) estimated proved oil and gas reserves produced or disposed of since such year-end, and

(iv) 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 (i) through (iv), 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 (1)(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 (i) the net book value on a date no earlier than the date of the Company's latest annual or quarterly financial statements and (ii) 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 a date no earlier than the date of the Company's latest audited financial statements, *minus*

(2) 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 (1)(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 (1)(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 Subsidiary Guarantor at any date shall mean the amount by which the fair value of the properties and assets of such Subsidiary 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 Subsidiary Guarantee, of such Subsidiary 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; and the term "Affiliated" shall have a meaning correlative to the foregoing. 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.

"*Agents*" means, collectively, the Trustee, the Collateral Agent, the Registrar, the Paying Agent and any other agents under the Note Documents from time to time.

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

"*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 Production Payment, net profits interest, overriding royalty interest, sale and leaseback transaction, merger or consolidation) (collectively, for purposes of this definition, a "transfer"), directly or indirectly, in one or a series of related transactions, of (1) any Capital Stock of any Restricted Subsidiary, (2) all or substantially all of the Properties of any division or line of business of the Company or any of its Restricted Subsidiaries or (3) 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 Properties 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, Article 5 hereof, (B) any transfer of Properties to an Unrestricted Subsidiary, if permitted under Section 4.07 hereof: or (C) any transfer (in a single transaction or a series of related transactions) of Properties (including Capital Stock) having a Fair Market Value of less than $25,000,000.

"*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 (1) 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 (2) the sum of all such principal payments.

"*Board of Directors*" means with respect to the Company, either the board of directors of the Company or any duly authorized committee of such board of directors, and, with respect to any Subsidiary, either the board of directors of such Subsidiary or any duly authorized committee of that board or, in the case of a Subsidiary not having a board of directors, the manager or other person performing a function comparable to a board of directors of a corporation.

"*Board Resolution*" means, with respect to the Company, a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by its Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee, and with respect to a Subsidiary, a copy of a resolution certified by the Secretary or an Assistant Secretary of such Subsidiary to have been duly adopted by its Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"*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 Indenture, the amount of such obligation at any date shall be the capitalized amount thereof at such date, determined in accordance with GAAP. Notwithstanding the foregoing, any lease (whether entered into before or after the date of this Indenture) that would have been classified as an operating lease pursuant to GAAP as in effect on the date of this Indenture will be deemed not to represent a Capitalized Lease Obligation.

"*Cash Equivalents*" means:

(1) 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);

(2) 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;

(3) 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-1 by S&P or at least P-1 by Moody's;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (1) of this definition entered into with any commercial bank meeting the specifications of clause (2) of this definition;

(5) overnight bank deposits and bankers acceptances at any commercial bank meeting the qualifications specified in clause (2) of this definition;

(6) deposits available for withdrawal on demand with any commercial bank not meeting the qualifications specified in clause (2) of this definition but which is a lending bank under the Revolving Credit Agreement, provided all such deposits do not exceed $5,000,000 in the aggregate at any one time;

(7) demand and time deposits and certificates of deposit with any commercial bank organized in the United States not meeting the qualifications specified in clause (2) of this definition; *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

(8) investments in money market or other mutual funds substantially all of whose assets comprise securities of the types described in clauses (1) through (5) of this definition.

"*Change of Control*" means the occurrence of any event or series of events by which:

(1) 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;

(2) 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;

(3) 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);

(4) 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

(5) the Company is liquidated or dissolved.

"*Charter Amendment*" means the amendment of the Company's restated articles of incorporation to increase the number of shares of Common Stock authorized for issuance in an amount to provide a sufficient number of authorized shares of Common Stock for the issuance of shares upon conversion of all of the outstanding New Convertible Notes and exercise, to the extent necessary, of all of the New Warrants.

"*Clearstream*" means Clearstream Banking, société anonyme, or any successor securities clearing agency.

"*Collateral*" means all property wherever located and whether now owned or at any time acquired after the date of this Indenture by any Collateral Grantor as to which a Lien is granted under the Collateral Agreements to secure the Notes or any Subsidiary Guarantee.

"*Collateral Agent*" means the collateral agent for all holders of Convertible Note Obligations. Bank of Montreal will initially serve as the Collateral Agent.

"*Collateral Agreements*" means, collectively, each Mortgage, the Pledge Agreement, the Security Agreement, the Intercreditor Agreement, the Collateral Trust Agreement and each other instrument, including any assignment, security agreement, mortgage, deed of trust, pledge agreement or other security instrument, creating Liens in favor of the Collateral Agent as required by the Convertible Note Documents, including the Intercreditor Agreement and the Collateral Trust Agreement, in each case, as the same may be in effect from time to time.

"*Collateral Grantors*" means the Company and each Subsidiary Guarantor that is party to a Collateral Agreement.

"*Collateral Trust Agreement*" means the Collateral Trust Agreement, dated as of the Issue Date, among the Collateral Agent, the Trustee and the trustee under the 2020 Convertible Notes Indenture, as amended, restated, supplemented or otherwise modified from time to time.

"*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.

"*Commodity Exchange Act*" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"*Common Stock*" means the common stock, par value $0.50 per share, of the Company.

"*Company*" has the meaning provided in the introductory paragraph hereto, until a successor person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Company" shall mean such successor Person.

"*Company Request*" or "*Company Order*" means a written request or order signed in the name of the Company by its Chairman, its President, any Vice President, its Treasurer or an Assistant Treasurer, and delivered to the Trustee.

"*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: (1) 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, to (2) Consolidated Interest Expense for such period*; provided* that (i) 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 4.09(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, (ii) 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 4.09(a) 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, (iii) 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 4.09(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, (iv) notwithstanding clauses (ii) and (iii) 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, (v) in making such calculation, Consolidated Interest Expense shall exclude interest attributable to Dollar-Denominated Production Payments, and (vi) if after the first day of the period referred to in clause (1) 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 (1) 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, (2) 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, (3) 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 (4) 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 (1) through (4), 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:

(1) net after-tax extraordinary gains or losses (less all fees and expenses relating thereto);

(2) net after-tax gains or losses (less all fees and expenses relating thereto) attributable to Asset Sales;

(3) 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 are attributable to net income (or net loss) of such Person during such period or during any prior period);

(4) 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;

(5) dividends paid in Qualified Capital Stock;

(6) income resulting from transfers of assets received by the Company or any Restricted Subsidiary from an Unrestricted Subsidiary;

(7) Consolidated Exploration Expenses and any write-downs or impairments of non-current assets; and

(8) the cumulative effect of a change in accounting principles.

"*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).

"*Conversion Agent*" means a Person engaged to perform the obligations in respect of the conversion of the Notes.

"*Convertible Note Documents*" means this Indenture, the 2020 Convertible Notes Indenture, the Collateral Agreements and any agreement instrument or other document evidencing or governing any Convertible Note Obligations related to the Notes.

"*Convertible Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Company or any Subsidiary Guarantor arising under the Convertible Notes Indentures, the New Convertible Notes, the Subsidiary Guarantees in respect of the New Convertible Notes and the Collateral Agreements (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), 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 and fees that accrue after the commencement by or against the Company or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"*Convertible Notes Indentures*" means, collectively, this Indenture and the 2020 Convertible Notes Indenture.

"*Corporate Trust Office*" means, for purposes of presenting Securities and at any time its corporate trust business shall be administered, American Stock Transfer & Trust Company, LLC located at 6201 15th Avenue, Brooklyn, New York 11219, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

"*Daily VWAP*" means for any Trading Day, the per share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page "WLL<equity>VWAP" (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day, up to and including the final closing print (which is

indicated by Condition Code "6" in Bloomberg) (or if such volume-weighted average price is unavailable, the market value of one share of Common Stock on such Trading Day, determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by the Company).

"*Default*" means any event, act or condition that is, or after notice or passage of time or both would become, an Event of Default.

"*Definitive Note*" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend set forth in Section 2.06(f) and shall not have the *"Schedule of Increases or Decreases in the Global Note"* attached thereto.

"*Depositary*" means The Depository Trust Company, its nominees and their respective successors and assigns, or such other depository institution hereinafter appointed by the Company.

"*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 Notes 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 4.09(a), 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* 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 a Restricted Subsidiary recorded as liabilities in accordance with GAAP, together with all undertakings and obligations in connection therewith

"*Engineering Report*" means the Initial Engineering Report and each engineering report delivered pursuant to Section 4.04(b)(3) or (b)(4).

"*Equity Interests*" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"*Euroclear*" means the Euroclear System or any successor securities clearing agency.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended from time to time, and any successor act thereto.

"*Exchange Offer and Consent Solicitation*" means a series of transactions in which the Company will (i) exchange the New Senior Secured Notes and the New Warrants for the Old Senior Secured Notes, (ii) exchange the New 2020 Convertible Notes for the Company's 9 ½% Senior Notes due 2020, (iii) exchange the Notes for the Company's 7 ¾% Senior Notes due 2019 and (iv) solicit the consent of the holders of the Old Senior Secured Notes and Old Unsecured Notes for certain amendments to the Old Indentures, including amendments to eliminate or amend certain restrictive covenants contained in the Old Indentures, release the collateral securing the Old Senior Secured Notes and, to the extent necessary, approve the appointment of American Stock Transfer & Trust Company, LLC as trustee under the Old Indentures.

"*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 with respect to any Property, the sale value that would be obtained in an arm's-length free market transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy. Fair Market Value of a Property equal to or in excess of $10,000,000 shall be determined by the Board of Directors of the Company acting in good faith, whose determination shall be conclusive and evidenced by a Board Resolution delivered to the Trustee, and any lesser Fair Market Value may be determined by an officer of the Company acting in good faith.

"*Federal Bankruptcy Code*" means the United States Bankruptcy Code of Title 11 of the United States Code, as amended from time to time.

"*GAAP*" means generally accepted accounting principles in the United States of America as in effect from time to time. All ratios and computations based on GAAP contained in this Indenture will be computed in conformity with GAAP.

"*Global Note*" means a Note in global form registered in the name of the Depositary or its nominee, substantially in the form of Exhibit A hereto, and that bears the Global Note Legend set forth in Section 2.06(f) and that has the "*Schedule of Increases or Decreases in the Global Note*" attached thereto, issued in accordance with Sections 2.01, 2.06(b), 2.06(c), 2.06(d) or 2.06(e) hereof.

"*Government Securities*" means direct obligations of, or obligations guaranteed by, the United States of America for the payment of which guarantee or obligations the full faith and credit of the United States is pledged.

The uncapitalized term "*guarantee*" means, as applied to any obligation, (1) 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 (2) 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.

"*Hedging Agreement*" means (1) 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 similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing and any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act), whether or not any such transaction is governed by or subject to any master agreement, and (2) 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.

"*Holder*" means a Person in whose name a Note (including an Additional Note) is registered in the Note Register.

"*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.

"*Indebtedness*" means, with respect to any Person, without duplication:

(1) 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 Issue Date 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;

(2) 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;

(3) all obligations of such Person with respect to letters of credit;

(4) 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;

(5) all Capitalized Lease Obligations of such Person;

(6) the Attributable Indebtedness (in excess of any related Capitalized Lease Obligations) related to any Sale/Leaseback Transaction of such Person;

(7) 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);

(8) 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

(9) 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.

The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Capital Stock or Preferred Stock in the form of additional shares of the same class of Disqualified Capital Stock or Preferred Stock shall be deemed to be an Incurrence of Indebtedness or an issuance of Disqualified Capital Stock or Preferred Stock for purposes of this definition. In addition, Disqualified Capital Stock shall be deemed to be Indebtedness.

Subject to clause (8) of the first sentence of this definition, neither Dollar-Denominated Production Payments nor Volumetric Production Payments shall be deemed to be Indebtedness.

"*Indenture*" means this Indenture, as amended or supplemented from time to time.

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

"*Initial Engineering Report*" means the engineering report dated as of December 31, 2014, prepared by Lee Keeling & Associates, Inc.

"*Insolvency or Liquidation Proceeding*" means (1) any voluntary or involuntary case or proceeding under any bankruptcy law with respect to any Collateral Grantor, (2) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Collateral Grantor or with respect to any of its assets, (3) any liquidation, dissolution, reorganization or winding up of any Collateral Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy (other than any liquidation, dissolution, reorganization or winding up of any Subsidiary of the Company permitted by the Pari Passu Documents), (4) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Collateral Grantor or (5) any other proceeding of any type or nature in which substantially all claims of creditors of any Collateral Grantor are determined and any payment or distribution is or may be made on account of such claims.

"*Intercreditor Agreement*" means (1) the Intercreditor Agreement among the Priority Lien Collateral Agent, the Collateral Agent, the Company, each other Collateral Grantor and the other parties from time to time party thereto, to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Convertible Notes Indentures or Collateral Trust Agreement, as applicable, and (2) any replacement thereof that contains terms not materially less favorable to the holders of the New Convertible Notes than the Intercreditor Agreement referred to in clause (1).

"*Interest Payment Date*" means the Stated Maturity of an installment of interest on the Notes.

"*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 by such Person 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 (1) 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, (2) 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 4.09, 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 (3) endorsements of negotiable instruments and documents in the ordinary course of business. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Restricted Subsidiary that were not sold or disposed of.

"*Issue Date*" means , 2016.

"*Junior Lien*" means any Lien which (1) is also granted to secure the Convertible Note Obligations and (2) is subordinate to the Liens securing the Priority Lien Obligations pursuant to the Intercreditor Agreement.

"*Lender Provided Hedging Agreement*" means any Hedging Agreement between the Company or any Subsidiary Guarantor and a Secured Swap Counterparty.

"*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 (1) of an issuer that is not an Affiliate of the Company, (2) that are publicly traded on the New York Stock Exchange, the American Stock Exchange or the Nasdaq Stock Market and (3) 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 (1), (2)

and (3) 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 4.10 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 (1)(a) of the definition of "Adjusted Consolidated Net Tangible Assets"*; provided* that the following will be excluded from the calculation of Material Change: (1) 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 (2) any dispositions of Properties during such quarter that were disposed of in compliance with Section 4.10.

"*Maturity*" means, with respect to any Note, the date on which any principal of such Note becomes due and payable as therein or in the Indenture provided, whether at the Stated Maturity with respect to such principal or by declaration of acceleration, call for redemption or purchase or otherwise.

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

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

"*Mortgage*" means all mortgages, deeds of trust and similar documents, instruments and agreements (and all amendments, modifications and supplements thereof) creating, evidencing, perfecting or otherwise establishing the Liens on Oil and Gas Properties and other related assets to secure payment of the New Convertible Notes and the Subsidiary Guarantees or any part thereof.

"*Mortgaged Properties*" means any property owned by a Collateral Grantor that is subject to the Liens existing and to exist under the terms of the Mortgages.

"*Net Available Cash*" from an Asset Sale or Sale/Leaseback Transaction means cash proceeds received therefrom (including (1) 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 (2) 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 (1) and (2)), in each case net of (i) 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, (ii) 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, (iii) 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 (iv) 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* 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 (1) all current assets of the Company and its Restricted Subsidiaries, less (2) 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.

"*New 2020 Convertible Notes*" means the Company's 9 1/2% Convertible Secured PIK Notes due 2020. Unless the context otherwise requires, all references to the New 2020 Convertible Notes shall include the Additional New 2020 Convertible Notes.

"*New Convertible Notes*" means, collectively, the Notes and the New 2020 Convertible Notes.

"*New Senior Secured Notes*" means the Company's Senior Secured Toggle Notes due 2020. Unless the context otherwise requires, all references to the New Senior Secured Notes shall include the Additional New Senior Secured Notes.

"*New Warrants*" means the warrants issued to the holders of the Old Senior Secured Notes in the Exchange Offer and Consent Solicitation that are exercisable for shares of the Company's common stock.

"*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.

"*Note Documents*" means this Indenture, the Collateral Agreements and any agreement instrument or other document evidencing or governing any Note Obligations.

"*Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Company or any Subsidiary Guarantor arising under this Indenture, the Notes, the Additional Notes, the Subsidiary Guarantees and the Collateral Agreements (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), 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 and fees that accrue after the commencement by or against the Company or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"*Note Register*" means the register maintained by or for the Company in which the Company shall provide for the registration of the Notes and the transfer of the Notes.

"*Notes*" has the meaning provided in the recitals hereto. The Additional Notes shall have the same rights and benefits as the Notes issued on the Issue Date, and shall be treated together with the Notes as a single class for all purposes under this Indenture. Unless the context otherwise requires, all references to the Notes shall include the Additional Notes.

"*Notes Custodian*" means the custodian with respect to a Global Note (as appointed by the Depositary), or any successor Person thereto and shall initially be the Trustee.

"*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.

"*Officer*" means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, the Controller, the Secretary or any Vice President of such Person.

"*Officers' Certificate*" means a certificate signed on behalf of any Person by two Officers, one of whom must be a Financial Officer of such Person.

"*Oil and Gas Business*" means (1) the acquisition, exploration, development, operation and disposition of interests in oil, gas and other hydrocarbon Properties, (2) the gathering, marketing, treating, processing, storage, refining, selling and transporting of any production from such interests or Properties, (3) 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 (4) any activity necessary, appropriate or incidental to the activities described in the foregoing clauses (1) through (3) of this definition.

"*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 in this definition, 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, rightsofway, easements and servitudes together with all additions, substitutions, replacements, accessions and attachments to any and all of the foregoing.

"*Old Indentures*" means (i) the Indenture, dated as of October 9, 2009 (the "*Base Indenture*"), among the Company, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, as amended and supplemented by the Third Supplemental Indenture, dated as of March 14, 2011, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's 7 ¾% Senior Notes due 2019, (ii) the Base

Indenture, as amended and supplemented by the Fourth Supplemental Indenture, dated as of June 5, 2012, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's 9 ½% Senior Notes due 2020 and (iii) the Indenture, dated as of March 13, 2015, among the Company, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's Old Senior Secured Notes.

"*Old Senior Secured Notes*" means the Company's 10% Senior Secured Notes due 2020.

"*Old Unsecured Notes*" means, collectively, the Company's 7 ¾% Senior Notes due 2019 and 9 ½% Senior Notes due 2020.

"*Opinion of Counsel*" means a written opinion of counsel, who may be counsel for the Company (or any Subsidiary Guarantor), including an employee of the Company (or any Subsidiary Guarantor), and who shall be reasonably acceptable to the Trustee.

"*Optional Conversion Notice*" means a "Conversion Notice" in the form attached to Form of Note attached hereto as Exhibit A.

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

(1) Notes theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(2) Notes, 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 Notes, provided that, if such Notes 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;

(3) Notes, except to the extent provided in Sections 8.02 and 8.03 hereof, with respect to which the Company has effected legal defeasance or covenant defeasance as provided in Article 8 hereof; and

(4) Notes which have been replaced pursuant to Section 2.07 hereof or in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, other than any such Notes in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Notes are held by a protected purchaser in whose hands the Notes are valid obligations of the Company;

provided that in determining whether the Holders of the requisite principal amount of Outstanding Notes 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, Notes owned by the Company, any Subsidiary Guarantor or any other obligor upon the Notes or any Affiliate of the Company, any Subsidiary 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 Notes which the Trustee knows to be so owned shall be so disregarded. Notes 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 Notes and that the pledgee is not the Company, any Subsidiary Guarantor or any other obligor upon the Notes or any Affiliate of the Company, any Subsidiary Guarantor or such other obligor.

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

"*Permitted Collateral Liens*" means Liens described in clauses (1), (2), (5), (6), (7), (8), (9), (10), (11), (13), (18), (19), (20), (21), (22), (23) and (24) of the definition of "Permitted Liens" that, by operation of law, have priority over the Liens securing the Notes and the Subsidiary Guarantees.

"*Permitted Investments*" means any of the following:

(1) Investments in Cash Equivalents;

(2) Investments in property, plant and equipment used in the ordinary course of business;

(3) Investments in the Company or any of its Restricted Subsidiaries;

(4) Investments by the Company or any of its Restricted Subsidiaries in another Person, if (a) as a result of such Investment (i) such other Person becomes a Restricted Subsidiary or (ii) 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 and (b) such other Person is primarily engaged in the Oil and Gas Business;

(5) 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;

(6) 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;

(7) entry into any currency exchange contract in the ordinary course of business;

(8) 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;

(9) guarantees of Indebtedness permitted under Section 4.09;

(10) investments in Unrestricted Subsidiaries or joint ventures in an aggregate amount not to exceed at any one time outstanding $25,000,000; and

(11) other Investments, in an aggregate amount not to exceed at any one time outstanding the greater of (a) $25,000,000 and (b) 5% of Adjusted Consolidated Net Tangible Assets.

"*Permitted Liens*" means the following types of Liens:

(1) Liens securing Indebtedness of the Company and any Subsidiary Guarantor under the Revolving Credit Agreement in an aggregate principal amount not to exceed $50,000,000 at any time outstanding; *provided* that such Liens are subject to the Priority Lien Intercreditor Agreement;

(2) Liens existing as of the Issue Date (excluding Liens securing Indebtedness of the Company and any Subsidiary Guarantor under the Revolving Credit Agreement);

(3) Liens on any Properties of the Company and any Subsidiary Guarantor securing (a) the New 2020 Convertible Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation (and any assumption of obligations guaranteed thereby), the Additional New 2020 Convertible Notes issued in connection with the payment of interest thereon, and the subsidiary guarantees in respect thereof and (b) the Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation (and any assumption of obligations guaranteed thereby), the Additional Notes issued in connection with the payment of interest thereon, and the Subsidiary Guarantees in respect thereof;

(4) Liens in favor of the Company or any Restricted Subsidiary;

(5) 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;

(6) 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;

(7) 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);

(8) 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;

(9) 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;

(10) any interest or title of a lessor under any capital lease or operating lease;

(11) purchase money Liens*; provided* 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, (b) the aggregate principal amount of Indebtedness secured by such Liens it otherwise permitted to be incurred under this Indenture and does not exceed the cost of the property or assets so acquired and (c) the Liens securing such Indebtedness shall be created within 90 days of such acquisition;

(12) 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;

(13) 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;

(14) 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;

(15) 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;

(16) 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;

(17) Liens securing Interest Rate Protection Obligations which Interest Rate Protection Obligations relate to Indebtedness that is secured by Liens otherwise permitted under this Indenture;

(18) Liens (other than Liens securing Indebtedness) 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;

(19) Liens on pipeline or pipeline facilities which arise by operation of law;

(20) 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;

(21) Liens reserved in oil and gas mineral leases for bonus or rental payments or for compliance with the terms of such leases;

(22) 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 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;

(23) Liens securing Non-Recourse Indebtedness*; provided* 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;

(24) 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;

(25) 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 so long as such deposit and such defeasance are permitted under Section 4.07;

(26) Priority Liens to secure the New Senior Secured Notes issued on the Issue Date (and the subsidiary guarantees in respect thereof) and incurred under clause (12) of the definition of "Permitted Indebtedness";

(27) Liens to secure any Permitted Refinancing Indebtedness incurred to renew, refinance, refund, replace, amend, defease or discharge, as a whole or in part, Indebtedness that was previously so secured; *provided* that (a) the new Liens shall be limited to all or part of the same property and assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced and (b) the new Liens have no greater priority relative to the Notes and the Subsidiary Guarantees, and the holders of the Indebtedness secured by such Liens have no greater intercreditor rights relative to the Notes and the Subsidiary Guarantees and the Holders thereof, than the original Liens and the related Indebtedness; and

(28) additional Liens of the Company or any Restricted Subsidiary of the Company with respect to obligations that do not exceed at any one time outstanding $75,000,000; *provided* that Liens incurred under this clause (28) to secure Additional New Senior Secured Notes incurred under Section 4.09(b)(11) shall be permitted to secure up to $91,875,000 in face amount of Additional New Senior Secured Notes issued under the Senior Secured Notes Indenture.

Notwithstanding anything in clauses (1) through (28) 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 (1) if the Indebtedness (including the Notes) being renewed, extended, refinanced, refunded or repurchased is *pari passu* with or subordinated in right of payment to either the Notes or the Subsidiary Guarantees, then such Indebtedness is *pari passu* with or subordinated in right of payment to the Notes or the Subsidiary Guarantees, as the case may be, at least to the same extent as the Indebtedness being renewed, extended, refinanced, refunded or repurchased, (2) 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, (3) if the Company or a Subsidiary Guarantor is the issuer of, or otherwise an obligor in respect of the Indebtedness

being renewed, refinanced, refunded or repurchased, such Permitted Refinancing Indebtedness is not Incurred by any Restricted Subsidiary that is not the Company or a Subsidiary Guarantor, (4) 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 and (5) if the Indebtedness being renewed, extended, refinanced, refunded or repurchased by its terms provides that interest is payable only in kind, then such Indebtedness may not permit the payment of scheduled interest in cash; *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 Issue Date, including, without limitation, all classes and series of preferred or preference stock of such Person.

"*Petroleum Industry Standards*" shall mean the Definitions for Oil and Gas Reserves promulgated by the Society of Petroleum Engineers (or any generally recognized successor) as in effect at the time in question.

"*Pledge Agreement*" means each Pledge Agreement and Irrevocable Proxy to be entered into on the Issue Date in favor of the Collateral Agent for the benefit of the Secured Parties and each other pledge agreement in substantially the same form in favor of the Collateral Agent for the benefit of the Secured Parties delivered in accordance with the Convertible Notes Indentures and the Collateral Agreements.

"*Preferred Stock*," as applied to the Capital Stock of any Person, means Capital Stock of such Person of any class or classes (however designated) that ranks 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.

"*Priority Lien*" means a Lien granted (or purported to be granted) by the Company or any Subsidiary Guarantor in favor of the Priority Lien Collateral Agent, at any time, upon assets or property of the Company or any Subsidiary Guarantor to secured any Priority Lien Obligations.

"*Priority Lien Collateral Agent*" means the Revolving Credit Agreement Agent, or if the Revolving Credit Agreement ceases to exist, the collateral agent or other representative of the holders of the New Senior Secured Notes designated pursuant to the terms of the Priority Lien Documents and the Intercreditor Agreement.

"*Priority Lien Documents*" means, collectively, the Revolving Credit Agreement Documents and the Senior Secured Note Documents.

"*Priority Lien Intercreditor Agreement*" means (1) the Amended and Restated Priority Lien Intercreditor Agreement, among the Priority Lien Collateral Agent, Senior Secured Notes Trustee, the Revolving Credit Agreement Agent, the Company, each other Collateral Grantor, the other parties from time to time party thereto, and American Stock Transfer & Trust Company, LLC in its capacity as the successor trustee under the Old Senior Secured Notes to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Priority Lien Documents and (2) any replacement thereof.

"*Priority Lien Obligations*" means, collectively, (a) the Revolving Credit Agreement Obligations and (b) the Senior Secured Note Obligations, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding.

"*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.

"*Proved and Probable Drilling Locations*" means all drilling locations of the Collateral Grantors located in the Haynesville and Bossier shale acreage in the States of Louisiana and Texas that are Proved Reserves or classified, in accordance with the Petroleum Industry Standards, as "Probable Reserves."

"*Proved Developed Non-Producing Reserves*" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and "Developed Non-Producing Reserves."

"*Proved Developed Producing Reserves*" shall mean oil and gas reserves that in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and "Developed Producing Reserves".

"*Proved Developed Reserves*" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and one of the following: (1) "Developed Producing Reserves" or (2) "Developed Non-Producing Reserves."

"*Proved Reserves*" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and one of the following: (1) "Developed Producing Reserves", (2) "Developed Non-Producing Reserves" or (3) "Undeveloped Reserves".

"*PV-9*" means, with respect to any Proved Developed Reserves expected to be produced, the net present value, discounted at 9% per annum, of the future net revenues expected to accrue to the Collateral Grantors' collective interests in such reserves during the remaining expected economic lives of such reserves, calculated by the Revolving Credit Agreement Agent (or, if no Revolving Credit Agreement is then in effect, the Collateral Agent) in its sole and absolute discretion; *provided* that the PV-9 associated with Proved Developed Non-Producing Reserves shall comprise no more than 25% of total PV-9.

"*Qualified Capital Stock*" of any Person means any and all Capital Stock of such Person other than Disqualified Capital Stock.

"*Registration Rights Agreement*" means Registration Rights Agreement substantially in the form of Exhibit C attached hereto.

"*Regular Record Date*" for the interest payable on any Interest Payment Date means the June 1 or December 1 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date.

"*Relevant Stock Exchange*" means The New York Stock Exchange or, if the Common Stock (or other security for which a Daily VWAP must be determined) is not then listed on The New York Stock Exchange, the principal other U.S. national or regional securities exchange on which the Common Stock (or such other security) is then listed.

"*Required Stockholder Approval*" means the approval by (1) a majority of the issued and outstanding shares of Common Stock of the amendment to the Company's restated articles of incorporation to increase the number of shares of the Company's common stock authorized for issuance in an amount to provide a sufficient number of authorized shares of Common Stock for the issuance of shares upon conversion of the New Convertible Notes and, to the extent necessary, exercise of the New Warrants and (2) a majority of the shares of Common Stock represented at the special meeting and entitled to vote on the issuance of the maximum number of shares of Common Stock that would be issued upon conversion of all of the outstanding New Convertible Notes and, to the extent necessary, exercise of all of the New Warrants.

"*Responsible Officer*," when used with respect to the Trustee, means any officer in the Corporate Trust Office having direct responsibility for the administration of this Indenture, 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) (1) the designation of a Subsidiary as an Unrestricted Subsidiary in the manner described in the definition of "Unrestricted Subsidiary" and (2) any Investment other than a Permitted Investment.

"*Restricted Subsidiary*" means any Subsidiary of the Company, whether existing on or after the Issue Date, unless such Subsidiary of the Company is an Unrestricted Subsidiary or is designated as an Unrestricted Subsidiary pursuant to the terms of this Indenture.

"*Revolving Credit Agreement*" means that certain Credit Agreement, dated as of March 4, 2015, among the Company, the lenders from time to time party thereto and the Revolving Credit Agreement Agent, as amended, restated, modified, renewed, refunded, replaced or refinanced, from time to time.

"*Revolving Credit Agreement Agent*" means Bank of Montreal (or other agent designated in the Revolving Credit Agreement), together with its successors and permitted assigns in such capacity.

"*Revolving Credit Agreement Documents*" means the Revolving Credit Agreement and any other Loan Documents (as defined in the Revolving Credit Agreement).

"*Revolving Credit Agreement Obligations*" means, collectively, (1) the Obligations (as defined in the Revolving Credit Agreement) of the Company and the Subsidiary Guarantors under the Revolving Credit Agreement Documents, in an aggregate principal amount for all such Obligations not to exceed $50,000,000, plus interest and all fees, costs, charges, penalties and expenses, including legal fees and expenses to the extent authorized under the Revolving Credit Agreement Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding, and (2) the Secured Swap Obligations.

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

"*Sale/Leaseback Transaction*" means, 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, whereby such property has been or is to be sold or transferred by the Company or any of its Restricted Subsidiaries to such Person.

"*Secured Parties*" means (1) the Collateral Agent, (2) the Trustee and (3) the Holders of the Convertible Note Obligations.

"*Secured Swap Counterparty*" means, with respect to a Lender Provided Hedging Agreement, a counterparty that at the time such Hedging Agreement is entered into is a Lender (as defined in the Revolving Credit Agreement) or an Affiliate of a Lender (including a Hedging Agreement in existence prior to the date hereof or prior to such Person or its Affiliate becoming a Lender)*; provided* that, for the avoidance of doubt, the term "Lender Provided Hedging Agreement" shall not include any Hedging Agreement or transactions under any Hedging Agreement entered into after the time that such counterparty ceases to be a Lender or an Affiliate of a Lender.

"*Secured Swap Obligations*" means all obligations of the Company or any Subsidiary Guarantor under any Lender Provided Hedging Agreement.

"*Securities Act*" means the Securities Act of 1933, as amended from time to time, and any successor act thereto.

"*Security Agreement*" means each Pledge Agreement and Irrevocable Proxy dated as of the Issue Date in favor of the Collateral Agent for the benefit of the Secured Parties and each other security agreement in substantially the same form in favor of the Collateral Agent for the benefit of the Secured Parties delivered in accordance with the Convertible Notes Indentures and the Collateral Agreements.

"*Senior Indebtedness*" means any Indebtedness of the Company or a Restricted Subsidiary (whether outstanding on the date hereof or hereinafter incurred), unless such Indebtedness is Subordinated Indebtedness.

"*Senior Secured Note Documents*" means the Indenture, dated as of , 2016, among the Company, the subsidiary guarantors named therein and the Senior Secured Notes Trustee, relating to the New Senior Secured Notes.

"*Senior Secured Notes Trustee*" means American Stock Transfer & Trust Company, LLC, as the trustee for the New Senior Secured Notes.

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

"*Subordinated Indebtedness*" means Indebtedness of the Company or a Subsidiary Guarantor which is expressly subordinated in right of payment to the Notes or the Subsidiary Guarantees, as the case may be.

"*Subsidiary*" means, with respect to any Person, (1) a corporation a majority of whose Voting Stock is at the time owned, directly or indirectly, by such Person, by one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person, or (2) any other Person (other than a corporation), including, without limitation, a joint venture, in which such Person, one or more Subsidiaries of such Person or such Person and one or more Subsidiaries of such Person have, directly or indirectly, at the date of determination thereof, at least majority ownership interest entitled to vote in the election of directors, managers or trustees thereof (or other Person performing similar functions).

"*Subsidiary Guarantee*" means any guarantee of the Notes by any Subsidiary Guarantor in accordance with Section 4.13 and 10.01 hereof.

"*Subsidiary Guarantor*" means (1) Comstock Oil & Gas, LP, (2) Comstock Oil & Gas—Louisiana, LLC, (3) Comstock Oil & Gas GP, LLC, (4) Comstock Oil & Gas Investments, LLC, (5) Comstock Oil & Gas Holdings, Inc., (6) each of Comstock's other Restricted Subsidiaries, if any, executing a supplemental indenture in compliance with Section 4.13(a) hereof and (7) any Person that becomes a successor guarantor of the Notes in compliance with Sections 4.13 hereof.

"*Threshold Price*" means, initially, $12.32. The Threshold Price is subject to adjustment in inverse proportion to the adjustments to the Conversion Rate pursuant to Article 12 hereof.

"*Trust Indenture Act*" or "*TIA*" means the Trust Indenture Act of 1939, as amended and in force at the date at which this Supplemental Indenture was executed, except as provided in Section 9.06 hereof.

"*Trading Day*" means a day on which:

(1) trading in the Common Stock (or other security for which a Daily VWAP must be determined) generally occurs on the Relevant Stock Exchange or, if the Common Stock (or such other security) is not then listed on the Relevant Stock Exchange, on the principal other market on which the Common Stock (or such other security) is then traded; and

(2) a Daily VWAP for the Common Stock (or other security for which a Daily VWAP must be determined) is available on such securities exchange or market;

provided that if the Common Stock (or other security for which a Daily VWAP must be determined) is not so listed or traded, "Trading Day" means a business day.

"*Trustee*" means American Stock Transfer & Trust Company, LLC, a New York limited liability company, in its capacity as trustee under this Indenture, until a successor replaces it in accordance with the applicable provisions of this Indenture, and thereafter "Trustee" means each Person who is then a Trustee thereunder.

"*Uniform Commercial Code*" means the Uniform Commercial Code as in effect in any applicable jurisdiction from time to time.

"*Unrestricted Subsidiary*" means (1) 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 (2) 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 4.07 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 4.12 hereof); *provided* that with respect to clause (a), the Company or a Restricted Subsidiary may be liable for Indebtedness of an Unrestricted Subsidiary if (i) such liability constituted a Permitted Investment or a Restricted Payment permitted by Section 4.07 hereof, in each case at the time of incurrence, or (ii) 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. If, at any time any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary shall be deemed to be incurred as of such date. The Board of Directors of the 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 under Section 4.09(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 4.12.

"*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 (1) all of the Capital Stock or other ownership interests in such Restricted Subsidiary, other than directors' qualifying shares mandated by applicable law, is owned directly or indirectly by the Company or (2) 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 1.02. Other Definitions.

Term	Defined in Section
"Act"	14.03
"Additional Notes"	Exhibit A
"Affiliate Transaction"	4.11
"Base Indenture"	1.01
"Change of Control Notice"	4.15
"Change of Control Offer"	4.15
"Change of Control Purchase Date"	4.15
"Change of Control Purchase Price"	4.15
"Conversion Date"	12.01
"Conversion Rate"	12.01
"Covenant Suspension Period"	4.17
"DTC"	2.06
"Event of Default"	6.01
"Excess Proceeds"	4.10
"Funding Guarantor"	10.05
"Investment Grade Ratings"	4.17
"Mandatory Conversion"	12.01
"Mandatory Conversion Event"	12.01
"Mandatory Conversion Notice"	12.01
"Merger Event"	12.10
"Offer Amount"	4.10
"Offer Period"	4.10
"Optional Conversion"	12.01
"Paying Agent"	2.03
"Payment Restriction"	4.08
"Permitted Consideration"	4.10
"Permitted Indebtedness"	4.09
"Prepayment Offer"	4.10
"Prepayment Offer Notice"	4.10
"Purchase Date"	4.10
"Reference Property"	12.10
"Register"	2.03
"Registrar"	2.03
"Restricted Payment"	4.07
"Reversion Date"	4.17
"Surviving Entity"	5.01
"Suspended Covenants"	4.17
"Suspension Date"	4.17
"Suspension Period"	4.17
"U.S. Government Obligations"	8.04

Section 1.03. Incorporation by Reference of Trust Indenture Act.

(a) Whenever the Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture.

(b) The following TIA terms used in this Indenture have the following meanings:

(1) "indenture securities" means the Notes,

(2) “indenture security holder” means a Holder,

(3) “indenture to be qualified” means this Indenture,

(4) “indenture trustee” or “institutional trustee” means the Trustee, and

(5) “obligor” on the Notes means the Company or any Subsidiary Guarantor and any successor obligor upon the Notes.

(c) All other TIA terms used in this 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 1.04. Rules of Construction.

For all purposes of this 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 2.
THE NOTES

Section 2.01. Form and Dating.

(a) *General*. The Notes and the Trustee's certificate of authentication therefor shall be substantially in the form of Exhibit A hereto, which is hereby incorporated in and expressly made a part of this Indenture. The Notes may have other notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The terms of the Notes set forth in Exhibit A are part of the terms of this Indenture. The Notes shall be in denominations of integral multiples of $1.00. On each Interest Payment Date, the principal amount of any Additional Note issued to any Holder, for the relevant interest period as of the relevant record date for such Interest Payment Date, shall be rounded down to the nearest whole dollar.

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

(b) *Global Notes*. Notes issued in global form will be substantially in the form of Exhibit A hereto (including the Global Note Legend thereon and the "Schedule of Increases and Decreases in the Global Note" attached thereto). Notes issued in definitive form will be substantially in the form of Exhibit A hereto (but without the Global Note Legend thereon and without the "Schedule of Increases and Decreases in the Global Note" attached thereto). Each Global Note will represent such of the outstanding Notes as will be specified therein and each represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon. The aggregate principal amount of outstanding Notes represented by such Global Note may from time to time be reduced or increased, as appropriate, to reflect exchanges, redemptions and the issuance of Additional Notes. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby will be made by the Trustee or the Notes Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 or by a Company Order in connection with the issuance of Additional Notes as required by Section 2.02(d).

Section 2.02. Execution and Authentication.

(a) Two Officers of the Company shall sign the Notes for the Company by manual or facsimile signature. The Company's seal may be impressed, affixed, imprinted or reproduced on the Notes and may be in facsimile form.

(b) If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

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

(d) On the Issue Date, the Trustee shall authenticate and deliver Notes in an aggregate principal amount of $[ ]. In connection with the issuance of Additional Notes, not later than 10 business days prior to the relevant Interest Payment Date, the Company shall deliver to the Trustee and the Paying Agent (if other than the Trustee), (i) with respect to Notes represented by Definitive Notes, the required amount of Additional Notes represented by Definitive Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such Additional Notes or (ii) with respect to Notes represented by one or more Global Notes, a Company Order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the Depositary or otherwise, the required amount of Additional Notes represented by Global Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such new Global Notes). Other than as described above, no other Notes may be issued by the Company or any Subsidiary Guarantor and authenticated and delivered pursuant to this Indenture (except for Notes authenticated and delivered at the times and in the manner specified in Sections 2.06, 2.07, 2.10, 3.06, 4.10, 4.15 or 9.05 of this Indenture).

(e) The Trustee may appoint an authenticating agent reasonably acceptable to the Company to authenticate the Notes. Unless limited by the terms of such appointment, an authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

Section 2.03. Registrar and Paying Agent.

(a) The Company shall at all times maintain an office or agency in the United States where Notes may be presented for registration of transfer or for exchange (the "*Registrar*") and an office or agency where Notes may be presented for payment (the "*Paying Agent*"). The Registrar shall keep a register of the Notes and of their transfer and exchange (the "*Register*"). The Company may have one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar, and the term "Paying Agent" includes any additional paying agent.

(b) The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-registrar not a party to this Indenture, which shall incorporate the terms of the TIA. The agreement shall implement the provisions of this 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 Section 7.06. The Company may act as Paying Agent, Registrar, co-registrar or transfer agent.

(c) The Company initially appoints the Trustee as Registrar and Paying Agent in connection with the Notes at the Corporate Trust Office of the Trustee.

Section 2.04. Paying Agent to Hold Money in Trust.

Not later than 10:00 a.m., New York City time, on each due date of the principal and Cash Interest on the Notes, the Company shall deposit with the Paying Agent a sum sufficient to pay such principal and Cash 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 Holders or the Trustee all money held by the Paying Agent for the payment of principal of or Cash Interest on the Notes 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 2.05. 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 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 Holders.

Section 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes

A Global Note may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All beneficial interests in the Global Notes will be exchanged by the Company for Definitive Notes if:

(1) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 90 days after the date of such notice from the Depositary;

(2) the Company, at its option but subject to DTC's requirements, determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and deliver a written notice to such effect to the Trustee; or

(3) there has occurred and is continuing an Event of Default with respect to the Notes, and the Depositary notifies the Trustee of its decision to exchange the Global Notes for Definitive Notes.

Upon the occurrence of the preceding events in (1), (2) or (3) above, Definitive Notes shall be issued in such names as the Depositary shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.09 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or Section 2.09 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a); *provided* that beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes

The transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures.

(1) *Transfer of Beneficial Interests in the Same Global Note*. Beneficial interests in any Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(1).

(2) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes*. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(1), the transferor of such beneficial interest must deliver to the Registrar either:

(A) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase; or

(B) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect such transfer or exchange.

(c) *Transfer and Exchange of Beneficial Interests in Global Notes to Definitive Notes*.

If any holder of a beneficial interest in a Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(2) hereof, the Trustee will cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company will execute and the Trustee will authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest requests through instructions to the Registrar from or through the Depositary and the Participant or Indirect Participant. The Trustee will deliver such Definitive Notes to the Persons in whose names such Notes are so registered.

(d) *Transfer and Exchange of Definitive Notes for Beneficial Interests*.

Other than following an exchange of beneficial interest in a Global Note for Definitive Notes as contemplated by Section 2.06(a)(2), a Holder of a Definitive Note may exchange such Note for a beneficial interest in a Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Global Notes.

(e) *Transfer and Exchange of Definitive Notes for Definitive Notes*.

Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar will register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. A Holder of Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of a Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Definitive Note pursuant to the instructions from the Holder thereof.

(f) *Legends*.

In addition to the legend appearing on the face of the form of the Notes in Exhibit A hereto relating to original issue discount, the following legend will appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(1) *Global Note Legend*. Each Global Note will bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (*"DTC"*), TO THE COMPANY OR ITS AGENTS FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

(g) *Cancellation and/or Adjustment of Global Notes*.

At such time as all beneficial interests in a particular Global Note have been exchanged for beneficial interests in another Global Note or for Definitive Notes, or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note will be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note will be reduced accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect

such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note will be increased accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) *General Provisions Relating to Transfers and Exchanges*.

To permit registrations of transfers and exchanges, the Company will execute and the Trustee will authenticate Global Notes and Definitive Notes upon receipt of a Company Order in accordance with Section 2.02 hereof or at the Registrar's request.

(2) No service charge will be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 4.10, 4.15 and 9.05 hereof).

(3) The Registrar will not be required to register the transfer of or exchange of any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(4) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes will be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(5) Neither the Registrar nor the Company will be required:

(A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 2.02 hereof and ending at the close of business on the day of selection;

(B) to register the transfer of or to exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part; or

(C) to register the transfer of or to exchange a Note between a record date and the next succeeding interest payment date.

(6) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(7) The Trustee will authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

(8) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06, or requested by the Trustee pursuant to Section 7.02, to effect a registration of transfer or exchange may be submitted by facsimile or electronic image scan.

Section 2.07. Replacement Notes.

(a) If a mutilated Note is surrendered to the Registrar or if the Holder claims that such Note has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall, upon its receipt of a Company Order, authenticate a replacement Note 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 Note is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Note.

(b) Every replacement Note is an additional obligation of the Company.

Section 2.08. Outstanding Notes.

(a) Notes Outstanding at any time are all Notes 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 Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

(b) If a Note is replaced pursuant to Section 2.07, it ceases to be Outstanding unless the Trustee and the Company receive proof satisfactory to them that the replaced Note is held by a protected purchaser.

(c) If the Paying Agent segregates and holds in trust, in accordance with this Indenture, on a redemption date or maturity date money sufficient to pay all principal and interest payable on that date with respect to the Notes (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 on that date pursuant to the terms of this Indenture, then on and after that date such Notes (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

Section 2.09. Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any Subsidiary Guarantor, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any Subsidiary Guarantor, will be considered as

though not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Notes that the Trustee actually knows are so owned will be so disregarded.

Section 2.10. Temporary Notes.

Until Definitive Notes are ready for delivery, the Company may prepare and the Trustee shall, upon its receipt of a Company Order, authenticate temporary Notes. Temporary Notes shall be substantially in the form of Definitive Notes but may have variations that the Company considers appropriate for temporary Notes. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate Definitive Notes and deliver them in exchange for temporary Notes.

Section 2.11. Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall, in accordance with its then customary procedures, cancel and destroy (subject to the record retention requirements of the Exchange Act) all Notes 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 Notes to replace Notes it has redeemed, paid or delivered to the Trustee for cancellation.

Section 2.12. Defaulted Interest.

If the Company defaults in a payment of interest on the Notes, 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 Notes and in Section 4.01 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 2.13. CUSIP and ISIN Numbers.

The Company in issuing the Notes 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* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee, in writing, of any change in the “CUSIP” numbers.

ARTICLE 3.
REDEMPTION OF NOTES

Section 3.01. Notice to Trustee.

If the Company elects to redeem Notes pursuant to paragraph 5 of the Notes, it shall notify the Trustee in writing of the redemption date, the principal amount of Notes to be redeemed and that such redemption is being made pursuant to paragraph 5 of the Notes.

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 Notes shall be revocable until the Company gives a notice of redemption pursuant to Section 3.02 to the Holders of Notes to be redeemed. For the avoidance of doubt, any election by the Company to redeem Notes shall be made solely in cash.

Section 3.02. Selection by Trustee of Notes to Be Redeemed.

(a) If less than all the Notes are to be redeemed, the particular Notes 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 Notes not previously called for redemption, *pro rata*, by lot or by any other method as the Trustee shall deem fair and appropriate (or in the case of notes in global form, the Trustee will select Notes for redemption based on DTC's method that most nearly approximates a pro rata selection) and which may provide for the selection for redemption of portions of the principal of Notes.

(b) The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Notes selected for partial redemption, the principal amount thereof to be redeemed.

(c) For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to redemption of Notes shall relate, in the case of any Note redeemed or to be redeemed only in part, to the portion of the principal amount of such Note which has been or is to be redeemed.

Section 3.03. Notice of Redemption.

(a) Notice of redemption shall be given in the manner provided in Section 14.05 hereof not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of a Note to be redeemed.

(b) All notices of redemption shall state:

(1) the Redemption Date;

(2) the Redemption Price;

(3) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of a partial redemption, the principal amounts) of the particular Notes to be redeemed;

(4) that on the Redemption Date the Redemption Price (together with accrued interest, if any, to the Redemption Date payable as provided in Section 10.5 hereof) will become due and payable upon each such Note, 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

(5) the place or places where such Notes are to be surrendered for payment of the Redemption Price.

(c) Notice of redemption of Notes 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 Notes or any defect therein shall not affect the validity of any proceedings for the redemption of other Notes.

Section 3.04. Deposit of Redemption Price.

On or before 10:00 a.m., New York City 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 4.03 hereof) an amount of money sufficient to pay the Redemption Price of, and accrued and unpaid interest on, all the Notes which are to be redeemed on such Redemption Date.

Section 3.05. Notes Payable on Redemption Date.

(a) Notice of redemption having been given as aforesaid, the Notes 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 Notes shall cease to bear interest. Upon surrender of any such Note for redemption in accordance with said notice, such Note shall be paid by the Company at the Redemption Price, together with accrued and unpaid interest, if any, to the Redemption Date.

(b) If any Note 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 Notes.

Section 3.06. Notes Redeemed in Part.

Any Note 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 4.02 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 Note without service charge, a new Note or Notes, 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 Note so surrendered.

ARTICLE 4.
COVENANTS

Section 4.01. 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 Notes in accordance with the terms of the Notes and this Indenture.

Section 4.02. Maintenance of Office or Agency.

(a) The Company shall maintain an office or agency where Notes may be presented or surrendered for payment, where Notes may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Notes, the Subsidiary Guarantees and this 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.

(b) The Company may also from time to time designate one or more other offices or agencies where the Notes 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 Notes 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 Notes 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 4.03. Money for Security Payments to Be Held in Trust.

(a) If the Company shall at any time act as its own Paying Agent, it shall, on or before 10:00 a.m., Eastern time, on each due date of the principal of (and premium, if any, on) or Cash Interest on any of the Notes, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal (and premium, if any) or Cash Interest so becoming due until such sum 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.

(b) Whenever the Company shall have one or more Paying Agents for the Notes, it will, on or before 10:00 a.m., Eastern time, on each due date of the principal of (and premium, if any, on), or Cash Interest on, any Notes, deposit with a Paying Agent immediately available funds in a sum sufficient to pay the principal (and premium, if any) or Cash Interest so becoming due, such funds to be held in trust for the benefit of the Persons entitled to such principal, premium or Cash Interest, and (unless such Paying Agent is the Trustee) the Company shall promptly notify the Trustee of such action or any failure so to act.

(c) The Company shall cause each Paying Agent (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 premium, if any, on) or Cash Interest on Notes 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 Notes) in the making of any payment of principal (and premium, if any) or Cash Interest; 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.

(d) The Company 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 sums. The Trustee and each Paying Agent shall promptly pay to the Company, upon Company Request, any money held by them (other than pursuant to Article 8) at any time in excess of amounts required to pay principal, premium, if any, or Cash Interest on the Notes.

(e) Subject to applicable escheat and 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 premium, if any, on) or Cash Interest on any Notes and remaining unclaimed for two years after such principal (and premium, if any) or Cash 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 Notes 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.

Section 4.04. Reports.

(a) Whether or not the Company is subject to the reporting requirements of Section 13 or Section 15(d) of the Exchange Act, to the extent not prohibited by the Exchange Act, the

Company will file with the Commission, and make available to the Trustee and the Holders of Notes without cost to any Holder, the annual reports and the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) that are specified in Sections 13 and 15(d) of the Exchange Act and applicable to a U.S. corporation within the time periods specified therein with respect to an accelerated filer. In the event that the Company is not permitted to file such reports, documents and information with the Commission pursuant to the Exchange Act, the Company will nevertheless make available such Exchange Act information to the Trustee and the Holders of the Notes without cost to any Holder as if the Company were subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act within the time periods specified therein with respect to a non-accelerated filer.

(b) If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then, to the extent material, the quarterly and annual financial information required by Section 4.04(a) will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

(c) The Company shall 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.

(d) The availability of the foregoing information or reports on the SEC's website or the Company's website will be deemed to satisfy the foregoing delivery requirements.

(e) Delivery of reports, information and documents to the Trustee pursuant to this Section 4.04 shall be for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of the covenants contained in the Indenture (as to which the Trustee will be entitled to conclusively rely upon an Officers' Certificate).

(f) In addition, the Company and the Subsidiary Guarantors, for so long as any Notes remain Outstanding, shall be required to deliver all reports and other information required to be delivered under the TIA within the time periods set forth in the TIA.

Section 4.05. Statement by Officers as to Default and Other Information.

(a) The Company shall deliver to the Trustee, within 120 days after the end 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 year 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 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 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 4.05(a), such compliance shall be determined without regard to any period of grace or requirement of notice under this Indenture.

(b) The Company shall, so long as any of the Notes 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.

(c) The Company shall deliver to the Trustee and the Collateral Agent, promptly after delivery to the Revolving Credit Agreement Agent or the lenders under the Revolving Credit Agreement or, if no Revolving Credit Agreement is then in effect, upon the reasonable request of the Collateral Agent in form and detail satisfactory to the Collateral Agent or otherwise as required by Section 11.01:

(1) a schedule of all oil, gas, and other mineral production attributable to all material Oil and Gas Properties of the Collateral Grantors, and in any event all such Oil and Gas Properties included in the most recent Engineering Report;

(2) all title or other information received after the Issue Date by the Collateral Grantors which discloses any material defect in the title to any material asset included in the most recent Engineering Report;

(3) (I) as soon as available and in any event within 90 days after each January 1, commencing with January 1, 2017, an annual reserve report as of each December 31 with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by an independent engineering firm of recognized standing acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent) in accordance with accepted industry practices, and (II) within 90 days after each July 1 commencing with July 1, 2016, a reserve report as of each June 30, with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by the Company in accordance with accepted industry practices;

(4) an updated reserve report with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by an independent engineering firm of recognized standing acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent) in accordance with accepted industry practices;

(5) title opinions (or other title reports or title information) and other opinions of counsel, in each case in form and substance acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent), with respect to at least ninety percent (90%) of the PV-9 of the Proved Reserves included in the most recent Engineering Report and the Provided and Probable Drilling Locations, for which satisfactory title reports have not been previously delivered to the Revolving Credit Agreement Agent or Collateral Agent as applicable, if any; and

(6) concurrently with the delivery of each Engineering Report hereunder:

(I) a certificate of an Officer (in form and substance reasonably satisfactory to the Collateral Agent in the case of delivery upon the request of the Collateral Agent):

(A) setting forth as of a recent date, a true and complete list of all Hedging Agreements of the Company and each Restricted Subsidiary, the material terms thereof (including the type, term, effective date, termination date and notional amounts or volumes), the net mark-to-market value therefor, any new credit support agreements relating thereto, any margin required or supplied under any credit support document, and the counterparty to each such agreement; and

(B) comparing aggregate notional volumes of all Hedging Agreements of the Company and each Restricted Subsidiary, which were in effect during such period (other than basis differential hedgings) and the actual production volumes for each of natural gas and crude oil during such period, which certificate shall certify that the hedged volumes for each of natural gas and crude oil did not exceed 100% of actual production or if such hedged volumes did exceed actual production, specify the amount of such excess;

(II) a report, prepared by or on behalf of the Company detailing on a monthly basis for the next twelve month period (A) the projected production of Hydrocarbons by the Company and the Restricted Subsidiaries and the assumptions used in calculating such projections, (B) an annual operating budget for the Company and the Restricted Subsidiaries, and (C) such other information as may be reasonably requested by the Collateral Agent (in the case of delivery upon the request of the Collateral Agent);

(III) an Officer's Certificate, certifying whether the Company is in compliance with the mortgage and title requirements set forth in Section 11.01 and setting forth the actual percentages as to which compliance has been achieved and if the Company is not in compliance the Company shall identify which Oil and Gas Properties are required to be mortgaged and/or as to which adequate title information has not been delivered; and

(7) prompt written notice (and in any event within 30 days prior thereto) of any change (I) in any Collateral Grantor's corporate name or in any trade name used to identify such Person in the conduct of its business or in the ownership of its properties, (II) in the location of any Collateral Grantor's chief executive office or principal place of business, (III) in any Collateral Grantor's identity or corporate structure or in the jurisdiction in which such Person is incorporated or formed, (IV) in any Collateral Grantor's jurisdiction of organization or such Person's organizational identification number in such jurisdiction of organization, and (V) in any Collateral Grantor's federal taxpayer identification number.

Section 4.06. Payment of Taxes; Maintenance of Properties; Insurance.

(a) The Company shall pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (1) 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 (2) 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.

(b) 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 4.06 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 4.06 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 Indenture.

(c) 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.

(d) 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 4.07. Limitation on Restricted Payments.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, take the following actions:

(1) declare or pay any dividend on, or make any other 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 in options, warrants or other rights to purchase Qualified Capital Stock of the Company);

(2) 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);

(3) 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 (excluding any intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries), except in any case out of the proceeds of Permitted Refinancing Indebtedness; or

(4) make any Restricted Investment;

(such payments or other actions described in clauses (i) through (iv) above being collectively referred to as "*Restricted Payments*"), unless at the time of and after giving effect to the proposed Restricted Payment:

(I) no Default or Event of Default shall have occurred and be continuing;

(II) the Company could incur $1.00 of additional Indebtedness in accordance with Section 4.09(a) hereof; and

(III) the aggregate amount of all Restricted Payments declared or made after January 1, 2004 shall not exceed the sum (without duplication) of the following:

(A) 50% of the Consolidated Net Income of the Company accrued on a cumulative basis during the period beginning on January 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*

(B) the aggregate Net Cash Proceeds, or the Fair Market Value of Property other than cash, received after January 1, 2004 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*

(C) the aggregate Net Cash Proceeds, or the Fair Market Value of Property other than cash, received after January 1, 2004 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*

(D) the aggregate Net Cash Proceeds received after January 1, 2004 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*

(E) 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 January 1, 2004 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 January 1, 2004.

(b) Notwithstanding paragraph (a) above, the Company and its Restricted Subsidiaries may take the following actions so long as (in the case of clauses (3), (4), (5) and (7) below) no Default or Event of Default shall have occurred and be continuing:

(1) 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);

(2) the payment of any dividend payable from a Restricted Subsidiary to the Company or any other Restricted Subsidiary of the Company;

(3) 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;

(4) 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;

(5) 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 Notes 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 Notes 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 Notes;

(6) 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 (6); and

(7) other Restricted Payments in an aggregate amount not to exceed $10,000,000; and

The actions described in clauses (1), (3), (4) and (6) 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 (1) 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 (1)), and the actions described in clauses (2), (5) and (7) 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) The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

(d) 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 Indenture, such Restricted Payment shall be deemed to have been made in compliance with this 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 4.08. Limitation on Dividend 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: (a) to 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*"). However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(a) 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;

(b) 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;

(c) any instrument governing Indebtedness or Disqualified Capital Stock of a Restricted Subsidiary that is not a Subsidiary Guarantor; *provided* that (a) such Indebtedness or Disqualified Capital Stock is permitted under Section 4.09 and (b) the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement and the Convertible Notes Indentures as in effect on the Issue Date;

(d) the Revolving Credit Agreement as in effect on the Issue Date or any agreement that amends, modifies, supplements, restates, extends, renews, refinances or replaces the Revolving Credit Agreement; *provided* that the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement as in effect on the Issue Date;

(e) the Senior Secured Notes Indenture, the New Senior Secured Notes, the Additional New Senior Secured Notes and the subsidiary guarantees thereof; or

(f) the Convertible Notes Indentures, the New Convertible Notes and any subsidiary guarantees thereof, in each case as in effect on the Issue Date.

Section 4.09. Limitation on Indebtedness and Disqualified 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), 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 (i) which is redeemable at the Company's option in cash or Qualified Capital Stock and (ii) the dividends on which are payable at the Company's option in cash or Qualified Capital Stock); *provided* that the Company and its Restricted Subsidiaries that are Subsidiary Guarantors may incur Indebtedness or issue shares of Disqualified Capital Stock if (1) 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 2.25 to 1.0 and (2) 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.

(b) Notwithstanding the prohibitions of Section 4.09(a), the Company and its Restricted Subsidiaries may incur any of the following items of Indebtedness (collectively, "*Permitted Indebtedness*"):

(1) Indebtedness under the Revolving Credit Agreement in an aggregate principal amount not in excess of $50,000,000 at any one time outstanding and any guarantee thereof by a Subsidiary Guarantor;

(2) Indebtedness under (a) the New 2020 Convertible Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation and the Additional New 2020 Convertible Notes issued in connection with the payment of interest thereon and (b) the Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation and the Additional Notes issued in connection with the payment of interest thereon;

(3) Indebtedness outstanding or in effect on the Issue Date (and not exchanged in connection with the Exchange Offer and Consent Solicitation);

(4) 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;

(5) (a) the subsidiary guarantees of the New 2020 Convertible Notes issued on the Issue Date in the Exchange and Consent Solicitation (and any assumption of the obligations guaranteed thereby) and the Additional New 2020 Convertible Notes issued in connection with the payment of interest thereon and (b) the Subsidiary Guarantees of the Notes issued on the Issue Date in the Exchange and Consent Solicitation (and any assumption of obligations guaranteed thereby) and the Additional Notes issued in connection with the payment of interest thereon;

(6) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries*; provided* that:

(I) if the Company is the obligor on such Indebtedness and a Subsidiary Guarantor is not the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Notes, or if a Subsidiary Guarantor is the obligor on such Indebtedness and neither the Company nor another Subsidiary Guarantor is the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Subsidiary Guarantee of such Subsidiary Guarantor; and

(II) (A) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (B) any sale or other transfer of any such Indebtedness to a Person that is neither the Company nor a Restricted Subsidiary of the Company will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);

(7) Permitted Refinancing Indebtedness and any guarantee thereof;

(8) Non-Recourse Indebtedness;

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

(10) 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);

(11) any additional Indebtedness in an aggregate principal amount not in excess of $75,000,000 at any one time outstanding and any guarantee thereof; *provided* that the Company may issue (and the Subsidiary Guarantors may guarantee) up to $91,875,000 of Additional New Senior Secured Notes under this clause (11) in lieu of paying cash interest of up to $75,000,000 on the New Senior Secured Notes, and any such issuance of Additional New Senior Secured Notes shall reduce (on a dollar for dollar basis) the amount of other Indebtedness that is permitted to be incurred under this clause (11); and

(12) Indebtedness under the New Senior Secured Notes issued on the Issue Date in an aggregate principal amount not to exceed $700,000,000 and any guarantee thereof by a Subsidiary Guarantor.

(c) For purposes of determining compliance with this Section 4.09, in the event that an item of Indebtedness meets the criteria of one or more of the categories of Permitted Indebtedness described in clauses (1) through (12) above or is entitled to be incurred pursuant to clause (a) of this Section 4.09, the Company may, in its sole discretion, classify such item of Indebtedness in any manner that complies with this Section 4.09 and such item of Indebtedness will be treated as having been incurred pursuant to 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; *provided* that all Indebtedness outstanding on the Issue Date under the Revolving Credit Agreement shall be deemed incurred under Section 4.09(b)(1) and not under Section 4.09(a) or Section 4.09(b)(3) and may not be later reclassified; *provided*, *further*, that all Indebtedness under the New Senior Secured Notes shall be deemed be incurred under Section 4.09(b)(12) and not under Section 4.09(a) or Section 4.09(b)(3) and may not be later reclassified; *provided*, *further*, that all Indebtedness under the New 2020 Convertible Notes (including the Additional New 2020 Convertible Notes) shall be deemed to be incurred under Section 4.02(b)(2)(a) and not under Section 4.09(a) or Section 4.09(b)(3) and may not be later reclassified.

(d) The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount or liquidation preference thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

(e) For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant

currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced (plus all accrued interest on the Indebtedness being refinanced and the amount of all expenses and premiums incurred in connection therewith).

(f) 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 4.09 in addition to the amount of Indebtedness which it guarantees.

(g) For purposes of this Section 4.09, 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.

(h) Notwithstanding any other provision of this Section 4.09, the maximum amount of Indebtedness that the Company or any Restricted Subsidiary may incur pursuant to this Section 4.09 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

Section 4.10. Limitation on Asset Sales.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, consummate any Asset Sale unless (1) 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 (2) 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 Notes) or liabilities of any Subsidiary Guarantor that made such Asset Sale (other than liabilities of a Subsidiary Guarantor that are by their terms subordinated to such Subsidiary Guarantor's Subsidiary 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* 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 since the 2009 Notes Issue Date 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) prepay, repay, redeem or purchase Senior Indebtedness of the Company or a Restricted Subsidiary; or (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); *provided* that if such Asset Sale includes Oil and Gas Properties or Proved and Probable Drilling Locations, after giving effect to such Asset Sale, the Company is in compliance with the Collateral requirements of this Indenture.

(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 (the "*Prepayment Offer*") to all Holders of Notes and all Holders of other Indebtedness that is pari passu with the Notes containing provisions similar to those set forth herein with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other *pari passu* Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Prepayment Offer will be equal to 100% of principal amount plus accrued and unpaid interest, if any, to the Purchase Date (subject to the right of Holders of record on the relevant Regular Record Date to receive interest due on an Interest Payment Date that is on or prior to the Purchase Date), and will be payable in cash. If the aggregate principal amount of Notes tendered by Holders thereof exceeds the amount of available Excess Proceeds allocated for repurchases of Notes pursuant to the Prepayment Offer for Notes, then such Excess Proceeds will be allocated pro rata according to the principal amount of the Notes tendered and the Trustee will select the Notes to be purchased in accordance with this Indenture. 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 Notes have been given the opportunity to tender their Notes for purchase as described in the following paragraph in accordance with this Indenture, the Company and its Restricted Subsidiaries may use such remaining amount for purposes permitted by this Indenture and the amount of Excess Proceeds shall be reset to zero. For the avoidance of doubt, a Prepayment Offer shall be made solely in cash.

(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 Notes pursuant to the preceding paragraph, send a written Prepayment Offer notice, by first-class mail, to the Trustee and the Holders of the Notes (the "*Prepayment Offer Notice*"), accompanied by such information regarding the Company and its Subsidiaries as the Company believes shall enable such Holders of the Notes to make an informed decision with respect to the Prepayment Offer (which at a minimum shall include (A) 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 4.4), (B) a

description of material developments in the Company's business subsequent to the date of the latest of such reports and (C) if material, appropriate pro forma financial information). The Prepayment Offer Notice shall state, among other things, (1) that the Company is offering to purchase Notes pursuant to the provisions of this Indenture, (2) that any Note (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, (3) that any Notes (or portions thereof) not properly tendered shall continue to accrue interest, (4) 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*"), (5) the aggregate principal amount of Notes to be purchased, (6) a description of the procedure which Holders of Notes must follow in order to tender their Notes and the procedures that Holders of Notes must follow in order to withdraw an election to tender their Notes for payment and (7) all other instructions and materials necessary to enable Holders to tender Notes 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 (1) the amount of the Prepayment Offer (the "*Offer Amount*"), (2) the allocation of the Net Available Cash from the Asset Sales pursuant to which such Prepayment Offer is being made and (3) the compliance of such allocation with the provisions of Section 4.10. 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 Notes 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 Notes 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 Note purchased shall be required to surrender the Note, 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 Note which was delivered for purchase by the Holder and a statement that such Holder is withdrawing his election to have such Note purchased. If at the expiration of the Offer Period the aggregate principal amount of Notes surrendered by Holders exceeds the Offer Amount, the Company shall select the Notes to be purchased on a pro rata basis. Holders whose Notes are purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered.

(4) At the time the Company delivers Notes to the Trustee which are to be accepted for purchase, the Company shall also deliver an Officers' Certificate stating that such Notes are to be accepted by the Company pursuant to and in accordance with the terms of this Section 4.10. A Note 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 Notes 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 4.11. Limitation on Transactions with Affiliates.

(a) 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) (each, an "*Affiliate Transaction*"), unless:

(1) 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; and

(2) the Company delivers to the Trustee:

(I) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $10,000,000 but no greater than $25,000,000, an Officers' Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this Section 4.11; and

(II) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $25,000,000, an Officers' Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this Section 4.11 and that such Affiliate Transaction or series of Affiliate Transactions has been approved by a majority of the Disinterested Directors of the Company.

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of Section 4.11(a):

(1) 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;

(2) 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;

(3) 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;

(4) the Company's employee compensation and other benefit arrangements;

(5) 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 Indenture; and

(6) any Restricted Payment permitted to be paid pursuant to Section 4.07.

Section 4.12. Limitation on Liens.

The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness on any of its Property, except for Permitted Liens.

Section 4.13. Additional Subsidiary Guarantors.

(a) If any Restricted Subsidiary that is not already a Subsidiary Guarantor has outstanding or guarantees any other Indebtedness of the Company or a Subsidiary Guarantor, then in either case that Subsidiary will become a Subsidiary Guarantor by executing (1) a supplemental indenture and delivering it to the Trustee within 20 Business Days of the date on which it incurred or guaranteed such Indebtedness, as the case may be; *provided* that the foregoing shall not apply to Subsidiaries of the Company that have properly been designated as Unrestricted Subsidiaries in accordance with this Indenture for so long as they continue to constitute Unrestricted Subsidiaries, (2) amendments to the Collateral Agreements pursuant to which it will grant a Junior Lien on any Collateral held by it in favor of the Collateral Agent for the benefit of the Secured Parties, and become a Collateral Grantor thereunder, and cause such Liens to be perfected as required thereby and (3) deliver to the Trustee or any other Agent one or more Opinions of Counsel.

(b) Notwithstanding the foregoing and the other provisions of this Indenture, any Subsidiary Guarantee incurred by a Restricted Subsidiary pursuant to this Section 4.13 shall provide by its terms that it shall be automatically and unconditionally released and discharged upon the terms and conditions set forth in Section 10.03 hereof

Section 4.14. Corporate Existence.

Except as expressly permitted by Article 5 hereof, Section 4.10 hereof or other provisions of this 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* 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 4.15. Offer to Repurchase Upon Change of Control.

(a) Upon the occurrence of a Change of Control, the Company shall be obligated to make an offer to purchase (a "*Change of Control Offer*") all of the then Outstanding Notes, in whole or in part, from the Holders of such Notes, at a purchase price (the "*Change of Control Purchase Price*") equal to 101% of the aggregate principal amount of such Notes, plus accrued and unpaid interest, if any, to the Change of Control Purchase Date (subject to the right of Holders of record on the relevant Regular Record Date to receive interest due on an Interest Payment Date that is on or prior to the Change of Control Purchase Date), 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 Notes 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 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 Notes validly tendered and not withdrawn under such Change of Control Offer. For the avoidance of doubt, a Change of Control Offer shall only be made in cash.

(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.

(c) Not later than the 30th day following the occurrence of any Change of Control, the Company shall give to the Trustee in the manner provided in Section 14.04 and each Holder of the Notes in the manner provided in Section 14.05, a notice (the "*Change of Control Notice*") governing the terms of the Change of Control Offer and stating:

(1) that a Change of Control has occurred and that such Holder has the right to require the Company to repurchase such Holder's Notes, or portion thereof, at the Change of Control Purchase Price;

(2) any information regarding such Change of Control 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 occurred;

(4) that any Note, 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 4.15, or payment is otherwise prevented, any Note, 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 Notes repurchased in accordance with paragraph (d) of this Section.

If any of the Notes subject to the Change of Control Offer is in the form of a Global Note, 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 Notes purchased will be required to surrender such Notes 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 Notes 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 Notes purchased. Holders whose Notes are purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered.

On the Change of Control Purchase Date, the Company shall (i) accept for payment Notes 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 Notes or portions thereof so tendered, and (iii) deliver or cause to be delivered to the Trustee the Notes so accepted. The Paying Agent shall promptly mail or deliver to Holders of the Notes so tendered payment in an amount equal to the purchase price for the Notes, and the Company shall execute and the Trustee shall authenticate and mail or make available for delivery to such Holders a new Note equal in principal amount to any unpurchased portion of the Note 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 4.15, the Trustee will act as the Paying Agent.

(e) If Holders of not less than 90% in aggregate principal amount of the Outstanding Notes validly tender and do not withdraw such notes in a Change of Control Offer and the Company, or any third party making a Change of Control Offer in lieu of the Company as described above, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Company will have the right, upon not less than 30 nor more than 60 days' prior notice,

given not more than 30 days following such purchase pursuant to the Change of Control Offer described above, to redeem all Notes that remain outstanding following such purchase at a redemption price in cash equal to the applicable Change of Control Purchase Price plus, to the extent not included in the Change of Control Purchase Price, accrued and unpaid interest, if any, to the date of redemption.

(f) 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 occurs and the Company is required to purchase Notes as described in this Section 4.15.

Section 4.16. 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 (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 4.10 hereof.

Section 4.17. Suspended Covenants.

Following any day (a "*Suspension Date*") that (a) the Notes have a rating equal to or higher than BBB- (or the equivalent) by S&P and a rating equal to or higher than Baa3 (or the equivalent) by Moody's ("*Investment Grade Ratings*"), (b) follows a date on which the Notes do not have Investment Grade Ratings, and (c) no Default or Event of Default has occurred and is continuing under this Indenture, the Company and its Restricted Subsidiaries shall not be subject to the covenants described in Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.16 and 5.01(a)(3) (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 Notes 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 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 4.07 will be made as though the covenants described under Section 4.07 had been in effect since the Issue Date and throughout the Suspension Period. During any Suspension Period, the Board of Directors of the Company may not designate any of the Company's Subsidiaries as Unrestricted Subsidiaries pursuant to this Indenture. The Company shall give the Trustee prompt written notification upon the occurrence of a Suspension Date or a Reversion Date.

Section 4.18. Further Assurances.

(a) The Company shall, and shall cause each other Collateral Grantor to, at the Company's sole cost and expense:

(1) at the request of the Collateral Agent, acting in accordance with the Intercreditor Agreement or the Collateral Trust Agreement, as applicable, execute and deliver all such agreements and instruments and take all further action as may be reasonably necessary or desirable (a) to describe more fully or accurately the property intended to be Collateral or the obligations intended to be secured by any Collateral Agreement and/or (b) to continue and maintain the Collateral Agent's second-priority perfected Lien in the Collateral (subject to the Priority Liens in favor of the holders of Priority Lien Obligations pursuant to the terms of the Intercreditor Agreement and subject to Permitted Collateral Liens); and

(2) at the request of the Collateral Agent, in accordance with the Intercreditor Agreement or the Collateral Trust Agreement, as applicable, file any such notice filings or other agreements or instruments as may be reasonably necessary or desirable under applicable law to perfect the Liens created by the Collateral Agreements.

(b) From and after the Issue Date, if the Company or any other Collateral Grantor acquires any property or asset that constitutes Collateral for the Convertible Notes Obligations, if and to the extent that any Convertible Note Document requires any supplemental security document for such Collateral or other actions to achieve a second-priority perfected Lien on such Collateral, the Company shall, or shall cause any other applicable Collateral Grantor to, promptly (but not in any event no later than the date that is 10 Business Days after which such supplemental security documents are executed and delivered (or other action taken) under such Convertible Note Documents), to execute and deliver to the Collateral Agent appropriate security documents (or amendments thereto) in such form as shall be necessary to grant the Collateral Agent a second-priority perfected Lien in such Collateral or take such other actions in favor of the Collateral Agent as shall be reasonably necessary to grant a perfected Lien in such Collateral to the Collateral Agent, subject to the terms of this Indenture, the Intercreditor Agreement and the other Note Documents.

(c) The Company and the Subsidiary Guarantors will (i) maintain with financially sound and reputable insurance companies not Affiliates of the Company, 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, and (ii) cause all property and general liability insurance policies to name the Collateral Agent on behalf of the Secured Parties as additional insured (with respect to liability and property policies), loss payee (with respect to property policies) or lender's loss payee (with respect to property policies), as appropriate, and to provide that no cancellation, material addition in amount or material change in coverage shall be effective until after 30 days' written notice to the Collateral Agent. So long as an Event of Default is not then continuing, the Collateral Agent, on behalf of the Secured Parties, shall release, endorse and turn over to the Company or the applicable Subsidiary Guarantor any insurance proceeds received by the Collateral Agent; *provided* that the application of such proceeds is not in violation of the Revolving Credit Agreement or the Pari Passu Intercreditor Agreement.

Section 4.19. Limitation on Sale and Leaseback Transactions

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, enter into any Sale/Leaseback Transaction unless (1) 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 (2) the Company or such Restricted Subsidiary receives proceeds from such Sale/Leaseback Transaction at least equal to the Fair Market Value thereof 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.

ARTICLE 5.
CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

Section 5.01. Company May Consolidate, etc., Only on Certain Terms.

(a) 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 effect thereto:

(1) 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 Indenture executed and delivered to the Trustee, in form satisfactory to the Trustee, and pursuant to agreements reasonably satisfactory to the Trustee or the Collateral Agent, as applicable, all the obligations of the Company under the Notes, this Indenture and the other Convertible Note Documents to which the Company is a party and, in each case, such Convertible Note Documents shall remain in full force and effect;

(2) 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;

(3) 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, either:

(I) 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 the Indenture) could incur $1.00 of additional Indebtedness under Section 4.09(a) hereof; or

(II) 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 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 Fixed Charge Coverage Ratio of the Company (or the Surviving Entity if the Company is not the continuing obligor under this Indenture) will be equal to or greater than the Fixed Charge Coverage Ratio of the Company immediately before such transaction or transactions;

(4) if the Company is not the continuing obligor under the Indenture, then each Subsidiary Guarantor, unless it is the Surviving Entity, shall have by supplemental indenture confirmed that its Subsidiary Guarantee of the Notes shall apply to the Surviving Entity's obligations under this Indenture and the Notes;

(5) any Collateral owned by or transferred to the Surviving Entity shall (a) continue to constitute Collateral under this Indenture and the Collateral Agreements and (b) be subject to a Junior Lien in favor of the Collateral Agent for the benefit of the Secured Parties;

(6) the Surviving Entity shall take such action (or agree to take such action) as may be reasonably necessary to cause any property or assets that constitute Collateral owned by or transferred to the Surviving Entity to be subject to the Junior Liens in the manner and to the extent required under the Collateral Agreements and shall deliver an Opinion of Counsel as to the enforceability of any amendments, supplements or other instruments with respect to the Collateral Agreements to be executed, delivered, filed and recorded, as applicable, and such other matters as the Trustee or Collateral Agent, as applicable, may reasonably request; and

(7) the Company (or the Surviving Entity if the Company is not the continuing obligor under the Indenture) shall have delivered to the Trustee, in form and substance reasonably satisfactory to the Trustee, (i) an Officers' Certificate and Opinion of Counsel 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 the Indenture and (ii) an Opinion of Counsel stating that the requirements of Section 5.01(a)(1) hereof have been satisfied.

Section 5.02. 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 5.01 hereof, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture and the other Convertible Note Documents 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 Indenture or any successor Person which shall theretofore become such in the manner described in Section 5.01 hereof), except in the case of a lease, shall be discharged from all obligations and covenants under this Indenture and the Notes, 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 6.
DEFAULTS AND REMEDIES

Section 6.01. 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 Notes 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;

(b) default in the payment of any installment of interest on any of the Notes, when it becomes due and payable, and the continuance of such default for a period of 30 days;

(c) default in the performance or breach of the provisions of Article 5 hereof, the failure to make or consummate a Change of Control Offer in accordance with the provisions of Section 4.15 or the failure to make or consummate a Prepayment Offer in accordance with the provisions of Section 4.10;

(d) the Company or any Subsidiary Guarantor shall fail to comply with the provisions of Section 4.04 for a period of 90 days after written notice of such failure stating that it is a "notice of default" hereunder 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 Notes then Outstanding);

(e) the Company or any Subsidiary Guarantor shall fail to perform or observe any other term, covenant or agreement contained in the Notes, any Subsidiary Guarantee or the Indenture (other than a default specified in subparagraph (a), (b), (c) or (d) above) for a period of 60 days after written notice of such failure stating that it is a "notice of default" hereunder 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 Notes then Outstanding;

(f) 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 Notes) or any Subsidiary 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 Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed, provided that the aggregate principal amount of such Indebtedness, together with the aggregate principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, shall exceed $50,000,000;

(g) any Subsidiary Guarantee shall for any reason cease to be, or be asserted by the Company or any Subsidiary Guarantor, as applicable, not to be, in full force and effect (except pursuant to the release of any such Subsidiary Guarantee in accordance with this Indenture);

(h) failure by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary to pay final judgments or orders rendered against the Company or any Subsidiary Guarantor or any other Restricted Subsidiary aggregating in excess of $50,000,000 (net of any amounts covered by insurance with a reputable and creditworthy insurance company that has not disclaimed liability) 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;

(i) 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 Subsidiary 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 Subsidiary Guarantor or any other Restricted Subsidiary bankrupt or insolvent, or approving a petition seeking reorganization, arrangement, adjustment or composition of the Company or any Subsidiary 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 Subsidiary 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;

(j) the commencement by the Company or any Subsidiary 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 Subsidiary 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 Subsidiary 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 Subsidiary 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 Subsidiary Guarantor or any other Restricted Subsidiary in furtherance of any such action;

(k) the occurrence of the following:

(1) except as permitted by the Note Documents, any Collateral Agreement establishing the Junior Liens ceases for any reason to be enforceable*; provided* that it will not be an Event of Default under this clause (k)(1) if the sole result of the failure of one or more Collateral Agreements to be fully enforceable is that any Junior Lien purported to be granted under such Collateral Agreements on Collateral, individually or in the aggregate, having a fair market value of not more than $10,000,000, ceases to be an enforceable and perfected second-priority Lien, subject only to the Priority Liens favor of the holders of Priority Lien Obligations pursuant to the terms of the Intercreditor Agreement and subject to Permitted Collateral Liens*; provided*, *further*, that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period;

(2) except as permitted by the Note Documents, any Junior Lien purported to be granted under any Collateral Agreement on Collateral, individually or in the aggregate, having a fair market value in excess of $10,000,000, ceases to be an enforceable and perfected second-priority Lien, subject only to the Priority Liens in favor of the holders of the Priority Lien Obligations pursuant to the terms of the Intercreditor Agreement and subject to Permitted Collateral Liens*; provided* that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period; and

(3) the Company or any other Collateral Grantor, or any Person acting on behalf of any of them, denies or disaffirms, in writing, any obligation of the Company or any other Collateral Grantor set forth in or arising under any Collateral Agreement establishing Junior Liens; or

(l) the Required Stockholder Approval is not obtained and the Charter Amendment has not become effective, in each case by December 31, 2016, and such failure shall continue for a period of 90 days.

Section 6.02. Acceleration of Maturity; Rescission and Annulment.

(a) If an Event of Default (other than an Event of Default specified in Section 6.01(i) or (j) hereof) occurs and is continuing, the Trustee or the Holders of not less than 25% in aggregate principal amount of the Notes then Outstanding, by written notice to the Company (and to the Trustee if such notice is given by the Holders), may declare all unpaid principal of, premium, if any, and accrued and unpaid interest on all the Notes to be due and payable immediately, upon which declaration all amounts payable in respect of the Notes shall be immediately due and payable. If an Event of Default specified in Section 6.01(i) or (j) 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.

(b) 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 Outstanding Notes, by written notice to the Company, the Subsidiary Guarantors and the Trustee, may rescind and annul such declaration and its consequences if:

(1) the Company or any Subsidiary Guarantor has paid (or issued Additional Notes with respect to the payment of interest) or deposited with the Trustee a sum sufficient to pay:

(I) all overdue interest on all Outstanding Notes,

(II) all unpaid principal of (and premium, if any, on) any Outstanding Notes which have become due otherwise than by such declaration of acceleration, including any Notes 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 Notes,

(III) to the extent that payment of such interest is lawful, interest on overdue interest and overdue principal at the rate borne by the Notes (without duplication of any amount paid or deposited pursuant to clauses (1) and (2) above), and

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

(2) 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

(3) all Events of Default, other than the non-payment of amounts of principal of (or premium, if any, on) or interest on Notes which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 6.13 hereof.

(c) No such rescission shall affect any subsequent default or impair any right consequent thereon.

(d) Notwithstanding the foregoing, if an Event of Default specified in Section 6.01(f) 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* that, 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 Notes, and so long as such rescission of any such acceleration of the Notes does not conflict with any judgment or decree as certified to the Trustee by the Company.

Section 6.03. Collection of Indebtedness and Suits for Enforcement by Trustee.

(a) The Company covenants that if

(1) default is made in the payment of any installment of interest on any Note when such interest becomes due and payable and such default continues for a period of 30 days, or

(2) default is made in the payment of the principal of (or premium, if any, on) any Note at the Maturity thereof or with respect to any Note 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 Notes, the whole amount then due and payable on such Notes for principal (and premium, if any) and Cash 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 Notes, 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.

(b) 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 Notes 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 Notes, wherever situated.

(c) 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 the Indenture or in aid of the exercise of any power granted in the Indenture, or to enforce any other proper remedy.

Section 6.04. Trustee May File Proofs of Claim.

(a) In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company, any Subsidiary Guarantor or any other obligor upon the Notes, their creditors or the Property of the Company, of any Subsidiary Guarantor or of any such other obligor, the Trustee (irrespective of whether the principal of the Notes 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 Subsidiary 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,

(1) 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 Notes 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

(2) 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 Section 7.06 hereof.

(b) Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the Subsidiary 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 6.05. Trustee May Enforce Claims Without Possession of Notes.

All rights of action and claims under the Indenture or the Notes or the Subsidiary Guarantees may be prosecuted and enforced by the Trustee without the possession of any of the Notes 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 Notes in respect of which such judgment has been recovered.

Section 6.06. Application of Money Collected.

Any money collected by the Trustee pursuant to this Article 6 shall be applied, subject to the Intercreditor Agreement and the Collateral Trust Agreement, 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 Cash Interest, upon presentation of the Notes and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

(a) FIRST: to the payment of all amounts due the Trustee under Section 7.06 hereof;

(b) SECOND: to the payment of the amounts then due and unpaid for principal of (and premium, if any, on) and Cash Interest on the Notes 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 Notes for principal (and premium, if any) and Cash Interest, respectively; and

(c) 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 6.07. Limitation on Suits.

No Holder of any Notes shall have any right to institute any proceeding, judicial or otherwise, with respect to the 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 Notes 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 the Trustee 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 Notes;

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

Notwithstanding any other provision in the Indenture, the Holder of any Note shall have the right, which is absolute and unconditional, to receive payment, as provided herein (including, if applicable, Article 8 hereof) and in such Note of the principal of (and premium if any, on) and (subject to Section 2.12 hereof) interest on, such Note on the respective Stated Maturities expressed in such Note (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 6.09. 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 Subsidiary 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 6.10. Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07 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 6.11. Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Note 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 6.12. Control by Holders.

(a) The Holders of not less than a majority in aggregate principal amount of the Outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; *provided* that

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

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

(3) the Trustee need not take any action which might involve it in personal liability, and

(4) the Trustee may decline to take any action that would benefit some Holders to the detriment of other Holders.

(b) Prior to taking any such action under this Section 6.12, 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 6.13. Waiver of Past Defaults.

(a) Subject to Section 6.02(b)(1)(IV), the Holders of not less than a majority in aggregate principal amount of the Outstanding Notes may, on behalf of the Holders of all the Notes, waive any existing Default or Event of Default hereunder and its consequences, except a Default or Event of Default

(1) in respect of the payment of the principal of (or premium, if any, on) or interest on any Note, or

(2) in respect of a covenant or provision hereof which under Article 9 hereof cannot be modified or amended without the consent of the Holder of each Outstanding Note affected thereby.

(b) Upon any such waiver, such Default or Event of Default shall cease to exist for every purpose under this Indenture, but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

Section 6.14. Waiver of Stay, Extension or Usury Laws.

Each of the Company and the Subsidiary 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 Subsidiary Guarantor from paying all or any portion of the principal of (premium, if any, on) or interest on the Notes as contemplated herein, or which may affect the covenants or the performance of this Indenture; and (to the extent that it may lawfully do so) each of the Company and the Subsidiary Guarantors hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 6.15. The Collateral Agent.

Whenever in the exercise of any remedy available to the Trustee or the exercise of any trust or power conferred on it with respect to the Notes, the Trustee may also direct the Collateral Agent in the exercise of any of the rights and remedies available to the Collateral Agent pursuant to the Collateral Agreements.

ARTICLE 7.
TRUSTEE

Section 7.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise 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 person would exercise or use under the circumstances in the conduct of his own affairs.

(b) 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 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, and shall be fully protected in so relying, 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; provided, however, that, 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 examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture, but the Trustee has no obligation to determine the accuracy or completeness (other than as to conformity with the requirements of this Indenture) of the statements made therein.

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(1) this paragraph shall not limit the effect of Section 7.01(b);

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

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.12.

Section 7.02. Certain Rights of Trustee.

Subject to the provisions of Section 7.01 hereof:

(a) the Trustee may conclusively rely and shall be 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 (whether in its original or facsimile form), 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 mentioned herein shall be sufficiently evidenced by a Company Request or Company Order 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) may, in the absence of bad faith on its part, rely upon an Officers' 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 reasonably see fit;

(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;

(h) the Trustee shall not be liable for any action taken, suffered or omitted by it in good faith and believed by it in good faith to be authorized or within the discretion or rights or powers conferred upon it by this Indenture;

(i) the Trustee shall not be deemed to have notice or knowledge of any matter unless a Responsible Officer has actual knowledge thereof or unless written notice thereof is received by the Trustee at its Corporate Trust Office and such notice references the Notes generally, the Company or this Indenture;

(j) the Trustee shall not be required to advance, 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;

(k) the Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture;

(l) anything in this Indenture notwithstanding, in no event shall the Trustee be liable for any special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including but not limited to loss of profit), even if the Trustee has been advised as to the likelihood of such loss or damage and regardless of the form of action;

(m) the Trustee may request that the Company and, if applicable, the Guarantors deliver an Officers' 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 Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded;

(n) the permissive rights of the Trustee enumerated herein shall not be construed as duties; and

(o) notwithstanding anything to the contrary contained herein, the Trustee shall have no responsibility for (i) preparing, recording, filing, re-recording, or re-filing any financing statement, perfection statement, continuation statement or other instrument in any public office or for otherwise ensuring the perfection or maintenance of any security interest granted pursuant to, or contemplated by, any document; (ii) taking any necessary steps to preserve rights against any parties with respect to the Collateral; or (iii) taking any action to protect against any diminution in value of the Collateral.

Section 7.03. Trustee Not Responsible for Recitals or Issuance of Notes.

The recitals contained herein and in the Notes, except for the Trustee's certificates of authentication, shall be taken as the statements of the Company or the Subsidiary Guarantors, as the case may be, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture, the Subsidiary Guarantees or the Notes. The Trustee shall not be accountable for the use or application by the Company of any Notes or the proceeds thereof.

Section 7.04. May Hold Notes.

The Trustee, any Paying Agent, any Registrar or any other agent of the Company, the Subsidiary Guarantors or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and, subject to TIA Sections 310(b) and 311 in the case of the Trustee, may otherwise deal with the Company and the Subsidiary Guarantors with the same rights it would have if it were not the Trustee, Paying Agent, Registrar or such other agent.

Section 7.05. 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 with the Company or any Subsidiary Guarantor.

Section 7.06. Compensation and Reimbursement.

(a) The Company agrees:

(1) to pay to the Trustee from time to time such compensation as the Company and the Trustee may agree in writing 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 compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Trustee's willful misconduct, negligence or bad faith; and

(3) to indemnify the Trustee for, and to hold it harmless against, any loss, liability, claim, damage or expense incurred without willful misconduct or negligence on its part, (i) arising out of or in connection with the acceptance or administration of this trust, 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 or (ii) in connection with enforcing this indemnification provision.

(b) The obligations of the Company under this Section 7.06 to compensate the Trustee, to pay or reimburse the Trustee for expenses, disbursements and advances and to indemnify and hold harmless the Trustee shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture, the resignation or removal of the Trustee, or any other termination under any Insolvency or Liquidation Proceeding. As security for the performance of such obligations of the Company, the Trustee shall have a claim and lien prior to the Notes upon all property and funds held or collected by the Trustee as such, except funds held in trust for payment of principal of (and premium, if any, on) or interest on Notes. Such lien shall survive the satisfaction and discharge of this Indenture or any other termination under any Insolvency or Liquidation Proceeding.

(c) When the Trustee incurs expenses or renders services after the occurrence of an Event of Default specified in paragraph (i) or (j) of Section 6.01 of this Indenture, such expenses and the compensation for such services are intended to constitute expenses of administration under any Insolvency or Liquidation Proceeding.

Section 7.07. Corporate Trustee Required; Eligibility.

There shall at all times be a Trustee hereunder which shall be eligible to act as Trustee under TIA Section 310(a)(1) and shall have a combined capital and surplus of at least $50,000,000. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of federal, state, territorial or District of Columbia supervising or examining authority, then for the purposes of this Section 7.07, 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. 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 7.

Section 7.08. Conflicting Interests.

The Trustee shall comply with the provisions of Section 310(b) of the Trust Indenture Act; *provided* that there shall be excluded from the operation of TIA Section 310(b)(1) any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Company are outstanding if the requirements for such exclusion set forth in TIA Section 310(b)(1) are met.

Section 7.09. 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 7 shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 7.10 hereof.

(b) The Trustee may resign at any time by giving written notice thereof to the Company. If the instrument of acceptance by a successor Trustee required by Section 7.10 hereof shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may, at the expense of the Company, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time by Act of the Holders of not less than a majority in aggregate principal amount of the Outstanding Notes, delivered to the Trustee and to the Company.

(d) If at any time:

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

(2) the Trustee shall cease to be eligible under Section 7.07 hereof and shall fail to resign after written request therefor by the Company or by any Holder who has been a bona fide Holder for at least six months, 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, or (ii) subject to TIA Section 315(e), any Holder who has been a bona fide Holder 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 and the appointment of a successor Trustee.

(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, the Company, by a Board Resolution, shall promptly appoint a successor Trustee. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Holders of a majority in aggregate principal amount of the Outstanding Notes delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the successor Trustee appointed by the Company. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, the retiring Trustee or any Holder who has been a bona fide Holder for at least six months may, on behalf of himself and all others similarly situated, at the expense of the Company, petition any court of competent jurisdiction for the appointment of a successor Trustee. The evidence of such successorship may, but need not be, evidenced by a supplemental indenture.

(f) The Company shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee to the Holders in the manner provided for in Section 14.5 hereof. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

(g) Notwithstanding the replacement of the Trustee pursuant to this Section 7.09, the Company's obligations under Section 7.06 shall continue for the benefit of the retiring Trustee.

Section 7.10. Acceptance of Appointment by Successor.

(a) Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Company 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 request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of all amounts due it under Section 7.06 hereof, 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 money and other Property held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Company 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.

(b) 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.

Section 7.11. Merger, Conversion, Consolidation or Succession to Business.

Any corporation or banking association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or banking association resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or banking association succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation or banking association shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Notes 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 Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes; and in case at that time any of the Notes shall not have been authenticated, any successor Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture provided; provided, however, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Notes in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 7.12. Preferential Collection of Claims Against Company.

If and when the Trustee shall be or become a creditor of the Company (or any other obligor under the Notes), the Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Company (or any such other obligor).

Section 7.13. Notice of Defaults.

Within 60 days after the occurrence of any Default hereunder, the Trustee shall transmit in the manner and to the extent provided in TIA Section 313(c), 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 premium, if any, on) or interest on any Note, 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 determines that the withholding of such notice is in the interest of the Holders. The Trustee shall not be deemed to have notice of any Default, other than a Default under Section 6.01(a) or 6.01(b), unless a Responsible Officer of the Trustee shall have been advised in writing that a Default has occurred. No duty imposed upon the Trustee in this Indenture shall be applicable with respect to any Default of which the Trustee is not deemed to have notice.

Section 7.14. Reports by Trustee.

(a) Within 60 days after May 15 of each year commencing with May 15, 2017, the Trustee shall transmit by mail to the Holders, as their names and addresses appear in the Note Register, a brief report dated as of such May 15 in accordance with and to the extent required under TIA Section 313(a). The Trustee shall also comply with TIA Sections 313(b) and 313(c).

(b) The Company shall promptly notify the Trustee in writing if the Notes become listed on any stock exchange or automatic quotation system

(c) A copy of each Trustee's report, at the time of its mailing to Holders of Notes, shall be mailed to the Company and filed with the Commission and each stock exchange, if any, on which the Notes are listed.

ARTICLE 8.
DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01. 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 Notes, elect to have either Section 8.02 or Section 8.03 hereof be applied to all Outstanding Notes upon compliance with the conditions set forth below in this Article 8.

Section 8.02. Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company and the Subsidiary Guarantors shall be deemed to have been discharged from their respective obligations with respect to all Outstanding Notes on the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "*legal defeasance*"). For this purpose, such legal defeasance means that the Company and the Subsidiary Guarantors shall be deemed (1) to have paid and discharged their respective obligations under the Outstanding Notes; *provided* that the Notes shall continue to be deemed to be "Outstanding" for purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in clauses (a) and (b) below, (2) to have satisfied all their other obligations with respect to such Notes and this Indenture (and the Trustee, at the expense and direction of the Company, shall execute proper instruments acknowledging the same) and (3) in the case of the Collateral Grantors, to have satisfied all of their obligations under the Collateral Agreements, except for the following which

shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of Outstanding Notes to receive, solely from the trust fund described in Section 8.04 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 Notes when such payments are due (or at such time as the Notes would be subject to redemption at the option of the Company in accordance with this Indenture), (b) the respective obligations of the Company and the Subsidiary Guarantors under Sections 2.01, 2.03, 2.04, 2.05, 2.07, 2.08, 2.09, 6.08, 6.14, 4.02, 10.01 (to the extent it relates to the foregoing Sections and this Article 8), 10.04 and 10.05 hereof and the Exhibits, (c) the rights, powers, trusts, duties, indemnities and immunities of the Trustee hereunder, and (d) the obligations of the Company and the Subsidiary Guarantors under this Article 8. Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof with respect to the Notes.

Section 8.03. Covenant Defeasance.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company and each Subsidiary Guarantor shall be released from their respective obligations under any covenant contained in Section 4.05(a) and (b) hereof, in Sections 4.06 through 4.19 hereof and in clauses (c) and (e) of Section 5.01 hereof with respect to the Outstanding Notes on and after the date the conditions set forth below are satisfied (hereinafter, "*covenant defeasance*"), and the Notes 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 Notes, the Company and each Subsidiary 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 6.01(c), 6.01(d) or 6.01(e) hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby.

Section 8.04. Conditions to Defeasance or Covenant Defeasance.

The following shall be the conditions to application of either Section 8.02 or Section 8.03 hereof to the Outstanding Notes:

(a) The Company or any Subsidiary Guarantor shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 7.07 hereof who shall agree to comply with the provisions of this Article 8 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 Notes, (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 without consideration of any reinvestment of interest, 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 Notes 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 Notes. Before such a deposit, the Company may give to the Trustee, in accordance with Section 3.01 hereof, a notice of its election to redeem all of the Outstanding Notes at a future date in accordance with Article 3 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 Notes shall have occurred and be continuing on the date of such deposit or, insofar as Sections 6.01(i) and 6.01(j) 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 Indenture or the Trust Indenture Act with respect to any securities of the Company or any Subsidiary 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 Subsidiary 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 8.02 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 Indenture there has been a change in the applicable federal income tax laws, in either case providing that the Holders of the Outstanding Notes 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 8.03 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of the Outstanding Notes 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 8.03 hereof or the covenant defeasance under Section 8.03 (as the case may be) have been complied with.

Section 8.05. Deposited Money and U.S. Government Obligations to Be Held in Trust; Other Miscellaneous Provisions.

(a) Subject to the provisions of Section 8.03(e) hereof, 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 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the Outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes 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 Holders of such Notes 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.

(b) 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 8.04 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 Notes.

(c) Anything in this Article 8 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 8.04 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 8.06. Reinstatement.

If the Trustee or any Paying Agent is unable to apply any money in accordance with Section 11.5 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 Subsidiary Guarantors' obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 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 8.05 hereof; *provided* that if the Company or any Subsidiary Guarantor makes any payment of principal of (or premium, if any, on) or interest on any Note following the reinstatement of its obligations, the Company or such Subsidiary Guarantor shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9.
SUPPLEMENTAL INDENTURES

Section 9.01. Without Consent of Holders of Notes.

(a) Without the consent of any Holders, the Company, when authorized by a Board Resolution, each of the Subsidiary Guarantors, when authorized by a Board Resolution, and the Trustee upon Company Request, at any time and from time to time, may amend or supplement any of the Note Documents in the following circumstances, 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 contained in the Indenture and in the Notes;

(2) 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;

(3) to comply with any requirement of the SEC in connection with qualifying the Indenture under the TIA or maintaining such qualification thereafter;

(4) 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 the Indenture, provided that such action shall not adversely affect the interests of any Holder;

(5) to add any Restricted Subsidiary as an additional Subsidiary Guarantor as provided in Section 4.13(a) hereof or to evidence the succession of another Person to any Subsidiary Guarantor pursuant to Section 10.02(b) hereof and the assumption by any such successor of the covenants and agreements of such Subsidiary Guarantor contained herein, in the Notes and in the Subsidiary Guarantee of such Subsidiary Guarantor;

(6) to release a Subsidiary Guarantor from its Subsidiary Guarantee pursuant to Section 10.03 hereof;

(7) to provide for uncertificated Notes in addition to or in place of certificated Notes

(8) to make, complete or confirm any grant of Collateral permitted or required by this Indenture or any of the Convertible Note Documents;

(9) to add any additional Collateral or to evidence the release of any Liens, in each case as provided in this Indenture or the other Note Documents, as applicable; and

(10) with respect to the Collateral Agreements, as provided in the Intercreditor Agreement or the Collateral Trust Agreement, as applicable.

(b) The Intercreditor Agreement and the Collateral Trust Agreement may be amended in accordance with its terms and without the consent of any Holder, the Trustee, the Priority Lien Collateral Agent or the Collateral Agent to add other parties (or any authorized agent thereof or trustee therefor) holding Indebtedness subject thereto and to establish that the Liens on any Collateral securing such Indebtedness shall rank equally with the Liens on such Collateral Securing the Convertible Note Obligations then Outstanding.

Section 9.02. With Consent of Holders of Notes.

(a) With the consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Notes, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, each of the Subsidiary Guarantors, when authorized by a Board Resolution, and the Trustee upon Company Request may amend or supplement this Indenture and the other Note Documents for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or the other Note Documents, or of modifying in any manner the rights of the Holders under this Indenture or the other Note Documents, in each case in addition to any required consent of holders of other Convertible Note Obligations that may be required with respect to an amendment of or waiver under the Intercreditor Agreement or any other Collateral Agreement; *provided* that no such amendment or supplement shall, without the consent of the Holder of each Outstanding Note affected thereby:

(1) change the Stated Maturity of the principal of, or any installment of interest on, any Note, 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 Note or any premium or the interest on any Note 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);

(2) reduce the percentage of aggregate principal amount of the Outstanding Notes, 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 the Indenture or certain defaults hereunder or the consequences of a default provided for in the Indenture;

(3) modify any of the provisions of this Section 9.02 or Section 6.13 hereof, except to increase any percentage of Holders referred to therein or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Note affected thereby;

(4) modify any provisions of the Indenture relating to the Subsidiary Guarantees in a manner adverse to the Holders, except in accordance with the terms of this Indenture, the Intercreditor Agreement or the Collateral Trust Agreement;

(5) 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, 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;

(6) release any Subsidiary Guarantor of the Notes from any of its obligations under its Subsidiary Guaranty or this Indenture, except in accordance with the terms of this Indenture, the Intercreditor Agreement or the Collateral Trust Agreement.

(b) The consent of Holders representing at least two-thirds of Outstanding Notes will be required to release the Liens for the benefit of the Holders of the Notes on all or substantially all of the Collateral, other than in accordance with the Note Documents.

(c) It shall not be necessary for any Act of the Holders under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such Act shall approve the substance thereof.

Section 9.03. Consents in connection with Purchase, Tender or Exchange.

A consent to any amendment, supplement or waiver under this Indenture by any Holder given in connection with a purchase, tender or exchange of such Holder's Notes shall not be rendered invalid by such purchase, tender or exchange.

Section 9.04. Revocation and Effect of Consents.

(a) Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of such Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and, except as provided in clause (c) of this Section 9.04, thereafter binds every Holder.

(b) The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver. If a record date is fixed, then notwithstanding the second to last sentence of the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to consent to such amendment, supplement or waiver or revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No consent shall be valid or effective for more than 90 days after such record date except to the extent that the requisite number of consents to the amendment, supplement or waiver have been obtained within such 90-day period or as set forth in clause (c) of this Section 9.04.

(c) After an amendment, supplement or waiver becomes effective, it shall bind every Holder, unless it makes a change described in any of clauses (1) through (5) of Section 9.02(a), in which case, the amendment, supplement or waiver shall bind only each Holder of a Note who has consented to it and every subsequent Holder of a Note or portion of a Note that evidences the same indebtedness as the consenting Holder's Note.

Section 9.05. Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company, in exchange for all Notes, may issue and the Trustee shall authenticate new Notes that reflect the amendment, supplement or waiver. Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06. Trustee to Sign Amendments, etc.

The Trustee shall sign any amendment or supplemental indenture or grant any waiver authorized pursuant to this Article 9 if the amendment or supplemental indenture or waiver does not adversely affect its rights, duties, liabilities or immunities. If any such amendment, supplemental indenture or waiver does adversely affect the rights, duties, liabilities or immunities of the Trustee, the Trustee may, but need not, sign such amendment, supplemental indenture or grant such waiver. In executing any such amendment, supplemental indenture or waiver, the Trustee shall be entitled to receive and (subject to Section 7.01) shall be fully protected in relying upon, in addition to the documents required by Section 14.01, an Officers' Certificate and an Opinion of Counsel each stating that the execution of such amendment, supplemental indenture or waiver is authorized or permitted by this Indenture.

ARTICLE 10.
SUBSIDIARY GUARANTEES

Section 10.01. Unconditional Guarantee.

(a) Each Subsidiary Guarantor hereby unconditionally, jointly and severally, guarantees to each Holder of Notes 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 Notes and that:

(1) the principal of (and premium, if any, on) and interest on the Notes 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 Notes, 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

(2) in case of any extension of time of payment or renewal of any Notes 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 10.04 hereof.

(b) Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Subsidiary Guarantors will be jointly and severally obligated to pay the same immediately. Each Subsidiary 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 Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, 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 Subsidiary 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 Subsidiary Guarantee will not be discharged except by complete performance of the obligations contained in the Notes, the Indenture and in this Subsidiary Guarantee. If any Holder or the Trustee is required by any court or otherwise to return to the Company, any Subsidiary Guarantor, or any custodian, trustee, liquidator or other similar official acting in relation to the Company or any Subsidiary Guarantor, any amount paid by the Company or any Subsidiary Guarantor to the Trustee or such Holder, this Subsidiary Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect. Each Subsidiary 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 Subsidiary Guarantor further agrees that, as between each Subsidiary 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 6 hereof for the purposes of this Subsidiary 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 6 hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by each Subsidiary Guarantor for the purpose of this Subsidiary Guarantee.

Section 10.02. Subsidiary Guarantors May Consolidate, etc., on Certain Terms.

(a) Except as set forth in Article 5 hereof, nothing contained in this Indenture or in any of the Notes shall prevent any consolidation or merger of a Subsidiary Guarantor with or into the Company or another Subsidiary Guarantor or shall prevent any sale, conveyance or other disposition of all or substantially all the Properties of a Subsidiary Guarantor to the Company or another Subsidiary Guarantor.

(b) Except as set forth in Article 5 hereof, nothing contained in this Indenture or in any of the Notes shall prevent any consolidation or merger of a Subsidiary Guarantor with or into a Person other than the Company or another Subsidiary Guarantor (whether or not Affiliated with such Subsidiary Guarantor), or successive consolidations or mergers in which a Subsidiary 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 Subsidiary

Guarantor to a Person other than the Company or another Subsidiary Guarantor (whether or not Affiliated with such Subsidiary Guarantor) authorized to acquire and operate the same; *provided* 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 4.01 through 4.19 hereof, and (iii) upon any such consolidation, merger, sale, conveyance or other disposition, such Subsidiary Guarantor's Subsidiary Guarantee set forth in this Article 10, and the due and punctual performance and observance of all of the covenants and conditions of this Indenture to be performed by such Subsidiary Guarantor, shall be expressly assumed, 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 such Subsidiary Guarantor shall have merged (if other than such Subsidiary Guarantor), or by the Person that shall have acquired such Property (except to the extent the following Section 10.03 would result in the release of such Subsidiary 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 Subsidiary Guarantor's Subsidiary 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 and observance of all of the covenants and conditions of this Indenture to be performed by the applicable Subsidiary Guarantor, such successor Person shall succeed to and be substituted for such Subsidiary Guarantor with the same effect as if it had been named herein as the initial Subsidiary Guarantor.

Section 10.03. Release of Subsidiary Guarantors.

Upon the sale or disposition (by merger or otherwise) of a Subsidiary Guarantor (or all or substantially all of its Properties) to a Person other than the Company or another Subsidiary Guarantor and pursuant to a transaction that is otherwise in compliance with the terms of this Indenture, including but not limited to the provisions of Section 10.02 hereof or pursuant to Article 5 hereof, such Subsidiary Guarantor shall be deemed released from its Subsidiary Guarantee and all related obligations under this Indenture; *provided* that any such release shall occur only to the extent that all obligations of such Subsidiary 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 Indenture. In addition, in the event that any Subsidiary 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 Agreement, such Subsidiary Guarantor shall also be released from its Subsidiary Guarantee and the related obligations under this 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 Subsidiary Guarantor has ceased to guarantee or otherwise be liable with respect to such other Indebtedness of the Company and the

other Restricted Subsidiaries. Each Subsidiary Guarantor that is designated as an Unrestricted Subsidiary in accordance with the provisions of this Indenture shall be released from its Subsidiary Guarantee and all related obligations under this 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 Subsidiary Guarantor not released in accordance with this Section 10.03 shall remain liable for the full amount of principal of (and premium, if any, on) and interest on the Notes as provided in this Article 10.

Section 10.04. Limitation of Subsidiary Guarantors' Liability.

Each Subsidiary Guarantor, and by its acceptance hereof each Holder, hereby confirm that it is the intention of all such parties that the guarantee by such Subsidiary Guarantor pursuant to its Subsidiary 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 Subsidiary Guarantor hereby irrevocably agree that the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee shall be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Subsidiary Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Subsidiary Guarantor in respect of the obligations of such other Subsidiary Guarantor under its Subsidiary Guarantee or pursuant to Section 10.05 hereof, result in the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee not constituting such a fraudulent conveyance or fraudulent transfer. This Section 10.04 is for the benefit of the creditors of each Subsidiary Guarantor.

Section 10.05. Contribution.

In order to provide for just and equitable contribution among the Subsidiary Guarantors, the Subsidiary Guarantors agree, inter se, that in the event any payment or distribution is made by any Subsidiary Guarantor (a "*Funding Guarantor*") under its Subsidiary Guarantee, such Funding Guarantor shall be entitled to a contribution from each other Subsidiary Guarantor (if any) in a pro rata amount based on the Adjusted Net Assets of each Subsidiary 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 Notes or any other Subsidiary Guarantor's obligations with respect to its Subsidiary Guarantee.

Section 1.1 Severability.

In case any provision of this Subsidiary 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 11.
SECURITY

Section 11.01. Collateral Agreements; Additional Collateral.

(a) In order to secure the due and punctual payment of the Note Obligations, on the Issue Date, simultaneously with the execution and delivery of this Indenture, the Company and the Subsidiary Guarantors shall have executed the Collateral Agreements granting to the Collateral Agent for the benefit of the Secured Parties (in accordance with the Intercreditor Agreement) a second-priority perfected Lien in the Collateral.

(b) The Company shall promptly deliver, and to cause each of the other Collateral Grantors to deliver, but in each case not later than the date that is 30 days following the Issue Date, to further secure the Convertible Note Obligations, deeds of trust, Mortgages, chattel mortgages, security agreements, financing statements and other Collateral Agreements in form and substance satisfactory to the Collateral Agent for the purpose of granting, confirming, and perfecting second-priority liens or security interests in (1) prior to the occurrence of a default under the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the Issue Date) or, if no Revolving Credit Agreement is then in effect, a Default under this Indenture, (A) at least ninety percent (90%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties constituting Proved Reserves and the Provided and Probable Drilling Locations, (B) after the occurrence of a default under the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the Issue Date) or, if no Revolving Credit Agreement is then in effect, a Default under this Indenture, at least ninety-five percent (95%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties and the Proved and Probable Drilling Locations, (2) all of the equity interests of the Company or any Subsidiary Guarantor in any other Subsidiary Guarantor now owned or hereafter acquired by the Company or any Subsidiary Guarantor, and (3) all property of the Collateral Grantors of the type described in the Security Agreement. If no Engineering Report is delivered pursuant to Section 4.05(b), the Company shall deliver to the Collateral Agent semi-annually on or before April 1 and October 1 in each calendar year an Officers' Certificate certifying that as of the date of such certificate, (i) no Default has occurred and is continuing and (ii) at least ninety percent (90%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties constituting Proved Reserves and the Proved and Probable Drilling Locations.

(c) In connection with each delivery of an Engineering Report, the Company shall review the Engineering Report and the list of current Mortgaged Properties to ascertain whether the Mortgaged Properties represent at least ninety percent (90%) of the PV-9 of (i) the Oil and Gas Properties constituting Proved Reserves evaluated in the most recently completed Engineering Report after giving effect to exploration and production activities, acquisitions, dispositions and production and (ii) the Proved and Probable Drilling Locations. In the event that the Mortgaged Properties do not represent at least such required percentages, then the Company shall, and shall cause its Restricted Subsidiaries to, promptly grant to the Collateral Agent as security for the Convertible Note Obligations a second-priority perfected Lien on additional Oil and Gas Properties and Proved and Probable Drilling Locations not already subject to a Lien created by Collateral Agreements such that after giving effect thereto, the

Mortgaged Properties will represent at least such required percentages. All such Liens will be created and perfected by and in accordance with the provisions of deeds of trust, security agreements and financing statements or other Collateral Agreements, all in form and substance reasonably satisfactory to the Collateral Agent and in sufficient executed (and acknowledged where necessary or appropriate) counterparts for recording purposes. In order to comply with the foregoing, if any Restricted Subsidiary places a Lien on its Oil and Gas Properties or Proved and Probable Drilling Locations and such Subsidiary is not a Subsidiary Guarantor, then it shall become a Subsidiary Guarantor and comply. To the extent that any Oil and Gas Properties constituting Collateral are disposed of after the date of any applicable Engineering Report or certificate delivered pursuant to clause (b) of this Section 11.01, any Proved Reserves attributable to such Oil and Gas Properties shall be deemed excluded from such Engineering Report or certificate for the purpose of determining whether such minimum Mortgage requirement is met after giving effect to such release.

(d) The Company also agrees to promptly deliver, or to cause to be promptly delivered, to the extent not already delivered, whenever requested by the Collateral Agent in its sole and absolute discretion (1) favorable title information (including, if reasonably requested by the Collateral Agent, title opinions) acceptable to the Collateral Agent with respect to any Collateral Grantor's Oil and Gas Properties constituting at least ninety percent (90%) of the PV-9 of the Oil and Gas Properties constituting Proved Reserves and the Proved and Probable Drilling Locations, and demonstrating that such Collateral Grantor has good and defensible title to such properties and interests, free and clear of all Liens (other than Permitted Liens) and covering such other matters as the Collateral Agent may reasonably request and (2) favorable opinions of counsel satisfactory to the Collateral 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.

(e) If (1) a Collateral Grantor acquires any asset or property of a type that is required to constitute Collateral pursuant to the terms of this Indenture and such asset or property is not automatically subject to a second-priority perfected Lien in favor of the Collateral Agent, (2) a Subsidiary of the Company that is not already a Subsidiary Guarantor is required to become a Subsidiary Guarantor pursuant to Section 4.13 or (3) any Collateral Grantor creates any additional Lien upon any Oil and Gas Properties, Proved and Probable Drilling Locations or any other assets or properties to secure any Priority Lien Obligations or Convertible Note Obligations (or takes additional actions to perfect any existing Lien on Collateral), then such Collateral Grantor or such other Subsidiary shall, as soon as practicable after the acquisition of the applicable asset or property, the occurrence of the event requiring such Subsidiary to become a Subsidiary Guarantor or the creation of any such additional Lien or taking of any such additional perfection action (and, in any event, within 10 Business Days after such acquisition, event or creation), (i) grant to the Collateral Agent a second-priority perfect Lien in all assets and property of such Collateral Grantor or such other Subsidiary that are required to, but do not already, constitute Collateral, (ii) deliver any certificates to the Collateral Agent in respect thereof and (iii) take all other appropriate actions as necessary to ensure the Collateral Agent has a second-priority perfect Lien therein.

(f) In addition and not by way of limitation of the foregoing, in the case of the Company or any Subsidiary Guarantor granting a Lien in favor of the Collateral Agent upon any assets having a present value in excess of $10,000,000 located in a new jurisdiction, the Company or Subsidiary Guarantor will at its own expense, promptly obtain and furnish to the Collateral Agent all such opinions of legal counsel as the Collateral Agent may reasonably request in connection with any such security or instrument.

(g) Commencing on a date no later than 60 days after the Issue Date, the Company and its Restricted Subsidiaries shall keep and maintain each deposit account and each securities account with a financial institution reasonably acceptable to the Collateral Agent and subject to an Account Control Agreement, other than deposit accounts holding in the aggregate less than $3,000,000.

(h) The Company shall cause every Subsidiary Guarantor to make all filings (including filings of continuation statements and amendments to Uniform Commercial Code financing statements in the United States (or the applicable political subdivision, territory or possession thereof) that may be necessary to continue the effectiveness of such Uniform Commercial Code financing statements) and take all other actions as are reasonably necessary or required by the Collateral Agreements to maintain (at the sole cost and expense of the Subsidiary Guarantors) the security interest created by the Collateral Agreements in the Collateral as a second-priority perfected Lien.

(i) All references to a "second-priority perfected Lien" in this Section 11.01 shall be understood to be subject to the terms of the Intercreditor Agreement and the Permitted Collateral Liens, if any.

(j) The Company shall, and shall cause every other Collateral Grantor to, from time to time take the actions required by Section 4.18.

Section 11.02. Release of Liens Securing Notes.

The Collateral Grantors shall be entitled to releases of assets included in the Collateral from the Liens securing Note Obligations under any one or more of the following circumstances:

(a) upon the full and final payment in cash and performance of all Note Obligations of the Company and the Subsidiary Guarantors;

(b) with respect to any asset constituting Collateral, if such Collateral is sold or otherwise disposed of to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary in accordance with Section 4.10 (other than the provisions thereof relating to the future use of proceeds of such sale or other disposition)*; provided* that to the extent that any Collateral is sold or otherwise disposed of in accordance with Section 4.10, the non-cash consideration received is pledged as Collateral under the Collateral Agreements contemporaneously with such sale, in accordance with the requirements set forth in this Indenture and the Collateral Agreements*; provided*, *further*, that the Liens securing the Note Obligations will not be released if the sale or disposition is subject to Section 5.01;

(c) upon Legal Defeasance, Covenant Defeasance or satisfaction and discharge of the Notes in accordance with Article 8;

(d) if any Subsidiary Guarantor is released from its Subsidiary Guarantee in accordance with the terms of this Indenture, that Subsidiary Guarantor's assets and property included in the Collateral shall be released from the Liens securing the Note Obligations;

(e) with the requisite consent of Holders given in accordance with this Indenture;

(f) as provided in the Intercreditor Agreement or the other Collateral Agreements; or

(g) upon the conversion of the Notes into Common Stock in accordance with Article 12.

Section 11.03. Release Documentation.

Upon compliance with the conditions to release of all or any portion of the Collateral set forth in Section 11.02, the Collateral Agent and the Trustee shall forthwith take all necessary action (at the written request of and the expense of the Company, accompanied by an Officers' Certificate and Opinion of Counsel that the conditions precedent to such release have been satisfied) to release and re-convey to the applicable Collateral Grantor the applicable portion of the Collateral that is authorized to be released pursuant to Section 11.02, and shall deliver such Collateral in its possession to the applicable Collateral Grantor, including, without limitation, executing and delivering releases and satisfactions wherever required.

Section 11.04. No Impairment of the Security Interests.

The Company shall not, and shall not permit any other Collateral Grantor to take any action, or knowingly omit to take any action, which action or omission would have the result of materially impairing the validity, perfection or priority of the security interests in the Collateral created by the Collateral Agreements (except as permitted in this Indenture, the Intercreditor Agreement or the other Collateral Agreements, including any action that would result in a Permitted Collateral Lien).

Section 11.05. Collateral Agent.

(a) The Trustee and each of the Holders by acceptance of the Notes hereby authorize the appointment of the Collateral Agent as the Trustee's and the Holders' collateral agent under the Collateral Agreements, and the Trustee and each of the Holders by acceptance of the Notes hereby irrevocably authorize the Collateral Agent to take such action on their behalf under the provisions of the Collateral Agreements, including the Intercreditor Agreements, and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Indenture, the Intercreditor Agreements and the other Collateral Agreements, together with such powers as are reasonably incidental thereto.

(b) The Collateral Agent may resign and its successor appointed in accordance with the terms of the Intercreditor Agreement.

(c) The Trustee is authorized and directed by the Holders and the Holders by acquiring the Notes are deemed to have authorized the Trustee, as applicable, to (1) enter into the Intercreditor Agreement, (2) bind the Holders on the terms as set forth in the Intercreditor Agreement, (3) perform and observe its obligations and exercise its rights and powers under the Intercreditor Agreement, including entering into amendments permitted by the terms of this Indenture, the Intercreditor Agreement or the other Collateral Agreements and (4) cause the Collateral Agent to enter into and perform its obligations under the Collateral Agreements. The Collateral Agent is authorized and directed by the Trustee and the Holders and the Holders by acquiring the Notes are deemed to have authorized the Collateral Agent, to (i) enter into the other Collateral Agreements to which it is a party, (ii) bind the Trustee and the Holders on the terms as set forth in such Collateral Agreements and (iii) perform and observe its obligations and exercise its rights and powers under such Collateral Agreements, including entering into amendments permitted by the terms of this Indenture or the Collateral Agreements. Each Holder, by its acceptance of a Note, is deemed to have consented and agreed to the terms of the Intercreditor Agreement and each other Collateral Agreement, as originally in effect and as amended, restated, replaced, supplemented or modified from time to time in accordance with its terms or the terms of this Indenture. Each of the Trustee and the Holders by acquiring the Notes is hereby deemed to (A) agree that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreement and the Collateral Trust Agreement and (B) acknowledge that it has received copies of the Intercreditor Agreement and the Collateral Trust Agreement and that the exercise of certain of the Trustee's rights and remedies hereunder may be subject to, and restricted by, the provisions of the Intercreditor Agreement and the Collateral Trust Agreement. NOTWITHSTANDING ANY OTHER PROVISION CONTAINED IN THIS INDENTURE, IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THE PROVISIONS OF THIS INDENTURE AND THE INTERCREDITOR AGREEMENT OR THE COLLATERAL TRUST AGREEMENT, THE INTERCREDITOR AGREEMENT OR THE COLLATERAL TRUST AGREEMENT, AS APPLICABLE, SHALL CONTROL.

(d) The Collateral Agent shall have no obligation whatsoever to the Trustee or any of the Holders to assure that the Collateral exists or is owned by the Company or any of the Collateral Grantors or is cared for, protected or insured or has been encumbered, or that the Collateral Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, maintained or enforced or are entitled to any particular priority, or to determine whether all of the applicable Collateral Grantor's property constituting Collateral intended to be subject to the Lien and security interest of the Collateral Agreements has been properly and completely listed or delivered, as the case may be, or the genuineness, validity, marketability or sufficiency thereof or title thereto.

(e) The grant of permissive rights or powers to the Collateral Agent shall not be construed to impose duties to act. For the avoidance of doubt, nothing herein shall require the Collateral Agent to file financing statements or continuation statements, or be responsible for maintaining the security interests purported to be created by the Collateral Agreements and such responsibility shall be solely that of the Company.

Section 11.06. Purchaser Protected.

No purchaser or grantee of any property or rights purporting to be released from the Liens in favor of the Collateral Agent shall be bound to ascertain the authority of the Collateral Agent or Trustee to execute the release or to inquire as to the existence of any conditions herein prescribed for the exercise of such authority so long as the conditions set forth in Section 11.03 have been satisfied.

Section 11.07. Authorization of Receipt of Funds by the Trustee Under the Collateral Agreements.

The Trustee is authorized to receive any funds for the benefit of Holders distributed under the Collateral Agreements and to apply such funds as provided in Section 6.10.

Section 11.08. Powers Exercisable by Receiver or Trustee.

In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article 11 upon the Company or any other Collateral Grantor, as applicable, with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Company or any other Collateral Grantor, as applicable, or of any officer or officers thereof required by the provisions of this Article 11.

Section 11.09. Compensation and Indemnification.

The Collateral Agent shall be entitled to the compensation and indemnification set forth in Section 7.06 (with the references to the Trustee therein being deemed to refer to the Collateral Agent).

ARTICLE 12.
CONVERSION

Section 12.01. Conversion

(a) At any time following the receipt of the Required Stockholder Approval and the effectiveness of the Charter Amendment, Holders of the Notes shall have the right convert (the "*Optional Conversion*") their outstanding Notes, at any time and from time to time, on any Business Day, prior to the earliest of (1) if applicable, with respect to a Note called for redemption, the close of business on the Business Day immediately preceding the Redemption Date or (2) the close of business on the Business Day immediately preceding the Maturity Date, into Common Stock, at a conversion rate (the "*Conversion Rate*") of 81.2 shares per $1,000 principal amount of the Notes (plus cash in lieu of fractional shares of Common Stock in accordance with Section 12.03); *provided* that any Holder of Notes who would beneficially own (as determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder) in excess of 9.99% of the outstanding shares of Common Stock upon conversion of such Holder's Notes shall be required to provide 61 days' written notice to the Company prior to any such conversion. The Conversion Rate is subject to adjustment pursuant to Section 12.06.

(b) Following the receipt of the Required Stockholder Approval and the effectiveness of the Charter Amendment, the Company shall convert (the "*Mandatory Conversion*") any outstanding Notes into a number of shares of Common Stock per $1,000 principal amount of Notes equal to the Conversion Rate then in effect (plus cash in lieu of fractional shares) if the Daily VWAP of the Common Stock exceeds or is equal to the Threshold Price in effect on each applicable Trading Day for at least 15 consecutive Trading Days (the "*Mandatory Conversion Event*"). Upon the occurrence of the Mandatory Conversion Event, the Company shall deliver notice to the Holders of the Notes, the Trustee and the Conversion Agent (if other than the Trustee) (such notice, a "*Mandatory Conversion Notice*") not later than the open of business on the second business day following such Mandatory Conversion Event, which notice shall specify that the Mandatory Conversion shall occur not later than the third business day following the notice of the Mandatory Conversion Event.

(c) Interest shall cease to accrue on any Notes on the date of occurrence of the Optional Conversion or the Mandatory Conversion (such date, the "*Conversion Date*"). The accrued and unpaid interest on any Note being converted pursuant to an Optional Conversion or Mandatory Conversion shall be added to the principal amount of such Note being converted.

(d) If a Holder exercises its right to require the Company to repurchase its Notes pursuant to a Prepayment Offer or a Change of Control Offer in accordance with Section 4.10 or Section 4.15, respectively, such Holder may convert its Notes into Common Stock only if it withdraws its election to have its Notes repurchased in connection with such Prepayment Offer or Change of Control Offer.

(e) In the event that any Holder notified the Company (1) in the case of an Optional Conversion pursuant to Section 12.01(a), at any time beginning on the date of the provision of the Optional Conversion Notice and ending with the effectiveness of such Optional Conversion, and (2) in the case of a Mandatory Conversion pursuant to Section 12.01(b), at any time beginning with the date of the Mandatory Conversion Event and ending 30 calendar days following the effectiveness of such conversion, that such Holder will beneficially own (as determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder) in excess of 9.99% of the outstanding shares of Common Stock or otherwise be deemed to be an "affiliate" of the Company for purposes of the Securities Act and/or the Exchange upon such conversion, then the Company will promptly enter into a Registration Rights Agreement covering the shares of Common Stock received upon such conversion.

(f) At the request of any Holder, the Company will use its reasonable efforts to cooperate with such Holder to confirm with brokers that such Holder will not be an "affiliate" of the Company for purposes of the Securities Act and/or the Exchange Act upon any Optional Conversion pursuant to Section 12.01(a) or Mandatory Conversion pursuant to Section 12.01(b).

Section 12.02. Conversion Procedures

(a) To convert its Note pursuant to an Optional Conversion, a Holder of a Definitive Note must:

(1) complete and manually sign the Optional Conversion Notice or a facsimile of the Optional Conversion Notice with appropriate signature guarantee, and deliver the completed Conversion Notice (which shall be irrevocable) to the Conversion Agent;

(2) surrender the Note to the Conversion Agent;

(3) furnish appropriate endorsements and transfer documents if required by the Registrar or Conversion Agent; and

(4) pay all transfer or similar taxes if required pursuant to Section 12.04.

If a Holder holds a beneficial interest in a Global Note, to convert such Note, the Holder must comply with clause (4) above and the Depositary's procedures for converting a beneficial interest in a Global Note.

(b) In connection with an Optional Conversion or Mandatory Conversion, the Company shall deliver to the Holder of a Definitive Note, through the Conversion Agent, a number of shares of Common Stock per $1,000 of principal amount of Notes being converted equal to the Conversion Rate in effect on the applicable Conversion Date (plus cash in lieu of fractional shares of Common Stock in accordance with Section 12.03 and adjusted pro rata for amounts being converted in integral multiples of $1.00). The shares of Common Stock due upon conversion of a Global Note shall be delivered by the Company in accordance with the Depositary's customary practices.

(c) A Note shall be deemed to have been converted immediately prior to the close of business on the Conversion Date. The Person in whose name the shares of Common Stock shall be issued upon any conversion pursuant to this Article 12 shall become the holder of record of such shares as of the close of business on the applicable Conversion Date. Prior to such time, a Holder receiving shares of Common Stock upon conversion shall not be entitled to any rights relating to such shares of Common Stock, including, among other things, the right to vote, tender in a tender offer and receive dividends and notices of shareholder meetings. On and after the close of business on the applicable Conversion Date with respect to a conversion of a Note pursuant hereto, all rights of the Holder of such Note shall terminate, other than the right to receive the consideration deliverable or payable upon conversion of such Note as provided in this Article 12, and all Liens securing the Obligations under such Note shall be released and terminated. Settlement of any conversion provided in this Article 12 shall occur on the third Business Day immediately following the applicable Conversion Date.

Section 12.03. Cash in Lieu of Fractional Shares.

The Company will not issue a fractional share of Common Stock upon conversion of a Note. Instead, the Company shall pay cash in lieu of fractional shares based on the Daily VWAP of the Common Stock on the applicable Conversion Date (or, if such Conversion Date is not a Trading Day, the Daily VWAP of the Common Stock on the Trading Day immediately preceding such Conversion Date).

Section 12.04. Taxes on Conversion.

The Company shall pay any documentary, stamp or similar issue or transfer tax or duty due on the issue, if any, of Common Stock upon the conversion of a Note. However, such Holder shall pay any such tax or duty that is due because such shares are issued in a name other than such Holder's name. The Conversion Agent may refuse to deliver a certificate representing the Common Stock to be issued in a name other than such Holder's name until the Conversion Agent receives a sum sufficient to pay any tax or duty which will be due because such shares are to be issued in a name other than such Holder's name.

Section 12.05. Company to Reserve, Provide and List Common Stock.

(a) After giving effect to the Charter Amendment, the Company shall at all times reserve out of its authorized but unissued Common Stock or Common Stock held in its treasury a sufficient number of shares of Common Stock to permit the conversion, in accordance herewith, of all of the Notes (assuming, for such purposes, that at the time of computation of such number of shares, all such Notes would be held or converted by a single Holder, as applicable).

(b) All shares of Common Stock issued upon conversion of the Notes shall be validly issued, fully paid and non-assessable and shall be free of preemptive or similar rights and free of any lien or adverse claim that arises from the action or inaction of the Company.

(c) The Company shall comply with all securities laws regulating the offer and delivery of shares of Common Stock upon conversion of Notes and shall list such shares on each national securities exchange or automated quotation system on which the shares of Common Stock are listed on the applicable Conversion Date.

Section 12.06. Adjustment of Conversion Rate.

(a) If the Company issues shares of Common Stock as a dividend or distribution on all shares of the Common Stock, or if the Company effects a share split or share combination (including a "reverse split"), the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{OS'}{OS_0}$$

where,

CR' = the Conversion Rate in effect immediately after the close of business on the record date for such dividend or distribution, or immediately after the open of business on the effective date of such share split or share combination, as the case may be;

CR_0 = the Conversion Rate in effect immediately prior to the close of business on the record date for such dividend or distribution, or immediately prior to open of business on the effective date of such share split or share combination, as the case may be;

OS' = the number of shares of Common Stock outstanding immediately after such dividend or distribution, or such share split or share combination, as the case may be; and

OS_0 = the number of shares of Common Stock outstanding immediately prior to the close of business on the record date for such dividend or distribution, or immediately prior to the open of business on the effective date of such share split or share combination, as the case may be.

Any adjustment made under this Section 12.06(a) shall become effective immediately after the close of business on the record date for such dividend or distribution, or immediately after the open of business on the effective date for such share split or share combination, as the case may be. If any dividend or distribution of the type described in this Section 12.06 is declared but not so paid or made, then the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors of the Company determines not to pay such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(b) In addition to the foregoing adjustments in subsection (a) above, the Company may, from time to time and to the extent permitted by law, increase the Conversion Rate by any amount for a period of at least 20 Business Days or any longer period as may be permitted or required by law, if the Board of Directors of the Company has made a determination, which determination shall be conclusive, that such increase would be in the best interests of the Company. Such Conversion Rate increase shall be irrevocable during such period. The Company shall give notice to the Trustee and cause notice of such increase to be mailed to each Holder of Notes at such Holder's address as the same appears in the Register at least 15 days prior to the date on which such increase commences.

(c) All calculations under this Article 12 shall be made to the nearest cent or to the nearest 1/10,000th of a share, as the case may be. Adjustments to the Conversion Rate will be calculated to the nearest 1/10,000th.

Section 12.07. No Adjustments.

The Conversion Rate shall not be adjusted for any transaction or event other than as specified in this Article 12.

Section 12.08. Notice of Adjustments.

Whenever the Conversion Rate is adjusted, the Company shall promptly mail to Holders at the addresses appearing on the Registrar's books a notice of the adjustment and file with the Trustee and the Conversion Agent an Officers' Certificate briefly stating the facts requiring the adjustment and the manner of computing it. The certificate shall be conclusive evidence of the correctness of such adjustment.

Section 12.09. Notice of Certain Transactions.

In the event that:

(a) the Company takes any action that would require an adjustment in the Conversion Rate;

(b) the Company takes any action that would require a supplemental indenture pursuant to Section 12.10; or

(c) there is a dissolution or liquidation of the Company;

the Company shall promptly mail to Holders at the addresses appearing on the Registrar's books and the Trustee a written notice stating the proposed record date and effective date of the transaction referred to in clause (a), (b) or (c) of this Section 12.09.

Section 12.10. Effect of Reclassifications, Consolidations, Mergers, Binding Share Exchanges or Sales on Conversion Privilege.

(a) In the event of:

(1) any reclassification of the Common Stock (other than a change as a result of a subdivision or combination of Common Stock as to which Section 12.06(a) applies);

(2) a consolidation, merger, binding share exchange or combination involving the Company; or

(3) a sale or conveyance to another person or entity of all or substantially all of the Company's property or assets,

in which holders of Common Stock would be entitled to receive stock, other securities, other property, assets or cash for their Common Stock (any such event, a "*Merger Event*"), the principal amount of the Notes will, from and after the effective time of such Merger Event, in lieu of being convertible into Common Stock, be convertible into the same kind, type and proportions of consideration that a holder of a number of shares of Common Stock equal to the Conversion Rate in effect (adjusted pro rata for amounts in integral multiples of $1.00) immediately prior to such Merger Event would have received in such Merger Event ("*Reference Property*") and, prior to or at the effective time of such Merger Event, the Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture providing for such change in the right to convert the Notes.

(b) If the Merger Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), then:

(1) the Reference Property into which the Notes will be convertible shall be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make such an election; and

(2) the unit of Reference Property for purposes of the immediately preceding paragraph shall refer to the consideration referred to in clause (1) attributable to one share of Common Stock.

(c) The Company shall notify Holders, the Trustee and the Conversion Agent (if other than the Trustee) of such weighted average as soon as practicable after such determination is made.

(d) The supplemental indenture referred above shall, in the good faith judgment of the Company as evidenced by an Officers' Certificate, (i) provide for adjustments to the Conversion Rate that shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Rate provided for in this Article 12 and for the delivery of cash by the Company in lieu of fractional securities or property that would otherwise be deliverable to applicable Holders upon conversion as part of the Reference Property, with such amount of cash determined by the Company in a manner as nearly equivalent as may be practicable to that used by the Company to determine the Daily VWAP of the Common Stock and (ii) provide that after the Merger Event, the Mandatory Conversion Event (and related calculations) shall be determined with reference to the trading value of the Reference Property as determined in good faith by the Company in a manner as nearly equivalent as may be practicable to that used by the Company to determine the Daily VWAP of the Common Stock. If the Reference Property includes shares of stock, other securities or other property or assets (including any combination thereof) of a company other than the Company or the successor or purchasing entity, as the case may be, in such Merger Event, then such other company shall also execute such supplemental indenture, and such supplemental indenture shall contain such additional provisions to protect the interests of the Holders, including the right of Holders to require the Company to repurchase their Notes upon a Change of Control in accordance with Section 4.15. The provisions of this Section 12.10 shall similarly apply to successive consolidations, mergers, binding share exchanges, sales, transfers, leases, conveyances or dispositions.

(e) The Company shall not become a party to any Merger Event unless its terms are consistent with this Section 12.10.

(f) None of the foregoing provisions shall affect the right of a Holder to convert its Notes into shares of Common Stock (and cash in lieu of any fractional share) as set forth in Section 12.01 and Section 12.02 prior to the effective date of such Merger Event.

(g) In the event the Company shall execute a supplemental indenture pursuant to this Section 12.10, the Company shall promptly file with the Trustee an Officers' Certificate briefly stating the reasons therefor, the kind or amount of Reference Property receivable by Holders of the Notes upon the conversion of their Notes after any such Merger Event and any adjustment to be made with respect thereto.

Section 12.11. Trustee's Disclaimer.

(a) Neither the Trustee nor the Conversion Agent shall have any duty to determine when an adjustment under this Article 12 should be made, how it should be made or what such adjustment should be, but the Trustee and the Conversion Agent may accept as conclusive

evidence of the correctness of any such adjustment, and shall be protected in relying upon, the Officers' Certificate with respect thereto which the Company is obligated to file with the Trustee and the Conversion Agent pursuant to Section 12.08 hereof and the Company agrees to deliver such Officers' Certificate to the Trustee and the Conversion Agent promptly after the occurrence of any such adjustment. Neither the Trustee nor the Conversion Agent shall be accountable with respect to, and makes no representation as to, the validity or value of any securities or assets issued upon conversion of Notes, and neither the Trustee nor the Conversion Agent shall be responsible for the failure by the Company to comply with any provisions of this Article 12.

(b) Neither the Trustee nor the Conversion Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture executed pursuant to Section 12.10, but may accept as conclusive evidence of the correctness thereof, and shall be protected in relying upon, the Officers' Certificate with respect thereto which the Company is obligated to file with the Trustee and the Conversion Agent pursuant to Section 12.10 hereof.

(c) The Trustee and the Conversion Agent shall not at any time be under any duty or responsibility to any Holder of Notes to either calculate the Conversion Price or determine whether any facts exist which may require any adjustment of the Conversion Price, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed herein, or in any supplemental indenture provided to be employed, in making the same and shall be protected in relying upon an Officers' Certificate with respect to the same. Neither the Trustee nor the Conversion Agent shall be responsible for any failure of the Company to make any cash payment or to issue, transfer or deliver any shares of Common Stock or stock or share certificates or other securities or property upon the surrender of any Note for the purpose of conversion; and the Trustee and the Conversion Agent shall not be responsible or liable for any failure of the Company to comply with any of the covenants of the Company contained in this Article. Neither the Trustee nor the Conversion Agent shall be responsible for determining whether any event contemplated by Section 12.01 has occurred that makes the Notes eligible for conversion until the Company has delivered to the Trustee and the Conversion Agent an Officers' Certificate stating that such event has occurred, on which certificate the Trustee and any the Conversion Agent may conclusively rely, and the Company agrees to deliver such Officers' Certificate to the Trustee and the Conversion Agent promptly after the occurrence of any such event.

ARTICLE 13.
SATISFACTION AND DISCHARGE

Section 13.01. Satisfaction and Discharge of Indenture.

(a) The Indenture shall upon Company Request cease to be of further effect (except as to surviving rights of registration of transfer or exchange of Notes, as expressly provided for in the Indenture) as to all Outstanding Notes, and the Trustee, at the expense of the Company, shall, upon payment of all amounts due the Trustee under Section 7.06 hereof, execute proper instruments acknowledging satisfaction and discharge of this Indenture when

(1) either

(I) all Notes theretofore authenticated and delivered (other than (i) Notes which have been replaced as provided in Section 2.07 hereof and (ii) Notes for whose payment money or United States governmental obligations of the type described in clause (1) of the definition of Cash Equivalents have theretofore been deposited in trust with the Trustee or any Paying Agent or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 4.03 hereof) have been delivered to the Trustee for cancellation, or

(II) all such Notes not theretofore delivered to the Trustee for cancellation

(A) have become due and payable, or

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

(C) 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 clause (II)(A), (II)(B) or (II)(C) above, has irrevocably deposited or caused to be deposited with the Trustee funds in an amount sufficient to pay and discharge the entire indebtedness on such Notes 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 Notes which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be, together with instructions from the Company irrevocably directing the Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be;

(2) the Company has paid or caused to be paid all other sums then due and payable hereunder by the Company; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, which, taken together, state that all conditions precedent herein relating to the satisfaction and discharge of this Indenture with respect to the Notes have been complied with.

(b) Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 7.06 hereof and, if money shall have been deposited with the Trustee pursuant to this Section 13.01, the obligations of the Trustee under Section 13.02 hereof and the last paragraph of Section 4.03 hereof shall survive.

Section 13.02. Application of Trust Money.

Subject to the provisions of the last paragraph of Section 4.03 hereof, all money deposited with the Trustee pursuant to Section 13.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes 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 premium, if any) and interest for whose payment such money has been deposited with the Trustee.

ARTICLE 14.
MISCELLANEOUS

Section 14.01. Compliance Certificates and Opinions.

(a) Upon any application or request by the Company or any Subsidiary Guarantor to the Trustee to take any action under any provision of this Indenture, the Company or such Subsidiary Guarantor, as the case may be, shall furnish to the Trustee such certificates and opinions as may be required under the Trust Indenture Act or this Indenture. Each such certificate and each such legal opinion shall be in the form of an Officers' Certificate or an Opinion of Counsel, as applicable, and shall comply with the requirements of this Indenture.

(b) Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(1) a statement that each Person 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 Person, such Person 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 Person, such condition or covenant has been complied with.

(c) The certificates and opinions provided pursuant to this Section 14.01 and the statements required by this Section 14.01 shall be satisfactory to the Trustee and comply in all respects with TIA Sections 314(c) and (e).

Section 14.02. Form of Documents Delivered to Trustee.

(a) 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.

(b) Any certificate or opinion of an officer 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 Opinion of Counsel may be based, insofar as it relates to factual matters, upon an officers' certificate, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate with respect to such matters is erroneous.

(c) 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 14.03. Acts of Holders.

(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 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 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 Notes held by any Person, and the date of holding the same, shall be proved by the Note Register.

(d) If the Company shall solicit from the Holders of Notes 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 Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the Outstanding Notes 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 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 Notes shall bind every future Holder of the Notes and the Holder of Notes 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 Notes.

Section 14.04. Notices, etc. to Trustee, Company and Subsidiary 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,

(a) the Trustee by any Holder, the Company or any Subsidiary Guarantor 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

(b) the Company or any Subsidiary 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 Subsidiary Guarantor, as applicable, addressed to it at the Company's offices located at 5300 Town and Country Blvd., 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 14.05. Notice to Holders; Waiver.

(a) Where this 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 Note 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.

(b) 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 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.

(c) The Trustee may rely upon and comply with instructions or directions sent via unsecured facsimile or email transmission and the Trustee shall not be liable for any loss, liability or expense of any kind incurred by the Company or the Holders due to the Trustee's reliance upon and compliance with instructions or directions given by unsecured facsimile or email transmission; *provided* that such losses have not arisen from the negligence or willful misconduct of the Trustee, it being understood that the failure of the Trustee to verify or confirm that the person providing the instructions or directions, is, in fact, an authorized person does not constitute negligence or willful misconduct.

Section 14.06. 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 14.07. Successors and Assigns.

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

Section 14.08. Severability.

In case any provision in this Indenture or in the Notes or the Subsidiary 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 14.09. Benefits of Supplemental Indenture.

Nothing in this Indenture or in the Notes, 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 12.4 hereof, creditors of Subsidiary Guarantors) any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 14.10. Governing Law; Trust Indenture Act Controls.

(a) THIS INDENTURE, THE SUBSIDIARY GUARANTEES, THE NOTES, THE INTERCREDITOR AGREEMENT AND THE COLLATERAL TRUST AGREEMENT 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 SUBSIDIARY 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 INDENTURE, THE NOTES OR THE SUBSIDIARY GUARANTEES, AND THE COMPANY AND EACH SUBSIDIARY GUARANTOR IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED BY ANY SUCH COURT.

(b) This Indenture is subject to the provisions of the Trust Indenture Act that are required to be part of this Indenture and shall, to the extent applicable, be governed by such provisions. If and to the extent that any provision of this 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 this Indenture by operation of such Trust Indenture Act section, such imposed duties or incorporated provision shall control.

Section 14.11. Legal Holidays.

In any case where any Interest Payment Date, Redemption Date, or Stated Maturity or Maturity of the Notes shall not be a Business Day, then (notwithstanding any other provision of this Indenture or of the Notes or the Subsidiary Guarantee) payment of interest or principal (and premium, if any) need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the Interest Payment Date, Redemption Date or at the Stated Maturity or Maturity; *provided* that no interest shall accrue for the period from and after such Interest Payment Date, Redemption Date, Stated Maturity or Maturity, as the case may be.

Section 14.12. No Personal Liability of Directors, Officers, Employees and Stockholders.

No director, officer, employee, incorporator, stockholder, member, partner or trustee of the Company or any Subsidiary Guarantor, as such, shall have any liability for any obligations of the Company or any Subsidiary Guarantor under the notes, the Indenture or the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 14.13. Holder Communications.

Holders may communicate pursuant to Section 312(b) of the TIA with other Holders with respect to their rights under this Indenture or the Notes. Every Holder of Notes, by receiving and holding the same, agrees with the Company, the Subsidiary Guarantors, the Registrar and the Trustee that none of the Company, the Subsidiary Guarantors, the Registrar or the Trustee, or any agent of any of them, shall be held accountable by reason of the disclosure of any information as to the names and addresses of the Holders in accordance with TIA Section 312, regardless of the source from which such information was derived, that each of such Persons shall have the protection of TIA Section 312(c) and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under TIA Section 312(b).

Section 14.14. Duplicate Originals.

The parties may sign any number of copies or counterparts of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

Section 14.15. No Adverse Interpretation of Other Agreements.

This 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 Indenture.

Section 14.16. Force Majeure.

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 14.17. Waiver of Jury Trial.

EACH OF THE COMPANY, THE SUBSIDIARY GUARANTORS AND THE TRUSTEE AND HOLDERS OF NOTES BY ACCEPTING A BENEFICIAL INTEREST IN THE NOTES HEREBY IRREVOCABLE WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[Signatures on following pages]

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed and delivered as of the date first set forth above.

COMPANY:

COMSTOCK RESOURCES INC.

By: _____
Name:
Title:

GUARANTORS:

COMSTOCK OIL & GAS, LP

By: _____
Name:
Title:

COMSTOCK OIL & GAS - LOUISIANA, LLC

By: _____
Name:
Title:

COMSTOCK OIL & GAS GP, LLC

By: _____
Name:
Title:

COMSTOCK OIL & GAS INVESTMENTS LLC

By: _____
Name:
Title:

COMSTOCK OIL & GAS HOLDINGS, INC.

By: _____
Name:
Title:

Signature Page to 2019 Convertible Notes Indenture

TRUSTEE:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS TRUSTEE

By: _____
Name:
Title:

EXHIBIT A

[FORM OF FACE OF NOTE]

(Face of Note)

[THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (*"DTC"*), TO THE COMPANY OR ITS AGENTS FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.][1]

1 For Global Notes only.

No. [ ] Principal Amount $[ ]

CUSIP NO. [ ]

ISIN NO. [ ]

Comstock Resources, Inc.

7 ¾% Convertible Secured PIK Notes due 2019

Comstock Resources, Inc., a Nevada corporation, promises to pay to ____, or registered assigns, the principal sum of ____ Dollars on April 1, 2019 [or such greater or lesser amount as may be indicated on Schedule A hereto][2].

Interest Payment Dates: April 1 and October 1, commencing April 1, 2017

Record Dates: March 15 and September 15

Additional provisions of this Note are set forth on the other side of this Note.

IN WITNESS WHEREOF, Comstock Resources, Inc. has caused this instrument to be duly executed.

COMSTOCK RESOURCES, INC.

By: _____
Name:
Title:

2 If this Note is a Global Note, add this provision.

TRUSTEE'S CERTIFICATE OF
AUTHENTICATION

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,
as Trustee, certifies that this is one of the
Notes referred to in the Indenture.

By: _____
Authorized Signatory

Dated: _____, 20__

[FORM OF REVERSE SIDE OF NOTE]

7 ¾% Convertible Secured PIK Notes due 2019

Capitalized terms used herein but not defined shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest. Comstock Resources, Inc., a Nevada corporation (such corporation, and its successors and assigns under the Indenture hereinafter referred to, begin herein called the "*Company*"), promises to pay interest on the unpaid principal amount of this Note at the rate of 7 ¾% per annum. The Company will pay interest in kind semi-annually in arrears on April 1 and October 1 of each year (each an "*Interest Payment Date*"), commencing April 1, 2017. If any date for payment on the Notes falls on a day that is not a Business Day, such payment may be made on the next succeeding Business Day with the same force and effect as if made on the due date, and no additional interest will accrue solely as a result of such delayed payment. Interest on the Notes will accrue from the most recent date to which interest has been paid in kind by issuing Additional Notes, if no interest has been paid in kind, from the date of original issuance thereof. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The Company shall pay interest on overdue principal at the rate borne by the Notes plus 1% per annum, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

Interest on the Notes will be payable by issuing additional securities (the "*Additional Notes*") in an amount equal to the applicable amount of interest for the interest period (rounded down to the nearest whole dollar). Not later than 10 business days prior to the relevant Interest Payment Date, the Company shall deliver to the Trustee and the Paying Agent (if other than the Trustee), (i) with respect to Notes represented by Definitive Notes, the required amount of Additional Notes represented by Definitive Notes (rounded down to the nearest whole dollar) and a company order to authenticate and deliver such Additional Notes or (ii) with respect to Notes represented by one or more Global Notes, a company order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the depositary or otherwise, the required amount of Additional Noted represented by Global Notes (rounded down to the nearest whole dollar) and a company order to authenticate and deliver such new Global Notes). All Additional Notes issued pursuant to an interest payment as described above will mature on April 1, 2019 and will be governed by, and subject to the terms, provisions and conditions of, the Indenture. The Additional Notes shall have the same rights and benefits as the Notes issued on the Issue Date, and shall be treated together with the Notes as a single class for all purposes under the Indenture.

Any Additional Notes shall, after being executed and authenticated pursuant to the Indenture, be (i) if such Additional Notes are Definitive Notes, mailed to the Person entitled thereto as shown on the register maintained by the Note Registrar for the Definitive Notes as of the relevant record date or (ii) if such Additional Notes are Global Notes, deposited into the account specified by the Holder or Holders thereof as of the relevant record date. Alternatively, in connection with any payment of interest, the Company may direct the Paying Agent to make appropriate amendments to the schedule of principal amounts of the relevant Global Notes outstanding for which Additional Notes will be issued and arrange for deposit into the account specified by the Holder or Holders thereof as of the relevant record date.

Notwithstanding anything to the contrary herein or in the Indenture, and for the avoidance of doubt, accrued and unpaid interest that is due and payable at the Maturity of this Note, with respect to an optional redemption, or with respect to any requirement of the Company to purchase this Note on the Change of Control Purchase Date or the Purchase Date pursuant to a Change of Control Offer or Prepayment Offer, shall be payable solely in cash (such interest payment, "*Cash Interest*").

2. Method of Payment. The Company will pay interest on the Notes (except defaulted interest) by issuing Additional Notes to the Persons who are registered holders of Notes at the close of business on the March 15 or September 15 next preceding the Interest Payment Date even if Notes are canceled after the record date and on or before the Interest Payment Date. Holders must surrender Notes to a Paying Agent to collect principal payments. The Company will pay principal and Cash Interest in money of the United States of America that at the time of payment is legal tender for payment of public and private debts. Payments in respect of the Notes represented by a Global Note (including principal, premium and Cash Interest) will be made by wire transfer of immediately available funds to the accounts specified by The Depository Trust Company. The Company will make all payments in respect of a Definitive Note (including principal, premium, if any, and Cash Interest), by mailing a check to the registered address of each Holder thereof; *provided* that payments on the Notes may also be made, in the case of a Holder of at least $500,000 aggregate principal amount of Notes, by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

3. Paying Agent and Registrar. Initially, American Stock Transfer & Trust Company, LLC (the "*Trustee*") will act as Paying Agent and Registrar. The Company may appoint and change any Paying Agent, Registrar or co-registrar without notice. The Company may act as Paying Agent, Registrar or co-registrar.

4. Indenture. The Company issued the Notes under an Indenture dated as of , 2016 ("*Indenture*") among the Company, the Subsidiary Guarantors and the Trustee. The Notes are subject to the terms of the Indenture, and Holders are referred to the Indenture for a statement of such terms. The Notes are secured obligations of the Company subject to the Priority Liens securing the Priority Lien Obligations and the Permitted Collateral Liens. In the event of a conflict between the Indenture and this Note, the terms of the Indenture shall control. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S.C. Sections 77aaa-77bbbb) as in effect on the date of the Indenture (the "*TIA*"). Terms defined in the Indenture and not defined herein have the meanings ascribed thereto in the Indenture. The Notes are subject to all such terms, and the Holders are referred to the Indenture and the TIA for a statement of those terms.

The Indenture imposes certain limitations on the ability of the Company and its Restricted Subsidiaries to, among other things, make certain Investments and other Restricted Payments, pay dividends and other distributions, incur Indebtedness, enter into consensual restrictions upon the payment of certain dividends and distributions by such Restricted Subsidiaries, issue or sell shares of certain capital stock of such Restricted Subsidiaries, enter into or permit certain transactions with Affiliates, create or incur Liens and make Asset Sales. The Indenture also imposes limitations on the ability of the Company or any Subsidiary Guarantor to consolidate or merge with or into any other Person or convey, transfer or lease all or substantially all of the Property of the Company or any Subsidiary Guarantor.

To guarantee the due and punctual payment of the principal and interest on the Notes and all other amounts payable by the Company under the Indenture and the Notes when and as the same shall be due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Notes and the Indenture, the Subsidiary Guarantors will unconditionally guarantee the Obligations on a joint and several basis pursuant to the terms of the Indenture.

5. Optional Redemption.

The Notes are subject to redemption, at the option of the Company, in whole or in part, at any time at the following Redemption Prices (expressed as percentages of principal amount) set forth below if redeemed during the 12-month period beginning April 1 of the years indicated below (or the Issue Date for Notes redeemed prior to April 1, 2017):

Year	Redemption Price
2016	**101.938%**
2017 and thereafter	**100.000%**

together in the case of any such redemption with accrued and unpaid interest, if any, to the Redemption Date (subject to the right of Holders of record on the relevant record date to receive interest due on an Interest Payment Date that is on or prior to the Redemption Date), all as provided in the Indenture. For the avoidance of doubt, any offer to redeem the Notes shall be made only in cash.

6. Sinking Fund. The Notes are not subject to any sinking fund.

7. Notice of Redemption. Notice of redemption will be sent at least 30 days but not more than 60 days before the redemption date to each Holder of Notes to be redeemed at his or her registered address. If money sufficient to pay the redemption price of and accrued interest on all Notes (or portions thereof) to be redeemed on the redemption date is deposited with the Paying Agent on or before the redemption date and certain other conditions are satisfied, on and after such date interest ceases to accrue on such Notes (or such portions thereof) called for redemption.

8. Repurchase of Notes at the Option of Holders upon Change of Control. Upon the occurrence of a Change of Control, any Holder of Notes will have the right, subject to certain conditions specified in the Indenture, to cause the Company to repurchase all or any part of the Notes of such Holder at a purchase price equal to 101% of the principal amount of the Notes to be repurchased plus accrued and unpaid interest, if any, to the date of purchase as provided in, and subject to the terms of, the Indenture.

9. Conversion. At any time following the receipt of the Required Stockholder Approval and the effectiveness of the Charter Amendment, the Notes shall be convertible into shares of Common Stock in accordance with Article 12 of the Indenture. To convert a Note at its option, a Holder must satisfy the requirements of Section 12.02(a) of the Indenture, including the requirement to deliver an Optional Conversion Notice in the case of an Optional Conversion Notice in the form attached to this Note. Upon conversion of a Note pursuant to an Optional Conversion or Mandatory Conversion, the Holder thereof shall be entitled to receive the shares of Common Stock payable upon conversion in accordance with Article 12 of the Indenture, at the Conversion Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture.

10. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in denominations of integral multiples of $1.00. A Holder may transfer or exchange Notes in accordance with the Indenture. Upon any transfer or exchange, the Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements or transfer documents and to pay any taxes required by law or permitted by the Indenture.

11. Persons Deemed Owners. The registered Holder of this Note may be treated as the owner of it for all purposes.

12. Unclaimed Money. If money for the payment of principal or interest remains unclaimed for two years, the Trustee or Paying Agent shall pay the money back to the Company at its written request unless an abandoned property law designates another Person. After any such payment, Holders entitled to the money must look only to the Company and not to the Trustee for payment.

13. Discharge and Defeasance. Subject to certain conditions, the Company at any time may terminate some of or all its obligations under the Notes and the Indenture if the Company deposits with the Trustee money or U.S. Government Obligations for the payment of principal and interest on the Notes to redemption or maturity, as the case may be

14. Amendment, Supplement and Waiver. The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the Subsidiary Guarantors and the rights of the Holders under the Indenture at any time by the Company, the Subsidiary Guarantors and the Trustee with the consent of the Holders of a majority in aggregate principal amount of the Notes at the time Outstanding. The Indenture also contains provisions permitting the Holders of specified percentages in aggregate principal amount of the Notes at the time Outstanding, on behalf of the Holders of all the Notes, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by or on behalf of the Holder of this Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note 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 Note. Without the consent of any Holder, the

Company, the Subsidiary Guarantors and the Trustee may amend or supplement the Indenture or the Notes to cure any ambiguity, defect or inconsistency, to qualify or maintain the qualification of the Indenture under the TIA, to add or release any Subsidiary Guarantor or Collateral pursuant to the Indenture and the Collateral Agreements and to make certain other specified changes and other changes that do not adversely affect the interests of any Holder.

15. Defaults and Remedies. As set forth in the Indenture, an Event of Default is generally (i) failure to pay principal upon maturity, redemption or otherwise (including pursuant to a Change of Control Offer or a Prepayment Offer); (ii) default for 30 days in payment of interest on any of the Notes; (iii) default in the performance of agreements relating to mergers, consolidations and sales of all or substantially all assets or the failure to make or consummate a Change of Control Offer or a Prepayment Offer; (iv) failure for 90 days after notice to comply with Section 9.9 of the Indenture; (v) failure for 60 days after notice to comply with any other covenants in the Indenture, any Subsidiary Guarantee or the Notes; (vi) certain payment defaults under, and the acceleration prior to the maturity of, certain Indebtedness of the Company or any Restricted Subsidiary in an aggregate principal amount in excess of $50,000,000; (vi) the failure of any Subsidiary Guarantee to be in full force and effect (except as permitted by the Indenture); (vii) certain final judgments or orders against the Company or any Restricted Subsidiary in an aggregate amount of more than $50,000,000 (net of any amounts covered by insurance with a reputable and creditworthy insurance company that has not disclaimed liability) which remain unsatisfied and either become subject to commencement of enforcement proceedings or remain unstayed for a period of 60 days; (viii) the liens securing the Obligations under the Notes cease to be enforceable and perfected second-priority liens with respect to collateral, individually or in the aggregate, having a fair market value in excess of $10,000,000; (ix) any Collateral Agreement ceases to be enforceable, the result of which any liens securing the Obligations under the Notes cease to be enforceable and perfected second-priority liens with respect to collateral, individually or in the aggregate, having a fair market value in excess of $10,000,000; (x) certain events of bankruptcy, insolvency or reorganization of the Company or any Restricted Subsidiary and (xi) the Required Stockholder Approval is not obtained and the Charter Amendment has not become effective, in each case by December 31, 2016, and such failure shall continue for a period of 90 days. If any Event of Default occurs and is continuing, the Trustee or the holders of at least 25% in aggregate principal amount of the Outstanding Notes may declare the principal amount of all the Notes to be due and payable immediately, except that (i) in the case of an Event of Default arising from certain events of bankruptcy, insolvency or reorganization of the Company or any Restricted Subsidiary, the principal amount of the Notes will become due and payable immediately without further action or notice, and (ii) in the case of an Event of Default which relates to certain payment defaults or the acceleration with respect to certain Indebtedness, any such Event of Default and any consequential acceleration of the Notes will be automatically rescinded if any such Indebtedness is repaid or if the default relating to such Indebtedness is cured or waived, and if the holders thereof have accelerated such Indebtedness, such holders have rescinded their declaration of acceleration. No Holder may pursue any remedy under the Indenture unless the Trustee shall have failed to act after notice from such Holder of an Event of Default and written request by Holders of at least 25% in aggregate principal amount of the Outstanding Notes to institute proceedings in respect of such Event of Default, and the offer to the Trustee of indemnity reasonably satisfactory to it; however, such provision does not affect the right to sue for enforcement of any overdue payment on a Note by the Holder thereof. Subject to certain limitations, Holders of a majority in aggregate principal amount of the

Outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders notice of any continuing default (except default in payment of principal, premium or interest) if it determines in good faith that withholding the notice is in the interest of the Holders. The Company is required to file annual reports with the Trustee as to the absence or existence of defaults.

16. Trustee Dealings with the Company. Subject to certain limitations imposed by the TIA, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee.

17. No Personal Liability of Directors, Officers, Employees and Stockholders. No director, officer, employee, incorporator, stockholder, member, partner or trustee of the Company or any Subsidiary Guarantor, as such, shall have any liability for any obligations of the Company or any Subsidiary Guarantor under the notes, the Indenture or the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

18. Collateral Agreements. The obligations of the Company and the Subsidiary Guarantors under the Indenture, the Notes and the Subsidiary Guarantees will be secured by a second-priority perfected Lien granted to the Collateral Agent in the Collateral, subject to the terms of the Intercreditor Agreement. The Holders of the Notes will also be subject to the terms of the Collateral Trust Agreement.

19. Authentication. This Note shall not be valid until an authorized signatory of the Trustee (or an authenticating agent) manually signs the certificate of authentication on the other side of this Note.

20. Abbreviations. Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

21. Governing Law. THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED 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.

22. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers and corresponding ISIN numbers to be printed on the Notes and the Trustee may use CUSIP numbers and corresponding ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

THE COMPANY WILL FURNISH TO ANY HOLDER OF NOTES UPON WRITTEN REQUEST AND WITHOUT CHARGE TO THE HOLDER A COPY OF THE INDENTURE WHICH HAS IN IT THE TEXT OF THIS NOTE.

[FORM OF NOTICE OF CONVERSION]

To: Comstock Resources, Inc.

The undersigned registered owner of this Note hereby exercises the option to convert this Note (which together with other Notes of the Holder being converted is $1,000 in aggregate principal amount or an integral multiple thereof) below designated, into shares of Common Stock, in accordance with the terms of the Indenture referred to in the Note, and directs that any shares of Common Stock issuable and deliverable upon such conversion, together with any cash for any fractional share, and any Notes representing any unconverted principal amount thereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If any shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all documentary, stamp or similar issue or transfer taxes, if any in accordance with Section 12.04 of the Indenture. Any amount required to be paid to the undersigned on account of interest accompanies the Note.

In the case of Definitive Notes, the certificate numbers of the Notes to be converted are as set forth below:

Date: _____

_____
Signature(s)

Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Common Stock are to be issued, or Notes are to be delivered, other than to and in the name of the registered holder.

Fill in for registration of shares if to be issued, and Notes if to be delivered, other than to and in the name of the registered holder:

_____
(Name)

_____
(Street Address)

_____
(City, State and Zip Code)
Please print name and address

Principal amount to be converted:

$,000

NOTICE: The above signature(s) of the Holder (s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

_____
Social Security or Other Taxpayer
Identification Number

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to

_____

(Print or type assignee's name, address and zip code)

_____

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint _____ agent to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: _____

Your Signature: _____
Sign exactly as your name appears on the other side of this Note.

Signature Guarantee:

_____

(signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture, check the box below:

☐ Section 4.10 ☐ Section 4.15

If you want to elect to have only part of this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture, state the amount in integral multiples of $1.00 that you elect to have purchased: $____

Date: Your Signature _____

(Sign exactly as your name appears on the other side of this Note)

Soc. Sec. or Tax Identification No.: _____

Signature Guarantee: _____

(signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

[TO BE ATTACHED TO GLOBAL NOTE]

SCHEDULE A

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

Date	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized officer of Trustee or Notes Custodian

EXHIBIT B

COMSTOCK RESOURCES, INC.

and

the Subsidiary Guarantors named herein

---

7 ¾% Convertible Secured PIK Notes due 2019

FORM OF SUPPLEMENTAL INDENTURE

DATED AS OF _____, ____

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,

as Trustee

This SUPPLEMENTAL INDENTURE, dated as of _____, ____ (this "*Supplemental Indenture*") is among Comstock Resources, Inc., (the "*Company*"), [_____] (the "*Guaranteeing Subsidiary*"), which is a subsidiary of the Company, each of the existing Subsidiary Guarantors (as defined in the Indenture referred to below) and American Stock Transfer & Trust Company, LLC, as Trustee.

RECITALS

WHEREAS, the Company, the Subsidiary Guarantors and the Trustee entered into an Indenture, dated as of , 2016 (as heretofore amended, supplemented or otherwise modified, the "*Indenture*"), providing for the issuance of the Company's 7 ¾% Convertible Secured PIK Notes due 2019 (the "*Notes*") and the Additional Notes;

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall become a Subsidiary Guarantor (as defined in the Indenture);

WHEREAS, Section 9.01(a)(9) of the Indenture provides that the Company, the Subsidiary Guarantors and the Trustee may amend or supplement the Indenture in order to add any additional Subsidiary Guarantor with respect to the Notes, without the consent of the Holders of the Notes; and

WHEREAS, all acts and things prescribed by the Indenture, by law and by the Certificate of Incorporation and the Bylaws (or comparable constituent documents) of the Company, of the Subsidiary Guarantors and of the Trustee necessary to make this Supplemental Indenture a valid instrument legally binding on the Company, the Subsidiary Guarantors and the Trustee, in accordance with its terms, have been duly done and performed;

NOW, THEREFORE, to comply with the provisions of the Indenture and in consideration of the above premises, the Company, the Guaranteeing Subsidiary, the other Subsidiary Guarantors and the Trustee covenant and agree for the equal and proportionate benefit of the respective Holders of the Notes as follows:

Section 1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings ascribed to them in the Indenture.

Section 2. Relation to Indenture. This Supplemental Indenture is supplemental to the Indenture and does and shall be deemed to form a part of, and shall be construed in connection with and as part of, the Indenture for any and all purposes.

Section 3. Effectiveness of Supplemental Indenture. This Supplemental Indenture shall become effective immediately upon its execution and delivery by each of the Company, the Guaranteeing Subsidiary, the other Subsidiary Guarantors and the Trustee.

Section 4. Agreement to Guarantee. The Guaranteeing Subsidiary hereby agrees, by its execution of this Supplemental Indenture, to be bound by the provisions of the Indenture applicable to Subsidiary Guarantors to the extent provided for and subject to the limitations therein, including Article 10 thereof.

Section 5. Ratification of Obligations. Except as specifically modified herein, the Indenture and the Notes are in all respects ratified and confirmed (*mutatis mutandis*) and shall remain in full force and effect in accordance with their terms.

Section 6. The Trustee. Except as otherwise expressly provided herein, no duties, responsibilities or liabilities are assumed, or shall be construed to be assumed, by the Trustee by reason of this Supplemental Indenture. This Supplemental Indenture is executed and accepted by the Trustee subject to all the terms and conditions set forth in the Indenture with the same force and effect as if those terms and conditions were repeated at length herein and made applicable to the Trustee with respect hereto. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture or to the recitals contained herein, all of which are made exclusively by the Company and the Subsidiary Guarantors.

Section 7. Governing Law. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 8. Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of such executed copies together shall represent the same agreement. Signature of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

[*Signatures on following pages*]

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

COMPANY:

COMSTOCK RESOURCES, INC.

By: _____
Name:
Title:

GUARANTEEING SUBSIDIARY:

[_____]

By: _____
Name:
Title:

EXISTING SUBSIDIARY GUARANTORS:

[Insert signature blocks for each of the Subsidiary Guarantors existing at the time of execution of this Supplemental Indenture**]**

TRUSTEE:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS TRUSTEE

By: _____
Name:
Title:

EXHIBIT C

REGISTRATION RIGHTS AGREEMENT

by and among

COMSTOCK RESOURCES, INC.,

and

THE STOCKHOLDER[S] NAMED HEREIN

Table of Contents

REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (this "Agreement") is made and entered into as of , 20 by and among COMSTOCK RESOURCES, INC., a Nevada corporation (the "Company"), and (the "Stockholder").

WHEREAS, this Agreement is made in connection with the conversion of the Company's 7 ¾% Convertible Secured PIK Notes due 2019 (the "Notes") into Common Stock pursuant to the terms of that certain Indenture, dated as of [ ], 2016, by and among the Company, each Subsidiary Guarantor from time to time party thereto and American Stock Transfer & Trust Company, LLC as Trustee (the "Indenture"); and

WHEREAS, the Company has agreed to provide the registration and other rights set forth in this Agreement for the benefit of the Stockholder pursuant to the Indenture;

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, the parties hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. The terms set forth below are used herein as so defined:

"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 10.0% 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.

"Agreement" has the meaning specified therefor in the introductory paragraph of this Agreement.

"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.

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

"Common Stock" means the common stock, par value $0.50 per share, of the Company.

"Company" has the meaning specified therefor in the introductory paragraph of this Agreement.

"Conversion Price" means $12.32 per share of Common Stock, as the same may be adjusted as set forth in the Indenture.

"Effective Date" means the date of effectiveness of any Registration Statement.

"Effectiveness Period" has the meaning specified therefor in Section 2.1(a).

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, and the rules and regulations of the Commission promulgated thereunder.

"Filing Date" has the meaning specified therefor in Section 2.1(a).

"Holder" means the record holder of any Registrable Securities.

"Holder Underwriter Registration Statement" has the meaning specified therefor in Section 2.2(o).

"Indenture" has the meaning specified therefor in the Recitals of this Agreement.

"Liquidated Damages" has the meaning specified therefor in Section 2.1(b).

"Liquidated Damages Multiplier" means the product of (i) the Conversion Price and (ii) the number of Registrable Securities then held by the applicable Holder and included on the applicable Registration Statement.

"Losses" has the meaning specified therefor in Section 2.5(a).

"NYSE" means the New York Stock Exchange.

"Notes" has the meaning specified therefor in the Recitals of this Agreement.

"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.

"Registration" means any registration pursuant to this Agreement, including pursuant to a Registration Statement.

"Registrable Securities" means the Common Stock issuable upon conversion of the Notes, which are subject to the rights provided herein until such time as such securities cease to be Registrable Securities pursuant to Section 1.2.

"Registration Expenses" has the meaning specified therefor in Section 2.4(a).

"Registration Statement" has the meaning specified therefor in Section 2.1(a).

"Securities Act" means the Securities Act of 1933, as amended from time to time, and the rules and regulations of the Commission promulgated thereunder.

"Selling Expenses" has the meaning specified therefor in Section 2.4(a).

"Selling Holder" means a Holder who is selling Registrable Securities pursuant to a registration statement.

"Selling Holder Indemnified Persons" has the meaning specified therefor in Section 2.5(a).

"Stockholder" has the meaning specified therefor in the introductory paragraph of this Agreement.

"Target Effective Date" has the meaning specified therefor in Section 2.1(b).

"WKSI" means a well-known seasoned issuer (as defined in the rules and regulations of the Commission).

Section 1.2 Registrable Securities. Any Registrable Security will cease to be a Registrable Security upon the earliest to occur of the following: (a) when a registration statement covering such Registrable Security becomes or has been declared effective by the Commission and such Registrable Security has been sold or disposed of pursuant to such effective registration statement, (b) when such Registrable Security has been disposed of (excluding transfers or assignments by a Holder to an Affiliate or to another Holder or any of its Affiliates or to any assignee or transferee to whom the rights under this Agreement have been transferred pursuant to Section 2.7) pursuant to any section of Rule 144 (or any similar provision then in effect) under the Securities Act, (c) when such Registrable Security is held by the Company or one of its direct or indirect subsidiaries, (d) when the Holder of such Registrable Security beneficially owns less than 10% of the total number of shares of Common Stock outstanding and (e) when such Registrable Security has been sold or disposed of in a private transaction in which the transferor's rights under this Agreement are not assigned to the transferee of such securities pursuant to Section 2.7.

ARTICLE II
REGISTRATION RIGHTS

Section 2.1 Shelf Registration.

(a) Shelf Registration. As soon as practicable following the date of this Agreement and upon written notice by the Stockholder of a request to register the Registrable Securities (but in no event longer than 30 days after the date of this Agreement), the Company shall prepare and file a registration statement under the Securities Act to permit the public resale of Registrable Securities then outstanding from time to time as permitted by Rule 415 (or any similar provision adopted by the Commission then in effect) of the Securities Act (a "Registration Statement"); *provided, however*, that if the Company is then eligible, it shall file such initial registration statement on Form S-3. If the Company is not a WKSI, the Company shall use its commercially reasonable efforts to cause such initial Registration Statement to

become effective no later than 180 days after the date of filing of such Registration Statement (the "Filing Date"). The Company will use its commercially reasonable efforts to cause such Registration Statement filed pursuant to this Section 2.l(a) to be continuously effective under the Securities Act until the earliest to occur of the following: (i) all Registrable Securities covered by the Registration Statement have been distributed in the manner set forth and as contemplated in such Registration Statement, (ii) there are no longer any Registrable Securities outstanding and (iii) one year from the Effective Date of such Registration Statement (in each case of clause (i), (ii) or (iii), the "Effectiveness Period"). A Registration Statement filed pursuant to this Section 2.l(a) shall be on such appropriate registration form of the Commission as shall be selected by the Company. A Registration Statement when declared effective (including the documents incorporated therein by reference) will comply as to form in all material respects with all applicable requirements of the Securities Act and the Exchange Act and will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. As soon as practicable following the date that a Registration Statement becomes effective, but in any event within three (3) Business Days of such date, the Company shall provide the Holders with written notice of the effectiveness of a Registration Statement.

(b) Failure to Become Effective. If a Registration Statement required by Section 2.1(a) does not become or is not declared effective within 180 days after the Filing Date (the "Target Effective Date"), then each Holder shall be entitled to a payment (with respect to each of the Holder's Registrable Securities which are included in such Registration Statement), as liquidated damages and not as a penalty, (i) for each non-overlapping 30 day period for the first 60 days following the Target Effective Date, an amount equal to 0.25% of the Liquidated Damages Multiplier, which shall accrue daily, and (ii) for each non-overlapping 30 day period beginning on the 61st day following the Target Effective Date, an amount equal to the amount set forth in clause (i) *plus* an additional 0.25% of the Liquidated Damages Multiplier for each subsequent 60 days (*i.e.*, 0.5% for 61-120 days, 0.75% for 121-180 days, and 1.0% thereafter), which shall accrue daily, up to a maximum amount equal to 1.0% of the Liquidated Damages Multiplier per non-overlapping 30 day period (the "Liquidated Damages"), until such time as such Registration Statement is declared or becomes effective or there are no longer any Registrable Securities outstanding. The Liquidated Damages shall be payable within 10 Business Days after the end of each such 30 day period in immediately available funds to the account or accounts specified by the applicable Holders. Any amount of Liquidated Damages shall be prorated for any period of less than 30 days accruing during any period for which a Holder is entitled to Liquidated Damages hereunder.

(c) Waiver of Liquidated Damages. If the Company is unable to cause a Registration Statement to become effective on or before the Target Effective Date as a result of an acquisition, merger, reorganization, disposition or other similar transaction, then the Company may request a waiver of the Liquidated Damages, which may be granted by the consent of the Holders of a majority of the outstanding Registrable Securities that have been included on such Registration Statement, in their sole discretion, and which such waiver shall apply to all the Holders of Registrable Securities included on such Registration Statement.

(d) Delay Rights.

(1) Notwithstanding anything to the contrary contained herein, the Company may, upon written notice to any Selling Holder whose Registrable Securities are included in a Registration Statement, suspend such Selling Holder's use of any prospectus which is a part of such Registration Statement (in which event the Selling Holder shall discontinue sales of the Registrable Securities pursuant to such Registration Statement) if (i) the Company is pursuing an acquisition, merger, reorganization, disposition or other similar transaction and the Company determines in good faith that the Company's ability to pursue or consummate such a transaction would be materially and adversely affected by any required disclosure of such transaction in such Registration Statement or (ii) the Company has experienced some other material non-public event, the disclosure of which at such time, in the good faith judgment of the Company, would materially and adversely affect the Company; *provided*, *however*, that in no event shall the Selling Holders be suspended from selling Registrable Securities pursuant to such Registration Statement for a period that exceeds an aggregate of 60 days in any 180-day period or 90 days in any 365-day period. Upon disclosure of such information or the termination of the condition described above, the Company shall provide prompt notice to the Selling Holders whose Registrable Securities are included in such Registration Statement, and shall promptly terminate any suspension of sales it has put into effect and shall take such other actions necessary or appropriate to permit registered sales of Registrable Securities as contemplated in this Agreement.

(2) If the Selling Holders are prohibited from selling their Registrable Securities under a Registration Statement as a result of a suspension pursuant to the immediately preceding paragraph in excess of the periods permitted therein, then, until the suspension is lifted, but not including any day on which a suspension is lifted, the Company shall be prohibited from engaging in registered sales of Common Stock or other equity securities representing interests in the Company under any registration statement other than any registration statement on Form S-8 on file with the Commission prior to the date of commencement of such suspension.

Section 2.2 Sales Procedures. In connection with its obligations under this Article II, the Company will, as expeditiously as possible:

(a) prepare and file with the Commission such amendments and supplements to a Registration Statement and the prospectus used in connection therewith as may be necessary to keep such Registration Statement effective for the Effectiveness Period and as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities covered by such Registration Statement;

(b) furnish to each Selling Holder (i) as far in advance as reasonably practicable before filing a Registration Statement or any other registration statement contemplated by this Agreement or any supplement or amendment thereto, upon request, copies of reasonably complete drafts of all such documents proposed to be filed (including exhibits and each document incorporated by reference therein to the extent then required by the rules and

regulations of the Commission), and provide each such Selling Holder the opportunity to object to any information pertaining to such Selling Holder and its plan of distribution that is contained therein and make the corrections reasonably requested by such Selling Holder with respect to such information prior to filing such Registration Statement or such other registration statement and the prospectus included therein or any supplement or amendment thereto, and (ii) such number of copies of such Registration Statement or such other registration statement and the prospectus included therein and any supplements and amendments thereto as such Persons may reasonably request in order to facilitate the public sale or other disposition of the Registrable Securities covered by such Registration Statement or other registration statement;

(c) if applicable, use its commercially reasonable efforts to register or qualify the Registrable Securities covered by any Registration Statement or any other registration statement contemplated by this Agreement under the securities or blue sky laws of such jurisdictions as the Selling Holders shall reasonably request; *provided, however*, that the Company will not be required to qualify generally to transact business in any jurisdiction where it is not then required to so qualify or to take any action that would subject it to general service of process in any such jurisdiction where it is not then so subject;

(d) promptly notify each Selling Holder, at any time when a prospectus relating thereto is required to be delivered by any of them under the Securities Act, of (i) the filing of a Registration Statement or any other registration statement contemplated by this Agreement or any prospectus or prospectus supplement to be used in connection therewith, or any amendment or supplement thereto, and, with respect to a Registration Statement or any other registration statement or any post-effective amendment thereto, when the same has become effective; and (ii) the receipt of any written comments from the Commission with respect to any filing referred to in clause (i) and any written request by the Commission for amendments or supplements to any such Registration Statement or any other registration statement or any prospectus or prospectus supplement thereto;

(e) immediately notify each Selling Holder, at any time when a prospectus relating thereto is required to be delivered by any of them under the Securities Act, of (i) the happening of any event as a result of which the prospectus or prospectus supplement contained in a Registration Statement or any other registration statement contemplated by this Agreement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; (ii) the issuance or express threat of issuance by the Commission of any stop order suspending the effectiveness of a Registration Statement or any other registration statement contemplated by this Agreement, or the initiation of any proceedings for that purpose; or (iii) the receipt by the Company of any notification with respect to the suspension of the qualification of any Registrable Securities for sale under the applicable securities or blue sky laws of any jurisdiction. Following the provision of such notice, the Company agrees to, as promptly as practicable, amend or supplement the prospectus or prospectus supplement or take other appropriate action so that the prospectus or prospectus supplement does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading and to take such other action as is reasonably necessary to remove a stop order, suspension, threat thereof or proceedings related thereto;

(f) upon request and subject to appropriate confidentiality obligations, furnish to each Selling Holder copies of any and all transmittal letters or other correspondence with the Commission or any other governmental agency or self-regulatory body or other body having jurisdiction (including any domestic or foreign securities exchange) relating to such offering of Registrable Securities;

(g) otherwise use its commercially reasonable efforts to comply with all applicable rules and regulations of the Commission, and make available to its security holders, as soon as reasonably practicable, an earnings statement, which earnings statement covering the period of at least 12 months, but not more than 18 months, beginning with the first full calendar month after the effective date of such registration statement, shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 promulgated thereunder;

(h) make available to the appropriate representatives of the Selling Holders during normal business hours access to such information and Company personnel as is reasonable and customary to enable such parties to establish a due diligence defense under the Securities Act; *provided*, *however*, that the Company need not disclose any non-public information to any such representative unless and until such representative has entered into a confidentiality agreement with the Company;

(i) use its commercially reasonable efforts to cause all Registrable Securities registered pursuant to this Agreement to be listed on each securities exchange or nationally recognized quotation system on which similar securities issued by the Company are then listed;

(j) use its commercially reasonable efforts to cause Registrable Securities to be registered with or approved by such other governmental agencies or authorities as may be necessary by virtue of the business and operations of the Company to enable the Selling Holders to consummate the disposition of such Registrable Securities;

(k) provide a transfer agent and registrar for all Registrable Securities covered by any Registration Statement not later than the Effective Date of such Registration Statement;

(l) if reasonably requested by a Selling Holder, (i) incorporate in a prospectus supplement or post-effective amendment such information as such Selling Holder reasonably requests to be included therein relating to the sale and distribution of Registrable Securities, including information with respect to the number of Registrable Securities being offered or sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering; and (ii) make all required filings of such prospectus supplement or post-effective amendment after being notified of the matters to be incorporated in such prospectus supplement or post-effective amendment;

(m) if reasonably required by the Company’s transfer agent, the Company shall promptly deliver any authorizations, certificates and directions required by the transfer agent which authorize and direct the transfer agent to transfer such Registrable Securities without legend upon sale by the Holder of such Registrable Securities under the Registration Statement; and

(n) if any Holder could reasonably be deemed to be an "underwriter," as defined in Section 2(a)(11) of the Securities Act, in connection with the Registration Statement and any amendment or supplement thereof (a "Holder Underwriter Registration Statement"), then the Company will reasonably cooperate with such Holder in allowing such Holder to conduct customary "underwriter's due diligence" with respect to the Company and satisfy its obligations in respect thereof. In addition, at any Holder's request, the Company will furnish to such Holder, on the date of the effectiveness of the Holder Underwriter Registration Statement and thereafter from time to time on such dates as such Holder may reasonably request (provided that such request shall not be more frequently than on an annual basis unless such Holder is offering Registrable Securities pursuant to a Holder Underwriter Registration Statement), (i) a "comfort" letter, dated such date, from the Company's independent certified public accountants in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to such Holder, (ii) an opinion, dated as of such date, of counsel representing the Company for purposes of the Holder Underwriter Registration Statement, in form, scope and substance as is customarily given in an underwritten public offering, including standard "10b-5" negative assurance for such offering, addressed to such Holder and (iii) a standard officer's certificate from the chief executive officer or chief financial officer, or other officers serving such functions, of the general partner of the Company addressed to the Holder. The Company will also permit legal counsel to such Holder to review and comment upon any such Holder Underwriter Registration Statement at least five Business Days prior to its filing with the Commission and all amendments and supplements to any such Holder Underwriter Registration Statement with a reasonable number of days prior to their filing with the Commission and not file any Holder Underwriter Registration Statement or amendment or supplement thereto in a form to which such Holder's legal counsel reasonably objects. Each Selling Holder, upon receipt of notice from the Company of the happening of any event of the kind described in subsection (e) of this Section 2.2, shall forthwith discontinue offers and sales of the Registrable Securities until such Selling Holder's receipt of the copies of the supplemented or amended prospectus contemplated by subsection (e) of this Section 2.2 or until it is advised in writing by the Company that the use of the prospectus may be resumed and has received copies of any additional or supplemental filings incorporated by reference in the prospectus, and, if so directed by the Company, such Selling Holder will deliver to the Company (at the Company's expense) all copies in their possession or control, other than permanent file copies then in such Selling Holder's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice.

Notwithstanding anything to the contrary in this Section 2.2, the Company will not name a Holder as an underwriter (as defined in Section 2(a)(11) of the Securities Act) in any Registration Statement or Holder Underwriter Registration Statement, as applicable, without such Holder's consent. If the staff of the Commission requires the Company to name any Holder as an underwriter (as defined in Section 2(a)(11) of the Securities Act), and such Holder does not consent thereto, then such Holder's Registrable Securities shall not be included on the applicable Registration Statement, such Holder shall no longer be entitled to receive Liquidated Damages under this Agreement with respect to such Holder's Registrable Securities, and the Company shall have no further obligations hereunder with respect to Registrable Securities held by such Holder, unless such Holder has not had an opportunity to conduct customary underwriter's due diligence as set forth in subsection (o) of this Section 2.2 with respect to the Company at the time such Holder's consent is sought.

Each Selling Holder, upon receipt of notice from the Company of the happening of any event of the kind described in subsection (e) of this Section 2.2, shall forthwith discontinue offers and sales of the Registrable Securities by means of a prospectus or prospectus supplement until such Selling Holder's receipt of the copies of the supplemented or amended prospectus contemplated by subsection (e) of this Section 2.2 or until it is advised in writing by the Company that the use of the prospectus may be resumed and has received copies of any additional or supplemental filings incorporated by reference in the prospectus, and, if so directed by the Company, such Selling Holder will, or will request the managing underwriter or managing underwriters, if any, to deliver to the Company (at the Company's expense) all copies in their possession or control, other than permanent file copies then in such Selling Holder's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice.

If reasonably requested by a Selling Holder, the Company shall: (i) as soon as practicable incorporate in a prospectus supplement or post-effective amendment such information as such Selling Holder reasonably requests to be included therein relating to the sale and distribution of Registrable Securities, including information with respect to the number of Registrable Securities being offered or sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering and (ii) as soon as practicable make all required filings of such prospectus supplement or post-effective amendment after being notified of the matters to be incorporated in such prospectus supplement or post-effective amendment.

Section 2.3 Cooperation by Holders. The Company shall have no obligation to include Registrable Securities of a Holder in a Registration Statement who has failed to timely furnish such information that the Company determines, after consultation with its counsel, is reasonably required in order for any registration statement or prospectus supplement, as applicable, to comply with the Securities Act.

Section 2.4 Expenses.

(a) Certain Definitions. "Registration Expenses" means all expenses incident to the Company's performance under or compliance with this Agreement to effect the registration of Registrable Securities on a Registration Statement pursuant to Section 2.1 and the disposition of such Registrable Securities, including, without limitation, all registration, filing, securities exchange listing and NYSE fees, all registration, filing, qualification and other fees and expenses of complying with securities or blue sky laws, fees of the Financial Industry Regulatory Authority, fees of transfer agents and registrars, all word processing, duplicating and printing expenses, and the fees and disbursements of counsel and independent public accountants for the Company, including the expenses of any special audits or "cold comfort" letters required by or incident to such performance and compliance. "Selling Expenses" means all underwriting fees, discounts and selling commissions and transfer taxes allocable to the sale of the Registrable Securities.

(b) Expenses. The Company will pay all reasonable Registration Expenses, as determined in good faith, in connection with a shelf Registration, whether or not any sale is made pursuant to such shelf Registration. Each Selling Holder shall pay its pro rata share of all Selling Expenses in connection with any sale of its Registrable Securities hereunder. In addition, except as otherwise provided in Section 2.5, the Company shall not be responsible for professional fees (including legal fees) incurred by Holders in connection with the exercise of such Holders' rights hereunder.

Section 2.5 Indemnification.

(a) By the Company. In the event of a registration of any Registrable Securities under the Securities Act pursuant to this Agreement, the Company will indemnify and hold harmless each Selling Holder thereunder, its directors, officers, managers, partners, employees and agents and each Person, if any, who controls such Selling Holder within the meaning of the Securities Act and the Exchange Act, and its directors, officers, managers, partners, employees or agents (collectively, the "Selling Holder Indemnified Persons"), against any losses, claims, damages, expenses or liabilities (including reasonable attorneys' fees and expenses) (collectively, "Losses"), joint or several, to which such Selling Holder Indemnified Person may become subject under the Securities Act, the Exchange Act or otherwise, insofar as such Losses (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in (which, for the avoidance of doubt, includes documents incorporated by reference in) the applicable Registration Statement or other registration statement contemplated by this Agreement, any preliminary prospectus, prospectus supplement or final prospectus contained therein, or any amendment or supplement thereof, or any free writing prospectus relating thereto, or arise out of or are based upon the omission or alleged omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, and will reimburse each such Selling Holder Indemnified Person for any legal or other expenses reasonably incurred by them in connection with investigating, defending or resolving any such Loss or actions or proceedings; *provided*, *however*, that the Company will not be liable in any such case if and to the extent that any such Loss arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission so made in conformity with information furnished by such Selling Holder Indemnified Person in writing specifically for use in the applicable Registration Statement or other registration statement, or prospectus supplement, as applicable. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Selling Holder Indemnified Person, and shall survive the transfer of such securities by such Selling Holder.

(b) By Each Selling Holder. Each Selling Holder agrees severally and not jointly to indemnify and hold harmless the Company, the Company's directors, officers, employees and agents and each Person, who, directly or indirectly, controls the Company within the meaning of the Securities Act or of the Exchange Act to the same extent as the foregoing indemnity from the Company to the Selling Holders, but only with respect to information regarding such Selling Holder furnished in writing by or on behalf of such Selling Holder expressly for inclusion in a Registration Statement or any other registration statement contemplated by this Agreement, any preliminary prospectus, prospectus supplement or final prospectus contained therein, or any amendment or supplement thereto or any free writing prospectus relating thereto; *provided*, *however*, that the liability of each Selling Holder shall not be greater in amount than the dollar amount of the proceeds (net of any Selling Expenses) received by such Selling Holder from the sale of the Registrable Securities giving rise to such indemnification.

(c) Notice. Promptly after receipt by an indemnified party hereunder of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party hereunder, notify the indemnifying party in writing thereof, but the omission to so notify the indemnifying party shall not relieve it from any liability that it may have to any indemnified party other than under this Section 2.5(c) except to the extent that the indemnifying party is materially prejudiced by such failure. In any action brought against any indemnified party, it shall notify the indemnifying party of the commencement thereof. The indemnifying party shall be entitled to participate in and, to the extent it shall wish, to assume and undertake the defense thereof with counsel reasonably satisfactory to such indemnified party and, after notice from the indemnifying party to such indemnified party of its election so to assume and undertake the defense thereof, the indemnifying party shall not be liable to such indemnified party under this Section 2.5 for any legal expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation and of liaison with counsel so selected; *provided*, *however*, that, (i) if the indemnifying party has failed to assume the defense or employ counsel reasonably satisfactory to the indemnified party or (ii) if the defendants in any such action include both the indemnified party and the indemnifying party and counsel to the indemnified party shall have concluded that there may be reasonable defenses available to the indemnified party that are different from or additional to those available to the indemnifying party, or if the interests of the indemnified party reasonably may be deemed to conflict with the interests of the indemnifying party, then the indemnified party shall have the right to select a separate counsel and to assume such legal defense and otherwise to participate in the defense of such action, with the reasonable expenses and fees of such separate counsel and other reasonable expenses related to such participation to be reimbursed by the indemnifying party as incurred. Notwithstanding any other provision of this Agreement, no indemnifying party shall settle any action brought against any indemnified party with respect to which such indemnified party may be entitled to indemnification hereunder without the consent of the indemnified party, unless the settlement thereof imposes no liability or obligation on, includes a complete and unconditional release from liability of, and does not contain any admission of wrongdoing by, the indemnified party.

(d) Contribution. If the indemnification provided for in this Section 2.5 is held by a court or government agency of competent jurisdiction to be unavailable to any indemnified party or is insufficient to hold them harmless in respect of any Losses, then each such indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such Losses in such proportion as is appropriate to reflect the relative fault of the indemnifying party, on the one hand, and of the indemnified party, on the other hand, in connection with the statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations; *provided*, *however*, that in no event shall any Selling Holder be required to contribute an aggregate amount in excess of the dollar amount of proceeds (net of Selling Expenses) received by such Selling Holder from the sale of Registrable Securities giving rise to such indemnification. The relative fault of the indemnifying party, on the one hand, and the indemnified party, on the other, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement

of a material fact or the omission or alleged omission to state a material fact has been made by, or relates to, information supplied by such party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The parties hereto agree that it would not be just and equitable if contributions pursuant to this paragraph were to be determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to herein. The amount paid by an indemnified party as a result of the Losses referred to in the first sentence of this paragraph shall be deemed to include any legal and other expenses reasonably incurred by such indemnified party in connection with investigating, defending or resolving any Loss that is the subject of this paragraph. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who is not guilty of such fraudulent misrepresentation.

(e) Other Indemnification. The provisions of this Section 2.5 shall be in addition to any other rights to indemnification or contribution that an indemnified party may have pursuant to law, equity, contract or otherwise.

Section 2.6 Rule 144 Reporting. With a view to making available the benefits of certain rules and regulations of the Commission that may permit the sale of the Registrable Securities to the public without registration, the Company agrees to use its commercially reasonable efforts to:

(a) make and keep public information regarding the Company available, as those terms are understood and defined in Rule 144 under the Securities Act (or any similar provision then in effect), at all times from and after the date hereof;

(b) file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act at all times from and after the date hereof; and

(c) so long as a Holder owns any Registrable Securities, furnish (i) to the extent accurate, forthwith upon request, a written statement of the Company that it has complied with the reporting requirements of Rule 144 under the Securities Act (or any similar provision then in effect) and (ii) unless otherwise available via the Commission's EDGAR filing system, to such Holder forthwith upon request a copy of the most recent annual or quarterly report of the Company, and such other reports and documents so filed as such Holder may reasonably request in availing itself of any rule or regulation of the Commission allowing such Holder to sell any such securities without registration.

Section 2.7 Transfer or Assignment of Registration Rights. The rights to cause the Company to register Registrable Securities under this Article II may be transferred or assigned by each Holder to one or more transferees or assignees of Registrable Securities; *provided, however*, that (a) unless any such transferee or assignee is an Affiliate of, and after such transfer or assignment continues to be an Affiliate of, such Holder, the amount of Registrable Securities transferred or assigned to such transferee or assignee shall represent at least $75 million of Registrable Securities (determined by multiplying the number of Registrable Securities owned by the average of the closing price on the NYSE for the Common Stock for the ten trading days

preceding the date of such transfer or assignment), (b) the Company is given written notice prior to any said transfer or assignment, stating the name and address of each such transferee or assignee and identifying the securities with respect to which such registration rights are being transferred or assigned and (c) each such transferee or assignee assumes in writing responsibility for its portion of the obligations of such transferring Holder under this Agreement.

ARTICLE III
MISCELLANEOUS

Section 3.1 Communications. All notices and demands provided for hereunder shall be in writing and shall be given by registered or certified mail, return receipt requested, telecopy, air courier guaranteeing overnight delivery, personal delivery or (in the case of any notice given by the Company to the Stockholder) email to the following addresses:

(a) if to the Stockholder:

with a copy, which shall not constitute notice, to:

(b) if to the Company:

Comstock Resources, Inc.
5300 Town and Country Blvd.
Suite 500
Frisco, TX 75034
Facsimile: (972) 668-8812
Attention: Roland O. Burns, President and Chief Financial Officer

with a copy, which shall not constitute notice, to:

Locke Lord LLP
2200 Ross Avenue
Suite 2800
Dallas, TX 75201
Facsimile: (214) 756-8553
Attention: Jack E. Jacobsen

or to such other address as the Company or the Stockholder may designate to each other in writing from time to time or, if to a transferee or assignee of the Stockholder or any transferee or assignee thereof, to such transferee or assignee at the address provided pursuant to Section 2.7. All notices and communications shall be deemed to have been duly given: (i) at the time delivered by hand, if personally delivered, (ii) upon actual receipt if sent by certified or registered mail, return receipt requested, or regular mail, if mailed, (iii) upon actual receipt of the facsimile or email copy, if sent via facsimile or email and (iv) upon actual receipt when delivered to an air courier guaranteeing overnight delivery.

Section 3.2 Successors and Assigns. This Agreement shall be binding upon the Company, the Stockholder and their respective successors and permitted assigns, including subsequent Holders of Registrable Securities to the extent permitted herein. Except as expressly provided in this Agreement, this Agreement shall not be construed so as to confer any right or benefit upon any Person other than the parties to this Agreement and their respective successors and permitted assigns.

Section 3.3 Assignment of Rights. Except as provided in Section 2.7, neither this Agreement nor any of the rights, benefits or obligations hereunder may be assigned or transferred, by operation of law or otherwise, by any party hereto without the prior written consent of the other party.

Section 3.4 Recapitalization, Exchanges, Etc. Affecting Common Stock. The provisions of this Agreement shall apply to the full extent set forth herein with respect to any and all common stock of the Company or any successor or assign of the Company (whether by merger, consolidation, sale of assets or otherwise) that may be issued in respect of, in exchange for or in substitution of, the Registrable Securities, and shall be appropriately adjusted for combinations, unit splits, recapitalizations, pro rata distributions of units and the like occurring after the date of this Agreement.

Section 3.5 Aggregation of Registrable Securities. All Registrable Securities held or acquired by Persons who are Affiliates of one another shall be aggregated together for the purpose of determining the availability of any rights under this Agreement.

Section 3.6 Specific Performance. Damages in the event of breach of this Agreement by a party hereto may be difficult, if not impossible, to ascertain, and it is therefore agreed that each such Person, in addition to and without limiting any other remedy or right it may have, will have the right to seek an injunction or other equitable relief in any court of competent jurisdiction, enjoining any such breach, and enforcing specifically the terms and provisions hereof, and each of the parties hereto hereby waives any and all defenses it may have on the ground of lack of jurisdiction or competence of the court to grant such an injunction or other equitable relief. The existence of this right will not preclude any such Person from pursuing any other rights and remedies at law or in equity that such Person may have.

Section 3.7 Counterparts. This Agreement may be executed in any number of counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same agreement.

Section 3.8 Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

Section 3.9 Governing Law, Submission to Jurisdiction. This Agreement and all claims or causes of action (whether in contract or tort) that may be based upon, arise out of or relate to this Agreement or the negotiation, execution, termination, performance or nonperformance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement) will be construed in accordance with and governed by the laws of the State of New York without regard to principles of conflicts of laws that might otherwise require the application of the laws of any other jurisdiction. Any action against any party relating to the foregoing shall be brought in any federal or state court of competent jurisdiction located within the State of New York, and the parties hereto hereby irrevocably submit to the non-exclusive jurisdiction of any federal or state court located within the State of New York over any such action. The parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the parties hereto agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Section 3.10 Waiver of Jury Trial. Each party to this Agreement irrevocably waives the right to a trial by jury in connection with any matter arising out of this Agreement to the fullest extent permitted by applicable law.

Section 3.11 Severability of Provisions. If any provision in this Agreement is held to be illegal, invalid, not binding, or unenforceable, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid, not binding, or unenforceable provision had never comprised a part hereof, and the remaining provisions shall remain in full force and effect, shall be construed so as to give effect to the original intent of the parties as closely as possible.

Section 3.12 Entire Agreement. This Agreement and the Indenture and the other agreements and documents referred to herein are intended by the parties as a final expression of their agreement and are intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto, in respect of the subject matter contained herein and therein. There are no, and neither the Company nor any Stockholder has relied upon, restrictions, promises, warranties or undertakings, other than those set forth or referred to herein or in the Indenture with respect to the rights and obligations of the Company, the Stockholder or any of their respective Affiliates hereunder or thereunder, and each of the Company and the Stockholder expressly disclaims that it is owed any duties or is entitled to any remedies not expressly set forth in this Agreement. This Agreement supersedes all prior agreements and understandings between the parties with respect to the subject matter hereof.

Section 3.13 Amendment. This Agreement may be amended only by means of a written amendment signed by the Company and the Holders of a majority of the then outstanding Registrable Securities; *provided*, *however*, that no such amendment shall adversely affect the rights of any Holder hereunder without the consent of such Holder. Any amendment, supplement or modification of or to any provision of this Agreement, any waiver of any provision of this Agreement, and any consent to any departure by the Company or any Stockholder from the terms of any provision of this Agreement shall be effective only in the specific instance and for the specific purpose for which such amendment, supplement, modification, waiver or consent has been made or given.

Section 3.14 No Presumption. This Agreement has been reviewed and negotiated by sophisticated parties with access to legal counsel and shall not be construed against the drafter.

Section 3.15 Obligations Limited to Parties to Agreement. Each of the parties hereto covenants, agrees and acknowledges that, other than as set forth herein, no Person other than the Stockholder, the Selling Holders, their respective permitted assignees and the Company shall have any obligation hereunder and that, notwithstanding that one or more of such Persons may be a corporation, partnership or limited liability company, no recourse under this Agreement or under any documents or instruments delivered in connection herewith shall be had against any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder or Affiliate of any of such Persons or their respective permitted assignees, or any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder or Affiliate of any of the foregoing, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any applicable law, it being expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise be incurred by any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder or Affiliate of any of such Persons or any of their respective assignees, or any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder or Affiliate of any of the foregoing, as such, for any obligations of such Persons or their respective permitted assignees under this Agreement or any documents or instruments delivered in connection herewith or for any claim based on, in respect of or by reason of such obligation or its creation, except, in each case, for any assignee of any Stockholder or a Selling Holder hereunder.

Section 3.16 Interpretation. Article, Section and Schedule references herein refer to articles and sections of, or schedules to, this Agreement, unless otherwise specified. All references to instruments, documents, contracts, and agreements are references to such instruments, documents, contracts, and agreements as the same may be amended, supplemented and otherwise modified from time to time, unless otherwise specified. The word “including” shall mean “including but not limited to.” Any reference in this Agreement to $ shall mean U.S. dollars. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day. Any words imparting the

singular number only shall include the plural and vice versa. Words such as “herein,” hereinafter,” “hereof” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision of this Agreement in which such words appear, unless the context otherwise requires. Whenever any determination, consent or approval is to be made or given by a Stockholder under this Agreement, such action shall be in such Stockholder’s sole discretion unless otherwise specified.

[*Signature page follows.*]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

COMPANY

COMSTOCK RESOURCES, INC.

By: _____
Name:
Title:

STOCKHOLDER

By: _____
Name:
Title:

Exhibit 4.13

COMSTOCK RESOURCES, INC.,

AND

EACH OF THE SUBSIDIARY GUARANTORS PARTY HERETO

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9 ½% Convertible Secured PIK Notes due 2020

INDENTURE

Dated as of , 2016

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

as Trustee

TABLE OF CONTENTS

EXHIBITS

EXHIBIT A	Form of Note
EXHIBIT B	Form of Supplemental Indenture
EXHIBIT C	Registration Rights Agreement

This INDENTURE, dated as of , 2016 is among COMSTOCK RESOURCES, INC., a Nevada corporation (the "*Company*"), each Subsidiary Guarantor from time to time party hereto, as Subsidiary Guarantors, and AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, as Trustee.

RECITALS

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

The Company, the Subsidiary Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Company's 9 ½% Convertible Secured PIK Notes due 2020 issued on the Issue Date (the "*Notes*") and the Additional Notes:

ARTICLE 1.
DEFINITIONS AND INCORPORATION
BY REFERENCE

Section 1.01. Definitions.

"*2009 Notes Issue Date*" means October 9, 2009.

"*2019 Convertible Notes Indenture*" means the Indenture, dated as of , 2016, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as trustee, relating to the New 2019 Convertible Notes.

"*Account Control Agreement*" means each Account Control Agreement executed and delivered by the Company pursuant to this Indenture, in form and substance satisfactory to the parties thereto.

"*Acquired Indebtedness*" means Indebtedness of a Person (1) existing at the time such Person becomes a Restricted Subsidiary or (2) 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 14.03.

"*Additional Assets*" means:

(1) any Properties (other than cash, Cash Equivalents or securities) used in the Oil and Gas Business or any business ancillary thereto;

(2) 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;

(3) the acquisition from third parties of Capital Stock of a Restricted Subsidiary; or

(4) capital expenditures by the Company or a Restricted Subsidiary in the Oil and Gas Business.

"*Additional New 2019 Convertible Notes*" means the additional securities issued under the 2019 Convertible Notes Indenture solely in connection with the payment of interest in kind on the New 2019 Convertible Notes.

"*Additional New Senior Secured Notes*" means the additional securities issued under the Senior Secured Notes Indenture solely in connection with the payment of interest in kind on the New Senior Secured Notes.

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

(1) 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:

(i) estimated proved oil and gas reserves acquired since such year-end, which reserves were not reflected in such year-end reserve report, and

(ii) 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:

(iii) estimated proved oil and gas reserves produced or disposed of since such year-end, and

(iv) 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 (i) through (iv), 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 (1)(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 (i) the net book value on a date no earlier than the date of the Company's latest annual or quarterly financial statements and (ii) 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 a date no earlier than the date of the Company's latest audited financial statements, *minus*

(2) 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 (1)(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 (1)(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 Subsidiary Guarantor at any date shall mean the amount by which the fair value of the properties and assets of such Subsidiary 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 Subsidiary Guarantee, of such Subsidiary 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; and the term "Affiliated" shall have a meaning correlative to the foregoing. 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.

"*Agents*" means, collectively, the Trustee, the Collateral Agent, the Registrar, the Paying Agent and any other agents under the Note Documents from time to time.

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

"*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 Production Payment, net profits interest, overriding royalty interest, sale and leaseback transaction, merger or consolidation) (collectively, for purposes of this definition, a "transfer"), directly or indirectly, in one or a series of related transactions, of (1) any Capital Stock of any Restricted Subsidiary, (2) all or substantially all of the Properties of any division or line of business of the Company or any of its Restricted Subsidiaries or (3) 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 Properties 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, Article 5 hereof, (B) any transfer of Properties to an Unrestricted Subsidiary, if permitted under Section 4.07 hereof: or (C) any transfer (in a single transaction or a series of related transactions) of Properties (including Capital Stock) having a Fair Market Value of less than $25,000,000.

"*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 (1) 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 (2) the sum of all such principal payments.

"*Board of Directors*" means with respect to the Company, either the board of directors of the Company or any duly authorized committee of such board of directors, and, with respect to any Subsidiary, either the board of directors of such Subsidiary or any duly authorized committee of that board or, in the case of a Subsidiary not having a board of directors, the manager or other person performing a function comparable to a board of directors of a corporation.

"*Board Resolution*" means, with respect to the Company, a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by its Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee, and with respect to a Subsidiary, a copy of a resolution certified by the Secretary or an Assistant Secretary of such Subsidiary to have been duly adopted by its Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"*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 Indenture, the amount of such obligation at any date shall be the capitalized amount thereof at such date, determined in accordance with GAAP. Notwithstanding the foregoing, any lease (whether entered into before or after the date of this Indenture) that would have been classified as an operating lease pursuant to GAAP as in effect on the date of this Indenture will be deemed not to represent a Capitalized Lease Obligation.

"*Cash Equivalents*" means:

(1) 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);

(2) 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;

(3) 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-1 by S&P or at least P-1 by Moody's;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (1) of this definition entered into with any commercial bank meeting the specifications of clause (2) of this definition;

(5) overnight bank deposits and bankers acceptances at any commercial bank meeting the qualifications specified in clause (2) of this definition;

(6) deposits available for withdrawal on demand with any commercial bank not meeting the qualifications specified in clause (2) of this definition but which is a lending bank under the Revolving Credit Agreement, provided all such deposits do not exceed $5,000,000 in the aggregate at any one time;

(7) demand and time deposits and certificates of deposit with any commercial bank organized in the United States not meeting the qualifications specified in clause (2) of this definition; *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

(8) investments in money market or other mutual funds substantially all of whose assets comprise securities of the types described in clauses (1) through (5) of this definition.

"*Change of Control*" means the occurrence of any event or series of events by which:

(1) 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;

(2) 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;

(3) 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);

(4) 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

(5) the Company is liquidated or dissolved.

"*Charter Amendment*" means the amendment of the Company's restated articles of incorporation to increase the number of shares of Common Stock authorized for issuance in an amount to provide a sufficient number of authorized shares of Common Stock for the issuance of shares upon conversion of all of the outstanding New Convertible Notes and exercise, to the extent necessary, of all of the New Warrants.

"*Clearstream*" means Clearstream Banking, société anonyme, or any successor securities clearing agency.

"*Collateral*" means all property wherever located and whether now owned or at any time acquired after the date of this Indenture by any Collateral Grantor as to which a Lien is granted under the Collateral Agreements to secure the Notes or any Subsidiary Guarantee.

"*Collateral Agent*" means the collateral agent for all holders of Convertible Note Obligations. Bank of Montreal will initially serve as the Collateral Agent.

"*Collateral Agreements*" means, collectively, each Mortgage, the Pledge Agreement, the Security Agreement, the Intercreditor Agreement, the Collateral Trust Agreement and each other instrument, including any assignment, security agreement, mortgage, deed of trust, pledge agreement or other security instrument, creating Liens in favor of the Collateral Agent as required by the Convertible Note Documents, including the Intercreditor Agreement and the Collateral Trust Agreement, in each case, as the same may be in effect from time to time.

"*Collateral Grantors*" means the Company and each Subsidiary Guarantor that is party to a Collateral Agreement.

"*Collateral Trust Agreement*" means the Collateral Trust Agreement, dated as of the Issue Date, among the Collateral Agent, the Trustee and the trustee under the 2019 Convertible Notes Indenture, as amended, restated, supplemented or otherwise modified from time to time.

"*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.

"*Commodity Exchange Act*" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"*Common Stock*" means the common stock, par value $0.50 per share, of the Company.

"*Company*" has the meaning provided in the introductory paragraph hereto, until a successor person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Company" shall mean such successor Person.

"*Company Request*" or "*Company Order*" means a written request or order signed in the name of the Company by its Chairman, its President, any Vice President, its Treasurer or an Assistant Treasurer, and delivered to the Trustee.

"*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: (1) 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, to (2) Consolidated Interest Expense for such period*; provided* that (i) 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 4.09(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, (ii) 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 4.09(a) 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, (iii) 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 4.09(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, (iv) notwithstanding clauses (ii) and (iii) 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, (v) in making such calculation, Consolidated Interest Expense shall exclude interest attributable to Dollar-Denominated Production Payments, and (vi) if after the first day of the period referred to in clause (1) 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 (1) 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, (2) 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, (3) 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 (4) 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 (1) through (4), 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:

(1) net after-tax extraordinary gains or losses (less all fees and expenses relating thereto);

(2) net after-tax gains or losses (less all fees and expenses relating thereto) attributable to Asset Sales;

(3) 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 are attributable to net income (or net loss) of such Person during such period or during any prior period);

(4) 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;

(5) dividends paid in Qualified Capital Stock;

(6) income resulting from transfers of assets received by the Company or any Restricted Subsidiary from an Unrestricted Subsidiary;

(7) Consolidated Exploration Expenses and any write-downs or impairments of non-current assets; and

(8) the cumulative effect of a change in accounting principles.

"*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).

"*Conversion Agent*" means a Person engaged to perform the obligations in respect of the conversion of the Notes.

"*Convertible Note Documents*" means this Indenture, the 2019 Convertible Notes Indenture, the Collateral Agreements and any agreement instrument or other document evidencing or governing any Convertible Note Obligations related to the Notes.

"*Convertible Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Company or any Subsidiary Guarantor arising under the Convertible Notes Indentures, the New Convertible Notes, the Subsidiary Guarantees in respect of the New Convertible Notes and the Collateral Agreements (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), 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 and fees that accrue after the commencement by or against the Company or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"*Convertible Notes Indentures*" means, collectively, this Indenture and the 2019 Convertible Notes Indenture.

"*Corporate Trust Office*" means, for purposes of presenting Securities and at any time its corporate trust business shall be administered, American Stock Transfer & Trust Company, LLC located at 6201 15th Avenue, Brooklyn, New York 11219, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

"*Daily VWAP*" means for any Trading Day, the per share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page "WLL<equity>VWAP" (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day, up to and including the final closing print (which is

indicated by Condition Code "6" in Bloomberg) (or if such volume-weighted average price is unavailable, the market value of one share of Common Stock on such Trading Day, determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by the Company).

"*Default*" means any event, act or condition that is, or after notice or passage of time or both would become, an Event of Default.

"*Definitive Note*" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend set forth in Section 2.06(f) and shall not have the *"Schedule of Increases or Decreases in the Global Note"* attached thereto.

"*Depositary*" means The Depository Trust Company, its nominees and their respective successors and assigns, or such other depository institution hereinafter appointed by the Company.

"*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 Notes 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 4.09(a), 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* 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 a Restricted Subsidiary recorded as liabilities in accordance with GAAP, together with all undertakings and obligations in connection therewith

"*Engineering Report*" means the Initial Engineering Report and each engineering report delivered pursuant to Section 4.04(b)(3) or (b)(4).

"*Equity Interests*" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"*Euroclear*" means the Euroclear System or any successor securities clearing agency.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended from time to time, and any successor act thereto.

"*Exchange Offer and Consent Solicitation*" means a series of transactions in which the Company will (i) exchange the New Senior Secured Notes and the New Warrants for the Old Senior Secured Notes, (ii) exchange the New 2019 Convertible Notes for the Company's 7 ¾% Senior Notes due 2019, (iii) exchange the Notes for the Company's 9 ½% Senior Notes due 2020 and (iv) solicit the consent of the holders of the Old Senior Secured Notes and Old Unsecured Notes for certain amendments to the Old Indentures, including amendments to eliminate or amend certain restrictive covenants contained in the Old Indentures, release the collateral securing the Old Senior Secured Notes and, to the extent necessary, approve the appointment of American Stock Transfer & Trust Company, LLC as trustee under the Old Indentures.

"*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 with respect to any Property, the sale value that would be obtained in an arm's-length free market transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy. Fair Market Value of a Property equal to or in excess of $10,000,000 shall be determined by the Board of Directors of the Company acting in good faith, whose determination shall be conclusive and evidenced by a Board Resolution delivered to the Trustee, and any lesser Fair Market Value may be determined by an officer of the Company acting in good faith.

"*Federal Bankruptcy Code*" means the United States Bankruptcy Code of Title 11 of the United States Code, as amended from time to time.

"*GAAP*" means generally accepted accounting principles in the United States of America as in effect from time to time. All ratios and computations based on GAAP contained in this Indenture will be computed in conformity with GAAP.

"*Global Note*" means a Note in global form registered in the name of the Depositary or its nominee, substantially in the form of Exhibit A hereto, and that bears the Global Note Legend set forth in Section 2.06(f) and that has the "*Schedule of Increases or Decreases in the Global Note*" attached thereto, issued in accordance with Sections 2.01, 2.06(b), 2.06(c), 2.06(d) or 2.06(e) hereof.

"*Government Securities*" means direct obligations of, or obligations guaranteed by, the United States of America for the payment of which guarantee or obligations the full faith and credit of the United States is pledged.

The uncapitalized term "*guarantee*" means, as applied to any obligation, (1) 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 (2) 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.

"*Hedging Agreement*" means (1) 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 similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing and any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act), whether or not any such transaction is governed by or subject to any master agreement, and (2) 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.

"*Holder*" means a Person in whose name a Note (including an Additional Note) is registered in the Note Register.

"*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.

"*Indebtedness*" means, with respect to any Person, without duplication:

(1) 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 Issue Date 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;

(2) 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;

(3) all obligations of such Person with respect to letters of credit;

(4) 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;

(5) all Capitalized Lease Obligations of such Person;

(6) the Attributable Indebtedness (in excess of any related Capitalized Lease Obligations) related to any Sale/Leaseback Transaction of such Person;

(7) 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);

(8) 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

(9) 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.

The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Capital Stock or Preferred Stock in the form of additional shares of the same class of Disqualified Capital Stock or Preferred Stock shall be deemed to be an Incurrence of Indebtedness or an issuance of Disqualified Capital Stock or Preferred Stock for purposes of this definition. In addition, Disqualified Capital Stock shall be deemed to be Indebtedness.

Subject to clause (8) of the first sentence of this definition, neither Dollar-Denominated Production Payments nor Volumetric Production Payments shall be deemed to be Indebtedness.

"*Indenture*" means this Indenture, as amended or supplemented from time to time.

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

"*Initial Engineering Report*" means the engineering report dated as of December 31, 2014, prepared by Lee Keeling & Associates, Inc.

"*Insolvency or Liquidation Proceeding*" means (1) any voluntary or involuntary case or proceeding under any bankruptcy law with respect to any Collateral Grantor, (2) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Collateral Grantor or with respect to any of its assets, (3) any liquidation, dissolution, reorganization or winding up of any Collateral Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy (other than any liquidation, dissolution, reorganization or winding up of any Subsidiary of the Company permitted by the Pari Passu Documents), (4) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Collateral Grantor or (5) any other proceeding of any type or nature in which substantially all claims of creditors of any Collateral Grantor are determined and any payment or distribution is or may be made on account of such claims.

"*Intercreditor Agreement*" means (1) the Intercreditor Agreement among the Priority Lien Collateral Agent, the Collateral Agent, the Company, each other Collateral Grantor and the other parties from time to time party thereto, to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Convertible Notes Indentures or Collateral Trust Agreement, as applicable, and (2) any replacement thereof that contains terms not materially less favorable to the holders of the New Convertible Notes than the Intercreditor Agreement referred to in clause (1).

"*Interest Payment Date*" means the Stated Maturity of an installment of interest on the Notes.

"*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 by such Person 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 (1) 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, (2) 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 4.09, 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 (3) endorsements of negotiable instruments and documents in the ordinary course of business. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Restricted Subsidiary that were not sold or disposed of.

"*Issue Date*" means , 2016.

"*Junior Lien*" means any Lien which (1) is also granted to secure the Convertible Note Obligations and (2) is subordinate to the Liens securing the Priority Lien Obligations pursuant to the Intercreditor Agreement.

"*Lender Provided Hedging Agreement*" means any Hedging Agreement between the Company or any Subsidiary Guarantor and a Secured Swap Counterparty.

"*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 (1) of an issuer that is not an Affiliate of the Company, (2) that are publicly traded on the New York Stock Exchange, the American Stock Exchange or the Nasdaq Stock Market and (3) 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 (1), (2)

and (3) 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 4.10 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 (1)(a) of the definition of "Adjusted Consolidated Net Tangible Assets"*; provided* that the following will be excluded from the calculation of Material Change: (1) 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 (2) any dispositions of Properties during such quarter that were disposed of in compliance with Section 4.10.

"*Maturity*" means, with respect to any Note, the date on which any principal of such Note becomes due and payable as therein or in the Indenture provided, whether at the Stated Maturity with respect to such principal or by declaration of acceleration, call for redemption or purchase or otherwise.

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

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

"*Mortgage*" means all mortgages, deeds of trust and similar documents, instruments and agreements (and all amendments, modifications and supplements thereof) creating, evidencing, perfecting or otherwise establishing the Liens on Oil and Gas Properties and other related assets to secure payment of the New Convertible Notes and the Subsidiary Guarantees or any part thereof.

"*Mortgaged Properties*" means any property owned by a Collateral Grantor that is subject to the Liens existing and to exist under the terms of the Mortgages.

"*Net Available Cash*" from an Asset Sale or Sale/Leaseback Transaction means cash proceeds received therefrom (including (1) 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 (2) 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 (1) and (2)), in each case net of (i) 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, (ii) 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, (iii) 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 (iv) 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* 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 (1) all current assets of the Company and its Restricted Subsidiaries, less (2) 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.

"*New 2019 Convertible Notes*" means the Company's 7 ¾% Convertible Secured PIK Notes due 2019. Unless the context otherwise requires, all references to the New 2019 Convertible Notes shall include the Additional New 2019 Convertible Notes.

"*New Convertible Notes*" means, collectively, the Notes and the New 2019 Convertible Notes.

"*New Senior Secured Notes*" means the Company's Senior Secured Toggle Notes due 2020. Unless the context otherwise requires, all references to the New Senior Secured Notes shall include the Additional New Senior Secured Notes.

"*New Warrants*" means the warrants issued to the holders of the Old Senior Secured Notes in the Exchange Offer and Consent Solicitation that are exercisable for shares of the Company's common stock.

"*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.

"*Note Documents*" means this Indenture, the Collateral Agreements and any agreement instrument or other document evidencing or governing any Note Obligations.

"*Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Company or any Subsidiary Guarantor arising under this Indenture, the Notes, the Additional Notes, the Subsidiary Guarantees and the Collateral Agreements (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), 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 and fees that accrue after the commencement by or against the Company or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"*Note Register*" means the register maintained by or for the Company in which the Company shall provide for the registration of the Notes and the transfer of the Notes.

"*Notes*" has the meaning provided in the recitals hereto. The Additional Notes shall have the same rights and benefits as the Notes issued on the Issue Date, and shall be treated together with the Notes as a single class for all purposes under this Indenture. Unless the context otherwise requires, all references to the Notes shall include the Additional Notes.

"*Notes Custodian*" means the custodian with respect to a Global Note (as appointed by the Depositary), or any successor Person thereto and shall initially be the Trustee.

"*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.

"*Officer*" means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, the Controller, the Secretary or any Vice President of such Person.

"*Officers' Certificate*" means a certificate signed on behalf of any Person by two Officers, one of whom must be a Financial Officer of such Person.

"*Oil and Gas Business*" means (1) the acquisition, exploration, development, operation and disposition of interests in oil, gas and other hydrocarbon Properties, (2) the gathering, marketing, treating, processing, storage, refining, selling and transporting of any production from such interests or Properties, (3) 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 (4) any activity necessary, appropriate or incidental to the activities described in the foregoing clauses (1) through (3) of this definition.

"*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 in this definition, 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, rightsofway, easements and servitudes together with all additions, substitutions, replacements, accessions and attachments to any and all of the foregoing.

"*Old Indentures*" means (i) the Indenture, dated as of October 9, 2009 (the "*Base Indenture*"), among the Company, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, as amended and supplemented by the Third Supplemental Indenture, dated as of March 14, 2011, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's 7 ¾% Senior Notes due 2019, (ii) the Base

Indenture, as amended and supplemented by the Fourth Supplemental Indenture, dated as of June 5, 2012, among the Company, the subsidiary guarantors named therein and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's 9 ½% Senior Notes due 2020 and (iii) the Indenture, dated as of March 13, 2015, among the Company, the subsidiary guarantors named therein, and American Stock Transfer & Trust Company, LLC, as the successor trustee, relating to the Company's Old Senior Secured Notes.

"*Old Senior Secured Notes*" means the Company's 10% Senior Secured Notes due 2020.

"*Old Unsecured Notes*" means, collectively, the Company's 7 ¾% Senior Notes due 2019 and 9 ½% Senior Notes due 2020.

"*Opinion of Counsel*" means a written opinion of counsel, who may be counsel for the Company (or any Subsidiary Guarantor), including an employee of the Company (or any Subsidiary Guarantor), and who shall be reasonably acceptable to the Trustee.

"*Optional Conversion Notice*" means a "Conversion Notice" in the form attached to Form of Note attached hereto as Exhibit A.

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

(1) Notes theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(2) Notes, 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 Notes, provided that, if such Notes 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;

(3) Notes, except to the extent provided in Sections 8.02 and 8.03 hereof, with respect to which the Company has effected legal defeasance or covenant defeasance as provided in Article 8 hereof; and

(4) Notes which have been replaced pursuant to Section 2.07 hereof or in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, other than any such Notes in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Notes are held by a protected purchaser in whose hands the Notes are valid obligations of the Company;

provided that in determining whether the Holders of the requisite principal amount of Outstanding Notes 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, Notes owned by the Company, any Subsidiary Guarantor or any other obligor upon the Notes or any Affiliate of the Company, any Subsidiary 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 Notes which the Trustee knows to be so owned shall be so disregarded. Notes 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 Notes and that the pledgee is not the Company, any Subsidiary Guarantor or any other obligor upon the Notes or any Affiliate of the Company, any Subsidiary Guarantor or such other obligor.

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

"*Permitted Collateral Liens*" means Liens described in clauses (1), (2), (5), (6), (7), (8), (9), (10), (11), (13), (18), (19), (20), (21), (22), (23) and (24) of the definition of "Permitted Liens" that, by operation of law, have priority over the Liens securing the Notes and the Subsidiary Guarantees.

"*Permitted Investments*" means any of the following:

(1) Investments in Cash Equivalents;

(2) Investments in property, plant and equipment used in the ordinary course of business;

(3) Investments in the Company or any of its Restricted Subsidiaries;

(4) Investments by the Company or any of its Restricted Subsidiaries in another Person, if (a) as a result of such Investment (i) such other Person becomes a Restricted Subsidiary or (ii) 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 and (b) such other Person is primarily engaged in the Oil and Gas Business;

(5) 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;

(6) 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;

(7) entry into any currency exchange contract in the ordinary course of business;

(8) 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;

(9) guarantees of Indebtedness permitted under Section 4.09;

(10) investments in Unrestricted Subsidiaries or joint ventures in an aggregate amount not to exceed at any one time outstanding $25,000,000; and

(11) other Investments, in an aggregate amount not to exceed at any one time outstanding the greater of (a) $25,000,000 and (b) 5% of Adjusted Consolidated Net Tangible Assets.

"*Permitted Liens*" means the following types of Liens:

(1) Liens securing Indebtedness of the Company and any Subsidiary Guarantor under the Revolving Credit Agreement in an aggregate principal amount not to exceed $50,000,000 at any time outstanding; *provided* that such Liens are subject to the Priority Lien Intercreditor Agreement;

(2) Liens existing as of the Issue Date (excluding Liens securing Indebtedness of the Company and any Subsidiary Guarantor under the Revolving Credit Agreement);

(3) Liens on any Properties of the Company and any Subsidiary Guarantor securing (a) the New 2019 Convertible Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation (and any assumption of obligations guaranteed thereby), the Additional New 2019 Convertible Notes issued in connection with the payment of interest thereon, and the subsidiary guarantees in respect thereof and (b) the Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation (and any assumption of obligations guaranteed thereby), the Additional Notes issued in connection with the payment of interest thereon, and the Subsidiary Guarantees in respect thereof;

(4) Liens in favor of the Company or any Restricted Subsidiary;

(5) 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;

(6) 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;

(7) 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);

(8) 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;

(9) 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;

(10) any interest or title of a lessor under any capital lease or operating lease;

(11) purchase money Liens*; provided* 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, (b) the aggregate principal amount of Indebtedness secured by such Liens it otherwise permitted to be incurred under this Indenture and does not exceed the cost of the property or assets so acquired and (c) the Liens securing such Indebtedness shall be created within 90 days of such acquisition;

(12) 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;

(13) 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;

(14) 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;

(15) 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;

(16) 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;

(17) Liens securing Interest Rate Protection Obligations which Interest Rate Protection Obligations relate to Indebtedness that is secured by Liens otherwise permitted under this Indenture;

(18) Liens (other than Liens securing Indebtedness) 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;

(19) Liens on pipeline or pipeline facilities which arise by operation of law;

(20) 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;

(21) Liens reserved in oil and gas mineral leases for bonus or rental payments or for compliance with the terms of such leases;

(22) 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 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;

(23) Liens securing Non-Recourse Indebtedness*; provided* 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;

(24) 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;

(25) 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 so long as such deposit and such defeasance are permitted under Section 4.07;

(26) Priority Liens to secure the New Senior Secured Notes issued on the Issue Date (and the subsidiary guarantees in respect thereof) and incurred under clause (12) of the definition of "Permitted Indebtedness";

(27) Liens to secure any Permitted Refinancing Indebtedness incurred to renew, refinance, refund, replace, amend, defease or discharge, as a whole or in part, Indebtedness that was previously so secured; *provided* that (a) the new Liens shall be limited to all or part of the same property and assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced and (b) the new Liens have no greater priority relative to the Notes and the Subsidiary Guarantees, and the holders of the Indebtedness secured by such Liens have no greater intercreditor rights relative to the Notes and the Subsidiary Guarantees and the Holders thereof, than the original Liens and the related Indebtedness; and

(28) additional Liens of the Company or any Restricted Subsidiary of the Company with respect to obligations that do not exceed at any one time outstanding $75,000,000; *provided* that Liens incurred under this clause (28) to secure Additional New Senior Secured Notes incurred under Section 4.09(b)(11) shall be permitted to secure up to $91,875,000 in face amount of Additional New Senior Secured Notes issued under the Senior Secured Notes Indenture.

Notwithstanding anything in clauses (1) through (28) 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 (1) if the Indebtedness (including the Notes) being renewed, extended, refinanced, refunded or repurchased is *pari passu* with or subordinated in right of payment to either the Notes or the Subsidiary Guarantees, then such Indebtedness is *pari passu* with or subordinated in right of payment to the Notes or the Subsidiary Guarantees, as the case may be, at least to the same extent as the Indebtedness being renewed, extended, refinanced, refunded or repurchased, (2) 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, (3) if the Company or a Subsidiary Guarantor is the issuer of, or otherwise an obligor in respect of the Indebtedness

being renewed, refinanced, refunded or repurchased, such Permitted Refinancing Indebtedness is not Incurred by any Restricted Subsidiary that is not the Company or a Subsidiary Guarantor, (4) 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 and (5) if the Indebtedness being renewed, extended, refinanced, refunded or repurchased by its terms provides that interest is payable only in kind, then such Indebtedness may not permit the payment of scheduled interest in cash; *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 Issue Date, including, without limitation, all classes and series of preferred or preference stock of such Person.

"*Petroleum Industry Standards*" shall mean the Definitions for Oil and Gas Reserves promulgated by the Society of Petroleum Engineers (or any generally recognized successor) as in effect at the time in question.

"*Pledge Agreement*" means each Pledge Agreement and Irrevocable Proxy to be entered into on the Issue Date in favor of the Collateral Agent for the benefit of the Secured Parties and each other pledge agreement in substantially the same form in favor of the Collateral Agent for the benefit of the Secured Parties delivered in accordance with the Convertible Notes Indentures and the Collateral Agreements.

"*Preferred Stock*," as applied to the Capital Stock of any Person, means Capital Stock of such Person of any class or classes (however designated) that ranks 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.

"*Priority Lien*" means a Lien granted (or purported to be granted) by the Company or any Subsidiary Guarantor in favor of the Priority Lien Collateral Agent, at any time, upon assets or property of the Company or any Subsidiary Guarantor to secured any Priority Lien Obligations.

"*Priority Lien Collateral Agent*" means the Revolving Credit Agreement Agent, or if the Revolving Credit Agreement ceases to exist, the collateral agent or other representative of the holders of the New Senior Secured Notes designated pursuant to the terms of the Priority Lien Documents and the Intercreditor Agreement.

"*Priority Lien Documents*" means, collectively, the Revolving Credit Agreement Documents and the Senior Secured Note Documents.

"*Priority Lien Intercreditor Agreement*" means (1) the Amended and Restated Priority Lien Intercreditor Agreement, among the Priority Lien Collateral Agent, Senior Secured Notes Trustee, the Revolving Credit Agreement Agent, the Company, each other Collateral Grantor, the other parties from time to time party thereto, and American Stock Transfer & Trust Company, LLC in its capacity as the successor trustee under the Old Senior Secured Notes to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Priority Lien Documents and (2) any replacement thereof.

"*Priority Lien Obligations*" means, collectively, (a) the Revolving Credit Agreement Obligations and (b) the Senior Secured Note Obligations, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding.

"*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.

"*Proved and Probable Drilling Locations*" means all drilling locations of the Collateral Grantors located in the Haynesville and Bossier shale acreage in the States of Louisiana and Texas that are Proved Reserves or classified, in accordance with the Petroleum Industry Standards, as "Probable Reserves."

"*Proved Developed Non-Producing Reserves*" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and "Developed Non-Producing Reserves."

"*Proved Developed Producing Reserves*" shall mean oil and gas reserves that in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and "Developed Producing Reserves".

"*Proved Developed Reserves*" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and one of the following: (1) "Developed Producing Reserves" or (2) "Developed Non-Producing Reserves."

"*Proved Reserves*" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as both "Proved Reserves" and one of the following: (1) "Developed Producing Reserves", (2) "Developed Non-Producing Reserves" or (3) "Undeveloped Reserves".

"*PV-9*" means, with respect to any Proved Developed Reserves expected to be produced, the net present value, discounted at 9% per annum, of the future net revenues expected to accrue to the Collateral Grantors' collective interests in such reserves during the remaining expected economic lives of such reserves, calculated by the Revolving Credit Agreement Agent (or, if no Revolving Credit Agreement is then in effect, the Collateral Agent) in its sole and absolute discretion; *provided* that the PV-9 associated with Proved Developed Non-Producing Reserves shall comprise no more than 25% of total PV-9.

"*Qualified Capital Stock*" of any Person means any and all Capital Stock of such Person other than Disqualified Capital Stock.

"*Registration Rights Agreement*" means Registration Rights Agreement substantially in the form of Exhibit C attached hereto.

"*Regular Record Date*" for the interest payable on any Interest Payment Date means the June 1 or December 1 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date.

"*Relevant Stock Exchange*" means The New York Stock Exchange or, if the Common Stock (or other security for which a Daily VWAP must be determined) is not then listed on The New York Stock Exchange, the principal other U.S. national or regional securities exchange on which the Common Stock (or such other security) is then listed.

"*Required Stockholder Approval*" means the approval by (1) a majority of the issued and outstanding shares of Common Stock of the amendment to the Company's restated articles of incorporation to increase the number of shares of the Company's common stock authorized for issuance in an amount to provide a sufficient number of authorized shares of Common Stock for the issuance of shares upon conversion of the New Convertible Notes and, to the extent necessary, exercise of the New Warrants and (2) a majority of the shares of Common Stock represented at the special meeting and entitled to vote on the issuance of the maximum number of shares of Common Stock that would be issued upon conversion of all of the outstanding New Convertible Notes and, to the extent necessary, exercise of all of the New Warrants.

"*Responsible Officer*," when used with respect to the Trustee, means any officer in the Corporate Trust Office having direct responsibility for the administration of this Indenture, 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) (1) the designation of a Subsidiary as an Unrestricted Subsidiary in the manner described in the definition of "Unrestricted Subsidiary" and (2) any Investment other than a Permitted Investment.

"*Restricted Subsidiary*" means any Subsidiary of the Company, whether existing on or after the Issue Date, unless such Subsidiary of the Company is an Unrestricted Subsidiary or is designated as an Unrestricted Subsidiary pursuant to the terms of this Indenture.

"*Revolving Credit Agreement*" means that certain Credit Agreement, dated as of March 4, 2015, among the Company, the lenders from time to time party thereto and the Revolving Credit Agreement Agent, as amended, restated, modified, renewed, refunded, replaced or refinanced, from time to time.

"*Revolving Credit Agreement Agent*" means Bank of Montreal (or other agent designated in the Revolving Credit Agreement), together with its successors and permitted assigns in such capacity.

"*Revolving Credit Agreement Documents*" means the Revolving Credit Agreement and any other Loan Documents (as defined in the Revolving Credit Agreement).

"*Revolving Credit Agreement Obligations*" means, collectively, (1) the Obligations (as defined in the Revolving Credit Agreement) of the Company and the Subsidiary Guarantors under the Revolving Credit Agreement Documents, in an aggregate principal amount for all such Obligations not to exceed $50,000,000, plus interest and all fees, costs, charges, penalties and expenses, including legal fees and expenses to the extent authorized under the Revolving Credit Agreement Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding, and (2) the Secured Swap Obligations.

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

"*Sale/Leaseback Transaction*" means, 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, whereby such property has been or is to be sold or transferred by the Company or any of its Restricted Subsidiaries to such Person.

"*Secured Parties*" means (1) the Collateral Agent, (2) the Trustee and (3) the Holders of the Convertible Note Obligations.

"*Secured Swap Counterparty*" means, with respect to a Lender Provided Hedging Agreement, a counterparty that at the time such Hedging Agreement is entered into is a Lender (as defined in the Revolving Credit Agreement) or an Affiliate of a Lender (including a Hedging Agreement in existence prior to the date hereof or prior to such Person or its Affiliate becoming a Lender)*; provided* that, for the avoidance of doubt, the term "Lender Provided Hedging Agreement" shall not include any Hedging Agreement or transactions under any Hedging Agreement entered into after the time that such counterparty ceases to be a Lender or an Affiliate of a Lender.

"*Secured Swap Obligations*" means all obligations of the Company or any Subsidiary Guarantor under any Lender Provided Hedging Agreement.

"*Securities Act*" means the Securities Act of 1933, as amended from time to time, and any successor act thereto.

"*Security Agreement*" means each Pledge Agreement and Irrevocable Proxy dated as of the Issue Date in favor of the Collateral Agent for the benefit of the Secured Parties and each other security agreement in substantially the same form in favor of the Collateral Agent for the benefit of the Secured Parties delivered in accordance with the Convertible Notes Indentures and the Collateral Agreements.

"*Senior Indebtedness*" means any Indebtedness of the Company or a Restricted Subsidiary (whether outstanding on the date hereof or hereinafter incurred), unless such Indebtedness is Subordinated Indebtedness.

"*Senior Secured Note Documents*" means the Indenture, dated as of , 2016, among the Company, the subsidiary guarantors named therein and the Senior Secured Notes Trustee, relating to the New Senior Secured Notes.

"*Senior Secured Notes Trustee*" means American Stock Transfer & Trust Company, LLC, as the trustee for the New Senior Secured Notes.

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

"*Subordinated Indebtedness*" means Indebtedness of the Company or a Subsidiary Guarantor which is expressly subordinated in right of payment to the Notes or the Subsidiary Guarantees, as the case may be.

"*Subsidiary*" means, with respect to any Person, (1) a corporation a majority of whose Voting Stock is at the time owned, directly or indirectly, by such Person, by one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person, or (2) any other Person (other than a corporation), including, without limitation, a joint venture, in which such Person, one or more Subsidiaries of such Person or such Person and one or more Subsidiaries of such Person have, directly or indirectly, at the date of determination thereof, at least majority ownership interest entitled to vote in the election of directors, managers or trustees thereof (or other Person performing similar functions).

"*Subsidiary Guarantee*" means any guarantee of the Notes by any Subsidiary Guarantor in accordance with Section 4.13 and 10.01 hereof.

"*Subsidiary Guarantor*" means (1) Comstock Oil & Gas, LP, (2) Comstock Oil & Gas—Louisiana, LLC, (3) Comstock Oil & Gas GP, LLC, (4) Comstock Oil & Gas Investments, LLC, (5) Comstock Oil & Gas Holdings, Inc., (6) each of Comstock's other Restricted Subsidiaries, if any, executing a supplemental indenture in compliance with Section 4.13(a) hereof and (7) any Person that becomes a successor guarantor of the Notes in compliance with Sections 4.13 hereof.

"*Threshold Price*" means, initially, $12.32. The Threshold Price is subject to adjustment in inverse proportion to the adjustments to the Conversion Rate pursuant to Article 12 hereof.

"*Trust Indenture Act*" or "*TIA*" means the Trust Indenture Act of 1939, as amended and in force at the date at which this Supplemental Indenture was executed, except as provided in Section 9.06 hereof.

"*Trading Day*" means a day on which:

(1) trading in the Common Stock (or other security for which a Daily VWAP must be determined) generally occurs on the Relevant Stock Exchange or, if the Common Stock (or such other security) is not then listed on the Relevant Stock Exchange, on the principal other market on which the Common Stock (or such other security) is then traded; and

(2) a Daily VWAP for the Common Stock (or other security for which a Daily VWAP must be determined) is available on such securities exchange or market;

provided that if the Common Stock (or other security for which a Daily VWAP must be determined) is not so listed or traded, "Trading Day" means a business day.

"*Trustee*" means American Stock Transfer & Trust Company, LLC, a New York limited liability company, in its capacity as trustee under this Indenture, until a successor replaces it in accordance with the applicable provisions of this Indenture, and thereafter "Trustee" means each Person who is then a Trustee thereunder.

"*Uniform Commercial Code*" means the Uniform Commercial Code as in effect in any applicable jurisdiction from time to time.

"*Unrestricted Subsidiary*" means (1) 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 (2) 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 4.07 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 4.12 hereof); *provided* that with respect to clause (a), the Company or a Restricted Subsidiary may be liable for Indebtedness of an Unrestricted Subsidiary if (i) such liability constituted a Permitted Investment or a Restricted Payment permitted by Section 4.07 hereof, in each case at the time of incurrence, or (ii) 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. If, at any time any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary shall be deemed to be incurred as of such date. The Board of Directors of the 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 under Section 4.09(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 4.12.

"*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 (1) all of the Capital Stock or other ownership interests in such Restricted Subsidiary, other than directors' qualifying shares mandated by applicable law, is owned directly or indirectly by the Company or (2) 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 1.02. Other Definitions.

Term	Defined in Section
"Act"	14.03
"Additional Notes"	Exhibit A
"Affiliate Transaction"	4.11
"Base Indenture"	1.01
"Change of Control Notice"	4.15
"Change of Control Offer"	4.15
"Change of Control Purchase Date"	4.15
"Change of Control Purchase Price"	4.15
"Conversion Date"	12.01
"Conversion Rate"	12.01
"Covenant Suspension Period"	4.17
"DTC"	2.06
"Event of Default"	6.01
"Excess Proceeds"	4.10
"Funding Guarantor"	10.05
"Investment Grade Ratings"	4.17
"Mandatory Conversion"	12.01
"Mandatory Conversion Event"	12.01
"Mandatory Conversion Notice"	12.01
"Merger Event"	12.10
"Offer Amount"	4.10
"Offer Period"	4.10
"Optional Conversion"	12.01
"Paying Agent"	2.03
"Payment Restriction"	4.08
"Permitted Consideration"	4.10
"Permitted Indebtedness"	4.09
"Prepayment Offer"	4.10
"Prepayment Offer Notice"	4.10
"Purchase Date"	4.10
"Reference Property"	12.10
"Register"	2.03
"Registrar"	2.03
"Restricted Payment"	4.07
"Reversion Date"	4.17
"Surviving Entity"	5.01
"Suspended Covenants"	4.17
"Suspension Date"	4.17
"Suspension Period"	4.17
"U.S. Government Obligations"	8.04

Section 1.03. Incorporation by Reference of Trust Indenture Act.

(a) Whenever the Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture.

(b) The following TIA terms used in this Indenture have the following meanings:

(1) "indenture securities" means the Notes,

(2) “indenture security holder” means a Holder,

(3) “indenture to be qualified” means this Indenture,

(4) “indenture trustee” or “institutional trustee” means the Trustee, and

(5) “obligor” on the Notes means the Company or any Subsidiary Guarantor and any successor obligor upon the Notes.

(c) All other TIA terms used in this 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 1.04. Rules of Construction.

For all purposes of this 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 2.
THE NOTES

Section 2.01. Form and Dating.

(a) *General*. The Notes and the Trustee's certificate of authentication therefor shall be substantially in the form of Exhibit A hereto, which is hereby incorporated in and expressly made a part of this Indenture. The Notes may have other notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The terms of the Notes set forth in Exhibit A are part of the terms of this Indenture. The Notes shall be in denominations of integral multiples of $1.00. On each Interest Payment Date, the principal amount of any Additional Note issued to any Holder, for the relevant interest period as of the relevant record date for such Interest Payment Date, shall be rounded down to the nearest whole dollar.

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

(b) *Global Notes*. Notes issued in global form will be substantially in the form of Exhibit A hereto (including the Global Note Legend thereon and the "Schedule of Increases and Decreases in the Global Note" attached thereto). Notes issued in definitive form will be substantially in the form of Exhibit A hereto (but without the Global Note Legend thereon and without the "Schedule of Increases and Decreases in the Global Note" attached thereto). Each Global Note will represent such of the outstanding Notes as will be specified therein and each represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon. The aggregate principal amount of outstanding Notes represented by such Global Note may from time to time be reduced or increased, as appropriate, to reflect exchanges, redemptions and the issuance of Additional Notes. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby will be made by the Trustee or the Notes Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 or by a Company Order in connection with the issuance of Additional Notes as required by Section 2.02(d).

Section 2.02. Execution and Authentication.

(a) Two Officers of the Company shall sign the Notes for the Company by manual or facsimile signature. The Company's seal may be impressed, affixed, imprinted or reproduced on the Notes and may be in facsimile form.

(b) If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

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

(d) On the Issue Date, the Trustee shall authenticate and deliver Notes in an aggregate principal amount of $[ ]. In connection with the issuance of Additional Notes, not later than 10 business days prior to the relevant Interest Payment Date, the Company shall deliver to the Trustee and the Paying Agent (if other than the Trustee), (i) with respect to Notes represented by Definitive Notes, the required amount of Additional Notes represented by Definitive Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such Additional Notes or (ii) with respect to Notes represented by one or more Global Notes, a Company Order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the Depositary or otherwise, the required amount of Additional Notes represented by Global Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such new Global Notes). Other than as described above, no other Notes may be issued by the Company or any Subsidiary Guarantor and authenticated and delivered pursuant to this Indenture (except for Notes authenticated and delivered at the times and in the manner specified in Sections 2.06, 2.07, 2.10, 3.06, 4.10, 4.15 or 9.05 of this Indenture).

(e) The Trustee may appoint an authenticating agent reasonably acceptable to the Company to authenticate the Notes. Unless limited by the terms of such appointment, an authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

Section 2.03. Registrar and Paying Agent.

(a) The Company shall at all times maintain an office or agency in the United States where Notes may be presented for registration of transfer or for exchange (the "*Registrar*") and an office or agency where Notes may be presented for payment (the "*Paying Agent*"). The Registrar shall keep a register of the Notes and of their transfer and exchange (the "*Register*"). The Company may have one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar, and the term "Paying Agent" includes any additional paying agent.

(b) The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-registrar not a party to this Indenture, which shall incorporate the terms of the TIA. The agreement shall implement the provisions of this 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 Section 7.06. The Company may act as Paying Agent, Registrar, co-registrar or transfer agent.

(c) The Company initially appoints the Trustee as Registrar and Paying Agent in connection with the Notes at the Corporate Trust Office of the Trustee.

Section 2.04. Paying Agent to Hold Money in Trust.

Not later than 10:00 a.m., New York City time, on each due date of the principal and Cash Interest on the Notes, the Company shall deposit with the Paying Agent a sum sufficient to pay such principal and Cash 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 Holders or the Trustee all money held by the Paying Agent for the payment of principal of or Cash Interest on the Notes 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 2.05. 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 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 Holders.

Section 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes

A Global Note may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All beneficial interests in the Global Notes will be exchanged by the Company for Definitive Notes if:

(1) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 90 days after the date of such notice from the Depositary;

(2) the Company, at its option but subject to DTC's requirements, determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and deliver a written notice to such effect to the Trustee; or

(3) there has occurred and is continuing an Event of Default with respect to the Notes, and the Depositary notifies the Trustee of its decision to exchange the Global Notes for Definitive Notes.

Upon the occurrence of the preceding events in (1), (2) or (3) above, Definitive Notes shall be issued in such names as the Depositary shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.09 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or Section 2.09 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a); *provided* that beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes

The transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures.

(1) *Transfer of Beneficial Interests in the Same Global Note*. Beneficial interests in any Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(1).

(2) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes*. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(1), the transferor of such beneficial interest must deliver to the Registrar either:

(A) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase; or

(B) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect such transfer or exchange.

(c) *Transfer and Exchange of Beneficial Interests in Global Notes to Definitive Notes*.

If any holder of a beneficial interest in a Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(2) hereof, the Trustee will cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company will execute and the Trustee will authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest requests through instructions to the Registrar from or through the Depositary and the Participant or Indirect Participant. The Trustee will deliver such Definitive Notes to the Persons in whose names such Notes are so registered.

(d) *Transfer and Exchange of Definitive Notes for Beneficial Interests*.

Other than following an exchange of beneficial interest in a Global Note for Definitive Notes as contemplated by Section 2.06(a)(2), a Holder of a Definitive Note may exchange such Note for a beneficial interest in a Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Global Notes.

(e) *Transfer and Exchange of Definitive Notes for Definitive Notes*.

Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar will register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. A Holder of Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of a Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Definitive Note pursuant to the instructions from the Holder thereof.

(f) *Legends*.

In addition to the legend appearing on the face of the form of the Notes in Exhibit A hereto relating to original issue discount, the following legend will appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(1) *Global Note Legend*. Each Global Note will bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (*"DTC"*), TO THE COMPANY OR ITS AGENTS FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

(g) *Cancellation and/or Adjustment of Global Notes*.

At such time as all beneficial interests in a particular Global Note have been exchanged for beneficial interests in another Global Note or for Definitive Notes, or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note will be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note will be reduced accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect

such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note will be increased accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) *General Provisions Relating to Transfers and Exchanges*.

To permit registrations of transfers and exchanges, the Company will execute and the Trustee will authenticate Global Notes and Definitive Notes upon receipt of a Company Order in accordance with Section 2.02 hereof or at the Registrar's request.

(2) No service charge will be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 4.10, 4.15 and 9.05 hereof).

(3) The Registrar will not be required to register the transfer of or exchange of any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(4) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes will be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(5) Neither the Registrar nor the Company will be required:

(A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 2.02 hereof and ending at the close of business on the day of selection;

(B) to register the transfer of or to exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part; or

(C) to register the transfer of or to exchange a Note between a record date and the next succeeding interest payment date.

(6) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(7) The Trustee will authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

(8) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06, or requested by the Trustee pursuant to Section 7.02, to effect a registration of transfer or exchange may be submitted by facsimile or electronic image scan.

Section 2.07. Replacement Notes.

(a) If a mutilated Note is surrendered to the Registrar or if the Holder claims that such Note has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall, upon its receipt of a Company Order, authenticate a replacement Note 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 Note is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Note.

(b) Every replacement Note is an additional obligation of the Company.

Section 2.08. Outstanding Notes.

(a) Notes Outstanding at any time are all Notes 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 Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

(b) If a Note is replaced pursuant to Section 2.07, it ceases to be Outstanding unless the Trustee and the Company receive proof satisfactory to them that the replaced Note is held by a protected purchaser.

(c) If the Paying Agent segregates and holds in trust, in accordance with this Indenture, on a redemption date or maturity date money sufficient to pay all principal and interest payable on that date with respect to the Notes (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 on that date pursuant to the terms of this Indenture, then on and after that date such Notes (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

Section 2.09. Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any Subsidiary Guarantor, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any Subsidiary Guarantor, will be considered as

though not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Notes that the Trustee actually knows are so owned will be so disregarded.

Section 2.10. Temporary Notes.

Until Definitive Notes are ready for delivery, the Company may prepare and the Trustee shall, upon its receipt of a Company Order, authenticate temporary Notes. Temporary Notes shall be substantially in the form of Definitive Notes but may have variations that the Company considers appropriate for temporary Notes. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate Definitive Notes and deliver them in exchange for temporary Notes.

Section 2.11. Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall, in accordance with its then customary procedures, cancel and destroy (subject to the record retention requirements of the Exchange Act) all Notes 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 Notes to replace Notes it has redeemed, paid or delivered to the Trustee for cancellation.

Section 2.12. Defaulted Interest.

If the Company defaults in a payment of interest on the Notes, 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 Notes and in Section 4.01 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 2.13. CUSIP and ISIN Numbers.

The Company in issuing the Notes 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* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee, in writing, of any change in the “CUSIP” numbers.

ARTICLE 3.
REDEMPTION OF NOTES

Section 3.01. Notice to Trustee.

If the Company elects to redeem Notes pursuant to paragraph 5 of the Notes, it shall notify the Trustee in writing of the redemption date, the principal amount of Notes to be redeemed and that such redemption is being made pursuant to paragraph 5 of the Notes.

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 Notes shall be revocable until the Company gives a notice of redemption pursuant to Section 3.02 to the Holders of Notes to be redeemed. For the avoidance of doubt, any election by the Company to redeem Notes shall be made solely in cash.

Section 3.02. Selection by Trustee of Notes to Be Redeemed.

(a) If less than all the Notes are to be redeemed, the particular Notes 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 Notes not previously called for redemption, *pro rata*, by lot or by any other method as the Trustee shall deem fair and appropriate (or in the case of notes in global form, the Trustee will select Notes for redemption based on DTC's method that most nearly approximates a pro rata selection) and which may provide for the selection for redemption of portions of the principal of Notes.

(b) The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Notes selected for partial redemption, the principal amount thereof to be redeemed.

(c) For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to redemption of Notes shall relate, in the case of any Note redeemed or to be redeemed only in part, to the portion of the principal amount of such Note which has been or is to be redeemed.

Section 3.03. Notice of Redemption.

(a) Notice of redemption shall be given in the manner provided in Section 14.05 hereof not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of a Note to be redeemed.

(b) All notices of redemption shall state:

(1) the Redemption Date;

(2) the Redemption Price;

(3) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of a partial redemption, the principal amounts) of the particular Notes to be redeemed;

(4) that on the Redemption Date the Redemption Price (together with accrued interest, if any, to the Redemption Date payable as provided in Section 10.5 hereof) will become due and payable upon each such Note, 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

(5) the place or places where such Notes are to be surrendered for payment of the Redemption Price.

(c) Notice of redemption of Notes 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 Notes or any defect therein shall not affect the validity of any proceedings for the redemption of other Notes.

Section 3.04. Deposit of Redemption Price.

On or before 10:00 a.m., New York City 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 4.03 hereof) an amount of money sufficient to pay the Redemption Price of, and accrued and unpaid interest on, all the Notes which are to be redeemed on such Redemption Date.

Section 3.05. Notes Payable on Redemption Date.

(a) Notice of redemption having been given as aforesaid, the Notes 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 Notes shall cease to bear interest. Upon surrender of any such Note for redemption in accordance with said notice, such Note shall be paid by the Company at the Redemption Price, together with accrued and unpaid interest, if any, to the Redemption Date.

(b) If any Note 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 Notes.

Section 3.06. Notes Redeemed in Part.

Any Note 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 4.02 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 Note without service charge, a new Note or Notes, 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 Note so surrendered.

ARTICLE 4.
COVENANTS

Section 4.01. 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 Notes in accordance with the terms of the Notes and this Indenture.

Section 4.02. Maintenance of Office or Agency.

(a) The Company shall maintain an office or agency where Notes may be presented or surrendered for payment, where Notes may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Notes, the Subsidiary Guarantees and this 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.

(b) The Company may also from time to time designate one or more other offices or agencies where the Notes 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 Notes 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 Notes 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 4.03. Money for Security Payments to Be Held in Trust.

(a) If the Company shall at any time act as its own Paying Agent, it shall, on or before 10:00 a.m., Eastern time, on each due date of the principal of (and premium, if any, on) or Cash Interest on any of the Notes, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal (and premium, if any) or Cash Interest so becoming due until such sum 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.

(b) Whenever the Company shall have one or more Paying Agents for the Notes, it will, on or before 10:00 a.m., Eastern time, on each due date of the principal of (and premium, if any, on), or Cash Interest on, any Notes, deposit with a Paying Agent immediately available funds in a sum sufficient to pay the principal (and premium, if any) or Cash Interest so becoming due, such funds to be held in trust for the benefit of the Persons entitled to such principal, premium or Cash Interest, and (unless such Paying Agent is the Trustee) the Company shall promptly notify the Trustee of such action or any failure so to act.

(c) The Company shall cause each Paying Agent (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 premium, if any, on) or Cash Interest on Notes 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 Notes) in the making of any payment of principal (and premium, if any) or Cash Interest; 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.

(d) The Company 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 sums. The Trustee and each Paying Agent shall promptly pay to the Company, upon Company Request, any money held by them (other than pursuant to Article 8) at any time in excess of amounts required to pay principal, premium, if any, or Cash Interest on the Notes.

(e) Subject to applicable escheat and 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 premium, if any, on) or Cash Interest on any Notes and remaining unclaimed for two years after such principal (and premium, if any) or Cash 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 Notes 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.

Section 4.04. Reports.

(a) Whether or not the Company is subject to the reporting requirements of Section 13 or Section 15(d) of the Exchange Act, to the extent not prohibited by the Exchange Act, the

Company will file with the Commission, and make available to the Trustee and the Holders of Notes without cost to any Holder, the annual reports and the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) that are specified in Sections 13 and 15(d) of the Exchange Act and applicable to a U.S. corporation within the time periods specified therein with respect to an accelerated filer. In the event that the Company is not permitted to file such reports, documents and information with the Commission pursuant to the Exchange Act, the Company will nevertheless make available such Exchange Act information to the Trustee and the Holders of the Notes without cost to any Holder as if the Company were subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act within the time periods specified therein with respect to a non-accelerated filer.

(b) If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then, to the extent material, the quarterly and annual financial information required by Section 4.04(a) will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

(c) The Company shall 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.

(d) The availability of the foregoing information or reports on the SEC's website or the Company's website will be deemed to satisfy the foregoing delivery requirements.

(e) Delivery of reports, information and documents to the Trustee pursuant to this Section 4.04 shall be for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of the covenants contained in the Indenture (as to which the Trustee will be entitled to conclusively rely upon an Officers' Certificate).

(f) In addition, the Company and the Subsidiary Guarantors, for so long as any Notes remain Outstanding, shall be required to deliver all reports and other information required to be delivered under the TIA within the time periods set forth in the TIA.

Section 4.05. Statement by Officers as to Default and Other Information.

(a) The Company shall deliver to the Trustee, within 120 days after the end 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 year 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 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 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 4.05(a), such compliance shall be determined without regard to any period of grace or requirement of notice under this Indenture.

(b) The Company shall, so long as any of the Notes 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.

(c) The Company shall deliver to the Trustee and the Collateral Agent, promptly after delivery to the Revolving Credit Agreement Agent or the lenders under the Revolving Credit Agreement or, if no Revolving Credit Agreement is then in effect, upon the reasonable request of the Collateral Agent in form and detail satisfactory to the Collateral Agent or otherwise as required by Section 11.01:

(1) a schedule of all oil, gas, and other mineral production attributable to all material Oil and Gas Properties of the Collateral Grantors, and in any event all such Oil and Gas Properties included in the most recent Engineering Report;

(2) all title or other information received after the Issue Date by the Collateral Grantors which discloses any material defect in the title to any material asset included in the most recent Engineering Report;

(3) (I) as soon as available and in any event within 90 days after each January 1, commencing with January 1, 2017, an annual reserve report as of each December 31 with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by an independent engineering firm of recognized standing acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent) in accordance with accepted industry practices, and (II) within 90 days after each July 1 commencing with July 1, 2016, a reserve report as of each June 30, with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by the Company in accordance with accepted industry practices;

(4) an updated reserve report with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by an independent engineering firm of recognized standing acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent) in accordance with accepted industry practices;

(5) title opinions (or other title reports or title information) and other opinions of counsel, in each case in form and substance acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent), with respect to at least ninety percent (90%) of the PV-9 of the Proved Reserves included in the most recent Engineering Report and the Provided and Probable Drilling Locations, for which satisfactory title reports have not been previously delivered to the Revolving Credit Agreement Agent or Collateral Agent as applicable, if any; and

(6) concurrently with the delivery of each Engineering Report hereunder:

(I) a certificate of an Officer (in form and substance reasonably satisfactory to the Collateral Agent in the case of delivery upon the request of the Collateral Agent):

(A) setting forth as of a recent date, a true and complete list of all Hedging Agreements of the Company and each Restricted Subsidiary, the material terms thereof (including the type, term, effective date, termination date and notional amounts or volumes), the net mark-to-market value therefor, any new credit support agreements relating thereto, any margin required or supplied under any credit support document, and the counterparty to each such agreement; and

(B) comparing aggregate notional volumes of all Hedging Agreements of the Company and each Restricted Subsidiary, which were in effect during such period (other than basis differential hedgings) and the actual production volumes for each of natural gas and crude oil during such period, which certificate shall certify that the hedged volumes for each of natural gas and crude oil did not exceed 100% of actual production or if such hedged volumes did exceed actual production, specify the amount of such excess;

(II) a report, prepared by or on behalf of the Company detailing on a monthly basis for the next twelve month period (A) the projected production of Hydrocarbons by the Company and the Restricted Subsidiaries and the assumptions used in calculating such projections, (B) an annual operating budget for the Company and the Restricted Subsidiaries, and (C) such other information as may be reasonably requested by the Collateral Agent (in the case of delivery upon the request of the Collateral Agent);

(III) an Officer's Certificate, certifying whether the Company is in compliance with the mortgage and title requirements set forth in Section 11.01 and setting forth the actual percentages as to which compliance has been achieved and if the Company is not in compliance the Company shall identify which Oil and Gas Properties are required to be mortgaged and/or as to which adequate title information has not been delivered; and

(7) prompt written notice (and in any event within 30 days prior thereto) of any change (I) in any Collateral Grantor's corporate name or in any trade name used to identify such Person in the conduct of its business or in the ownership of its properties, (II) in the location of any Collateral Grantor's chief executive office or principal place of business, (III) in any Collateral Grantor's identity or corporate structure or in the jurisdiction in which such Person is incorporated or formed, (IV) in any Collateral Grantor's jurisdiction of organization or such Person's organizational identification number in such jurisdiction of organization, and (V) in any Collateral Grantor's federal taxpayer identification number.

Section 4.06. Payment of Taxes; Maintenance of Properties; Insurance.

(a) The Company shall pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (1) 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 (2) 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.

(b) 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 4.06 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 4.06 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 Indenture.

(c) 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.

(d) 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 4.07. Limitation on Restricted Payments.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, take the following actions:

(1) declare or pay any dividend on, or make any other 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 in options, warrants or other rights to purchase Qualified Capital Stock of the Company);

(2) 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);

(3) 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 (excluding any intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries), except in any case out of the proceeds of Permitted Refinancing Indebtedness; or

(4) make any Restricted Investment;

(such payments or other actions described in clauses (i) through (iv) above being collectively referred to as "*Restricted Payments*"), unless at the time of and after giving effect to the proposed Restricted Payment:

(I) no Default or Event of Default shall have occurred and be continuing;

(II) the Company could incur $1.00 of additional Indebtedness in accordance with Section 4.09(a) hereof; and

(III) the aggregate amount of all Restricted Payments declared or made after January 1, 2004 shall not exceed the sum (without duplication) of the following:

(A) 50% of the Consolidated Net Income of the Company accrued on a cumulative basis during the period beginning on January 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*

(B) the aggregate Net Cash Proceeds, or the Fair Market Value of Property other than cash, received after January 1, 2004 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*

(C) the aggregate Net Cash Proceeds, or the Fair Market Value of Property other than cash, received after January 1, 2004 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*

(D) the aggregate Net Cash Proceeds received after January 1, 2004 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*

(E) 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 January 1, 2004 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 January 1, 2004.

(b) Notwithstanding paragraph (a) above, the Company and its Restricted Subsidiaries may take the following actions so long as (in the case of clauses (3), (4), (5) and (7) below) no Default or Event of Default shall have occurred and be continuing:

(1) 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);

(2) the payment of any dividend payable from a Restricted Subsidiary to the Company or any other Restricted Subsidiary of the Company;

(3) 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;

(4) 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;

(5) 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 Notes 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 Notes 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 Notes;

(6) 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 (6); and

(7) other Restricted Payments in an aggregate amount not to exceed $10,000,000; and

The actions described in clauses (1), (3), (4) and (6) 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 (1) 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 (1)), and the actions described in clauses (2), (5) and (7) 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) The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

(d) 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 Indenture, such Restricted Payment shall be deemed to have been made in compliance with this 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 4.08. Limitation on Dividend 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: (a) to 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*"). However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(a) 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;

(b) 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;

(c) any instrument governing Indebtedness or Disqualified Capital Stock of a Restricted Subsidiary that is not a Subsidiary Guarantor; *provided* that (a) such Indebtedness or Disqualified Capital Stock is permitted under Section 4.09 and (b) the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement and the Convertible Notes Indentures as in effect on the Issue Date;

(d) the Revolving Credit Agreement as in effect on the Issue Date or any agreement that amends, modifies, supplements, restates, extends, renews, refinances or replaces the Revolving Credit Agreement; *provided* that the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in the Revolving Credit Agreement as in effect on the Issue Date;

(e) the Senior Secured Notes Indenture, the New Senior Secured Notes, the Additional New Senior Secured Notes and the subsidiary guarantees thereof; or

(f) the Convertible Notes Indentures, the New Convertible Notes and any subsidiary guarantees thereof, in each case as in effect on the Issue Date.

Section 4.09. Limitation on Indebtedness and Disqualified 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), 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 (i) which is redeemable at the Company's option in cash or Qualified Capital Stock and (ii) the dividends on which are payable at the Company's option in cash or Qualified Capital Stock); *provided* that the Company and its Restricted Subsidiaries that are Subsidiary Guarantors may incur Indebtedness or issue shares of Disqualified Capital Stock if (1) 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 2.25 to 1.0 and (2) 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.

(b) Notwithstanding the prohibitions of Section 4.09(a), the Company and its Restricted Subsidiaries may incur any of the following items of Indebtedness (collectively, "*Permitted Indebtedness*"):

(1) Indebtedness under the Revolving Credit Agreement in an aggregate principal amount not in excess of $50,000,000 at any one time outstanding and any guarantee thereof by a Subsidiary Guarantor;

(2) Indebtedness under (a) the New 2019 Convertible Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation and the Additional New 2019 Convertible Notes issued in connection with the payment of interest thereon and (b) the Notes issued on the Issue Date in the Exchange Offer and Consent Solicitation and the Additional Notes issued in connection with the payment of interest thereon;

(3) Indebtedness outstanding or in effect on the Issue Date (and not exchanged in connection with the Exchange Offer and Consent Solicitation);

(4) 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;

(5) (a) the subsidiary guarantees of the New 2019 Convertible Notes issued on the Issue Date in the Exchange and Consent Solicitation (and any assumption of the obligations guaranteed thereby) and the Additional New 2019 Convertible Notes issued in connection with the payment of interest thereon and (b) the Subsidiary Guarantees of the Notes issued on the Issue Date in the Exchange and Consent Solicitation (and any assumption of obligations guaranteed thereby) and the Additional Notes issued in connection with the payment of interest thereon;

(6) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries*; provided* that:

(I) if the Company is the obligor on such Indebtedness and a Subsidiary Guarantor is not the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Notes, or if a Subsidiary Guarantor is the obligor on such Indebtedness and neither the Company nor another Subsidiary Guarantor is the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Subsidiary Guarantee of such Subsidiary Guarantor; and

(II) (A) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (B) any sale or other transfer of any such Indebtedness to a Person that is neither the Company nor a Restricted Subsidiary of the Company will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);

(7) Permitted Refinancing Indebtedness and any guarantee thereof;

(8) Non-Recourse Indebtedness;

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

(10) 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);

(11) any additional Indebtedness in an aggregate principal amount not in excess of $75,000,000 at any one time outstanding and any guarantee thereof; *provided* that the Company may issue (and the Subsidiary Guarantors may guarantee) up to $91,875,000 of Additional New Senior Secured Notes under this clause (11) in lieu of paying cash interest of up to $75,000,000 on the New Senior Secured Notes, and any such issuance of Additional New Senior Secured Notes shall reduce (on a dollar for dollar basis) the amount of other Indebtedness that is permitted to be incurred under this clause (11); and

(12) Indebtedness under the New Senior Secured Notes issued on the Issue Date in an aggregate principal amount not to exceed $700,000,000 and any guarantee thereof by a Subsidiary Guarantor.

(c) For purposes of determining compliance with this Section 4.09, in the event that an item of Indebtedness meets the criteria of one or more of the categories of Permitted Indebtedness described in clauses (1) through (12) above or is entitled to be incurred pursuant to clause (a) of this Section 4.09, the Company may, in its sole discretion, classify such item of Indebtedness in any manner that complies with this Section 4.09 and such item of Indebtedness will be treated as having been incurred pursuant to 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; *provided* that all Indebtedness outstanding on the Issue Date under the Revolving Credit Agreement shall be deemed incurred under Section 4.09(b)(1) and not under Section 4.09(a) or Section 4.09(b)(3) and may not be later reclassified; *provided*, *further*, that all Indebtedness under the New Senior Secured Notes shall be deemed be incurred under Section 4.09(b)(12) and not under Section 4.09(a) or Section 4.09(b)(3) and may not be later reclassified; *provided*, *further*, that all Indebtedness under the New 2019 Convertible Notes (including the Additional New 2019 Convertible Notes) shall be deemed to be incurred under Section 4.02(b)(2)(a) and not under Section 4.09(a) or Section 4.09(b)(3) and may not be later reclassified.

(d) The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount or liquidation preference thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

(e) For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant

currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced (plus all accrued interest on the Indebtedness being refinanced and the amount of all expenses and premiums incurred in connection therewith).

(f) 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 4.09 in addition to the amount of Indebtedness which it guarantees.

(g) For purposes of this Section 4.09, 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.

(h) Notwithstanding any other provision of this Section 4.09, the maximum amount of Indebtedness that the Company or any Restricted Subsidiary may incur pursuant to this Section 4.09 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

Section 4.10. Limitation on Asset Sales.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, consummate any Asset Sale unless (1) 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 (2) 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 Notes) or liabilities of any Subsidiary Guarantor that made such Asset Sale (other than liabilities of a Subsidiary Guarantor that are by their terms subordinated to such Subsidiary Guarantor's Subsidiary 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* 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 since the 2009 Notes Issue Date 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) prepay, repay, redeem or purchase Senior Indebtedness of the Company or a Restricted Subsidiary; or (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); *provided* that if such Asset Sale includes Oil and Gas Properties or Proved and Probable Drilling Locations, after giving effect to such Asset Sale, the Company is in compliance with the Collateral requirements of this Indenture.

(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 (the "*Prepayment Offer*") to all Holders of Notes and all Holders of other Indebtedness that is pari passu with the Notes containing provisions similar to those set forth herein with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other *pari passu* Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Prepayment Offer will be equal to 100% of principal amount plus accrued and unpaid interest, if any, to the Purchase Date (subject to the right of Holders of record on the relevant Regular Record Date to receive interest due on an Interest Payment Date that is on or prior to the Purchase Date), and will be payable in cash. If the aggregate principal amount of Notes tendered by Holders thereof exceeds the amount of available Excess Proceeds allocated for repurchases of Notes pursuant to the Prepayment Offer for Notes, then such Excess Proceeds will be allocated pro rata according to the principal amount of the Notes tendered and the Trustee will select the Notes to be purchased in accordance with this Indenture. 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 Notes have been given the opportunity to tender their Notes for purchase as described in the following paragraph in accordance with this Indenture, the Company and its Restricted Subsidiaries may use such remaining amount for purposes permitted by this Indenture and the amount of Excess Proceeds shall be reset to zero. For the avoidance of doubt, a Prepayment Offer shall be made solely in cash.

(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 Notes pursuant to the preceding paragraph, send a written Prepayment Offer notice, by first-class mail, to the Trustee and the Holders of the Notes (the "*Prepayment Offer Notice*"), accompanied by such information regarding the Company and its Subsidiaries as the Company believes shall enable such Holders of the Notes to make an informed decision with respect to the Prepayment Offer (which at a minimum shall include (A) 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 4.4), (B) a

description of material developments in the Company's business subsequent to the date of the latest of such reports and (C) if material, appropriate pro forma financial information). The Prepayment Offer Notice shall state, among other things, (1) that the Company is offering to purchase Notes pursuant to the provisions of this Indenture, (2) that any Note (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, (3) that any Notes (or portions thereof) not properly tendered shall continue to accrue interest, (4) 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*"), (5) the aggregate principal amount of Notes to be purchased, (6) a description of the procedure which Holders of Notes must follow in order to tender their Notes and the procedures that Holders of Notes must follow in order to withdraw an election to tender their Notes for payment and (7) all other instructions and materials necessary to enable Holders to tender Notes 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 (1) the amount of the Prepayment Offer (the "*Offer Amount*"), (2) the allocation of the Net Available Cash from the Asset Sales pursuant to which such Prepayment Offer is being made and (3) the compliance of such allocation with the provisions of Section 4.10. 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 Notes 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 Notes 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 Note purchased shall be required to surrender the Note, 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 Note which was delivered for purchase by the Holder and a statement that such Holder is withdrawing his election to have such Note purchased. If at the expiration of the Offer Period the aggregate principal amount of Notes surrendered by Holders exceeds the Offer Amount, the Company shall select the Notes to be purchased on a pro rata basis. Holders whose Notes are purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered.

(4) At the time the Company delivers Notes to the Trustee which are to be accepted for purchase, the Company shall also deliver an Officers' Certificate stating that such Notes are to be accepted by the Company pursuant to and in accordance with the terms of this Section 4.10. A Note 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 Notes 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 4.11. Limitation on Transactions with Affiliates.

(a) 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) (each, an "*Affiliate Transaction*"), unless:

(1) 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; and

(2) the Company delivers to the Trustee:

(I) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $10,000,000 but no greater than $25,000,000, an Officers' Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this Section 4.11; and

(II) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $25,000,000, an Officers' Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this Section 4.11 and that such Affiliate Transaction or series of Affiliate Transactions has been approved by a majority of the Disinterested Directors of the Company.

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of Section 4.11(a):

(1) 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;

(2) 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;

(3) 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;

(4) the Company's employee compensation and other benefit arrangements;

(5) 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 Indenture; and

(6) any Restricted Payment permitted to be paid pursuant to Section 4.07.

Section 4.12. Limitation on Liens.

The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness on any of its Property, except for Permitted Liens.

Section 4.13. Additional Subsidiary Guarantors.

(a) If any Restricted Subsidiary that is not already a Subsidiary Guarantor has outstanding or guarantees any other Indebtedness of the Company or a Subsidiary Guarantor, then in either case that Subsidiary will become a Subsidiary Guarantor by executing (1) a supplemental indenture and delivering it to the Trustee within 20 Business Days of the date on which it incurred or guaranteed such Indebtedness, as the case may be; *provided* that the foregoing shall not apply to Subsidiaries of the Company that have properly been designated as Unrestricted Subsidiaries in accordance with this Indenture for so long as they continue to constitute Unrestricted Subsidiaries, (2) amendments to the Collateral Agreements pursuant to which it will grant a Junior Lien on any Collateral held by it in favor of the Collateral Agent for the benefit of the Secured Parties, and become a Collateral Grantor thereunder, and cause such Liens to be perfected as required thereby and (3) deliver to the Trustee or any other Agent one or more Opinions of Counsel.

(b) Notwithstanding the foregoing and the other provisions of this Indenture, any Subsidiary Guarantee incurred by a Restricted Subsidiary pursuant to this Section 4.13 shall provide by its terms that it shall be automatically and unconditionally released and discharged upon the terms and conditions set forth in Section 10.03 hereof

Section 4.14. Corporate Existence.

Except as expressly permitted by Article 5 hereof, Section 4.10 hereof or other provisions of this 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* 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 4.15. Offer to Repurchase Upon Change of Control.

(a) Upon the occurrence of a Change of Control, the Company shall be obligated to make an offer to purchase (a "*Change of Control Offer*") all of the then Outstanding Notes, in whole or in part, from the Holders of such Notes, at a purchase price (the "*Change of Control Purchase Price*") equal to 101% of the aggregate principal amount of such Notes, plus accrued and unpaid interest, if any, to the Change of Control Purchase Date (subject to the right of Holders of record on the relevant Regular Record Date to receive interest due on an Interest Payment Date that is on or prior to the Change of Control Purchase Date), 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 Notes 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 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 Notes validly tendered and not withdrawn under such Change of Control Offer. For the avoidance of doubt, a Change of Control Offer shall only be made in cash.

(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.

(c) Not later than the 30th day following the occurrence of any Change of Control, the Company shall give to the Trustee in the manner provided in Section 14.04 and each Holder of the Notes in the manner provided in Section 14.05, a notice (the "*Change of Control Notice*") governing the terms of the Change of Control Offer and stating:

(1) that a Change of Control has occurred and that such Holder has the right to require the Company to repurchase such Holder's Notes, or portion thereof, at the Change of Control Purchase Price;

(2) any information regarding such Change of Control 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 occurred;

(4) that any Note, 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 4.15, or payment is otherwise prevented, any Note, 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 Notes repurchased in accordance with paragraph (d) of this Section.

If any of the Notes subject to the Change of Control Offer is in the form of a Global Note, 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 Notes purchased will be required to surrender such Notes 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 Notes 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 Notes purchased. Holders whose Notes are purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered.

On the Change of Control Purchase Date, the Company shall (i) accept for payment Notes 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 Notes or portions thereof so tendered, and (iii) deliver or cause to be delivered to the Trustee the Notes so accepted. The Paying Agent shall promptly mail or deliver to Holders of the Notes so tendered payment in an amount equal to the purchase price for the Notes, and the Company shall execute and the Trustee shall authenticate and mail or make available for delivery to such Holders a new Note equal in principal amount to any unpurchased portion of the Note 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 4.15, the Trustee will act as the Paying Agent.

(e) If Holders of not less than 90% in aggregate principal amount of the Outstanding Notes validly tender and do not withdraw such notes in a Change of Control Offer and the Company, or any third party making a Change of Control Offer in lieu of the Company as described above, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Company will have the right, upon not less than 30 nor more than 60 days' prior notice,

given not more than 30 days following such purchase pursuant to the Change of Control Offer described above, to redeem all Notes that remain outstanding following such purchase at a redemption price in cash equal to the applicable Change of Control Purchase Price plus, to the extent not included in the Change of Control Purchase Price, accrued and unpaid interest, if any, to the date of redemption.

(f) 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 occurs and the Company is required to purchase Notes as described in this Section 4.15.

Section 4.16. 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 (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 4.10 hereof.

Section 4.17. Suspended Covenants.

Following any day (a "*Suspension Date*") that (a) the Notes have a rating equal to or higher than BBB- (or the equivalent) by S&P and a rating equal to or higher than Baa3 (or the equivalent) by Moody's ("*Investment Grade Ratings*"), (b) follows a date on which the Notes do not have Investment Grade Ratings, and (c) no Default or Event of Default has occurred and is continuing under this Indenture, the Company and its Restricted Subsidiaries shall not be subject to the covenants described in Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.16 and 5.01(a)(3) (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 Notes 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 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 4.07 will be made as though the covenants described under Section 4.07 had been in effect since the Issue Date and throughout the Suspension Period. During any Suspension Period, the Board of Directors of the Company may not designate any of the Company's Subsidiaries as Unrestricted Subsidiaries pursuant to this Indenture. The Company shall give the Trustee prompt written notification upon the occurrence of a Suspension Date or a Reversion Date.

Section 4.18. Further Assurances.

(a) The Company shall, and shall cause each other Collateral Grantor to, at the Company's sole cost and expense:

(1) at the request of the Collateral Agent, acting in accordance with the Intercreditor Agreement or the Collateral Trust Agreement, as applicable, execute and deliver all such agreements and instruments and take all further action as may be reasonably necessary or desirable (a) to describe more fully or accurately the property intended to be Collateral or the obligations intended to be secured by any Collateral Agreement and/or (b) to continue and maintain the Collateral Agent's second-priority perfected Lien in the Collateral (subject to the Priority Liens in favor of the holders of Priority Lien Obligations pursuant to the terms of the Intercreditor Agreement and subject to Permitted Collateral Liens); and

(2) at the request of the Collateral Agent, in accordance with the Intercreditor Agreement or the Collateral Trust Agreement, as applicable, file any such notice filings or other agreements or instruments as may be reasonably necessary or desirable under applicable law to perfect the Liens created by the Collateral Agreements.

(b) From and after the Issue Date, if the Company or any other Collateral Grantor acquires any property or asset that constitutes Collateral for the Convertible Notes Obligations, if and to the extent that any Convertible Note Document requires any supplemental security document for such Collateral or other actions to achieve a second-priority perfected Lien on such Collateral, the Company shall, or shall cause any other applicable Collateral Grantor to, promptly (but not in any event no later than the date that is 10 Business Days after which such supplemental security documents are executed and delivered (or other action taken) under such Convertible Note Documents), to execute and deliver to the Collateral Agent appropriate security documents (or amendments thereto) in such form as shall be necessary to grant the Collateral Agent a second-priority perfected Lien in such Collateral or take such other actions in favor of the Collateral Agent as shall be reasonably necessary to grant a perfected Lien in such Collateral to the Collateral Agent, subject to the terms of this Indenture, the Intercreditor Agreement and the other Note Documents.

(c) The Company and the Subsidiary Guarantors will (i) maintain with financially sound and reputable insurance companies not Affiliates of the Company, 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, and (ii) cause all property and general liability insurance policies to name the Collateral Agent on behalf of the Secured Parties as additional insured (with respect to liability and property policies), loss payee (with respect to property policies) or lender's loss payee (with respect to property policies), as appropriate, and to provide that no cancellation, material addition in amount or material change in coverage shall be effective until after 30 days' written notice to the Collateral Agent. So long as an Event of Default is not then continuing, the Collateral Agent, on behalf of the Secured Parties, shall release, endorse and turn over to the Company or the applicable Subsidiary Guarantor any insurance proceeds received by the Collateral Agent; *provided* that the application of such proceeds is not in violation of the Revolving Credit Agreement or the Pari Passu Intercreditor Agreement.

Section 4.19. Limitation on Sale and Leaseback Transactions

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, enter into any Sale/Leaseback Transaction unless (1) 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 (2) the Company or such Restricted Subsidiary receives proceeds from such Sale/Leaseback Transaction at least equal to the Fair Market Value thereof 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.

ARTICLE 5.
CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

Section 5.01. Company May Consolidate, etc., Only on Certain Terms.

(a) 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 effect thereto:

(1) 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 Indenture executed and delivered to the Trustee, in form satisfactory to the Trustee, and pursuant to agreements reasonably satisfactory to the Trustee or the Collateral Agent, as applicable, all the obligations of the Company under the Notes, this Indenture and the other Convertible Note Documents to which the Company is a party and, in each case, such Convertible Note Documents shall remain in full force and effect;

(2) 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;

(3) 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, either:

(I) 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 the Indenture) could incur $1.00 of additional Indebtedness under Section 4.09(a) hereof; or

(II) 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 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 Fixed Charge Coverage Ratio of the Company (or the Surviving Entity if the Company is not the continuing obligor under this Indenture) will be equal to or greater than the Fixed Charge Coverage Ratio of the Company immediately before such transaction or transactions;

(4) if the Company is not the continuing obligor under the Indenture, then each Subsidiary Guarantor, unless it is the Surviving Entity, shall have by supplemental indenture confirmed that its Subsidiary Guarantee of the Notes shall apply to the Surviving Entity's obligations under this Indenture and the Notes;

(5) any Collateral owned by or transferred to the Surviving Entity shall (a) continue to constitute Collateral under this Indenture and the Collateral Agreements and (b) be subject to a Junior Lien in favor of the Collateral Agent for the benefit of the Secured Parties;

(6) the Surviving Entity shall take such action (or agree to take such action) as may be reasonably necessary to cause any property or assets that constitute Collateral owned by or transferred to the Surviving Entity to be subject to the Junior Liens in the manner and to the extent required under the Collateral Agreements and shall deliver an Opinion of Counsel as to the enforceability of any amendments, supplements or other instruments with respect to the Collateral Agreements to be executed, delivered, filed and recorded, as applicable, and such other matters as the Trustee or Collateral Agent, as applicable, may reasonably request; and

(7) the Company (or the Surviving Entity if the Company is not the continuing obligor under the Indenture) shall have delivered to the Trustee, in form and substance reasonably satisfactory to the Trustee, (i) an Officers' Certificate and Opinion of Counsel 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 the Indenture and (ii) an Opinion of Counsel stating that the requirements of Section 5.01(a)(1) hereof have been satisfied.

Section 5.02. 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 5.01 hereof, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture and the other Convertible Note Documents 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 Indenture or any successor Person which shall theretofore become such in the manner described in Section 5.01 hereof), except in the case of a lease, shall be discharged from all obligations and covenants under this Indenture and the Notes, 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 6.
DEFAULTS AND REMEDIES

Section 6.01. 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 Notes 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;

(b) default in the payment of any installment of interest on any of the Notes, when it becomes due and payable, and the continuance of such default for a period of 30 days;

(c) default in the performance or breach of the provisions of Article 5 hereof, the failure to make or consummate a Change of Control Offer in accordance with the provisions of Section 4.15 or the failure to make or consummate a Prepayment Offer in accordance with the provisions of Section 4.10;

(d) the Company or any Subsidiary Guarantor shall fail to comply with the provisions of Section 4.04 for a period of 90 days after written notice of such failure stating that it is a "notice of default" hereunder 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 Notes then Outstanding);

(e) the Company or any Subsidiary Guarantor shall fail to perform or observe any other term, covenant or agreement contained in the Notes, any Subsidiary Guarantee or the Indenture (other than a default specified in subparagraph (a), (b), (c) or (d) above) for a period of 60 days after written notice of such failure stating that it is a "notice of default" hereunder 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 Notes then Outstanding;

(f) 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 Notes) or any Subsidiary 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 Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed, provided that the aggregate principal amount of such Indebtedness, together with the aggregate principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, shall exceed $50,000,000;

(g) any Subsidiary Guarantee shall for any reason cease to be, or be asserted by the Company or any Subsidiary Guarantor, as applicable, not to be, in full force and effect (except pursuant to the release of any such Subsidiary Guarantee in accordance with this Indenture);

(h) failure by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary to pay final judgments or orders rendered against the Company or any Subsidiary Guarantor or any other Restricted Subsidiary aggregating in excess of $50,000,000 (net of any amounts covered by insurance with a reputable and creditworthy insurance company that has not disclaimed liability) 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;

(i) 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 Subsidiary 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 Subsidiary Guarantor or any other Restricted Subsidiary bankrupt or insolvent, or approving a petition seeking reorganization, arrangement, adjustment or composition of the Company or any Subsidiary 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 Subsidiary 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;

(j) the commencement by the Company or any Subsidiary 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 Subsidiary 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 Subsidiary 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 Subsidiary 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 Subsidiary Guarantor or any other Restricted Subsidiary in furtherance of any such action;

(k) the occurrence of the following:

(1) except as permitted by the Note Documents, any Collateral Agreement establishing the Junior Liens ceases for any reason to be enforceable*; provided* that it will not be an Event of Default under this clause (k)(1) if the sole result of the failure of one or more Collateral Agreements to be fully enforceable is that any Junior Lien purported to be granted under such Collateral Agreements on Collateral, individually or in the aggregate, having a fair market value of not more than $10,000,000, ceases to be an enforceable and perfected second-priority Lien, subject only to the Priority Liens favor of the holders of Priority Lien Obligations pursuant to the terms of the Intercreditor Agreement and subject to Permitted Collateral Liens*; provided*, *further*, that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period;

(2) except as permitted by the Note Documents, any Junior Lien purported to be granted under any Collateral Agreement on Collateral, individually or in the aggregate, having a fair market value in excess of $10,000,000, ceases to be an enforceable and perfected second-priority Lien, subject only to the Priority Liens in favor of the holders of the Priority Lien Obligations pursuant to the terms of the Intercreditor Agreement and subject to Permitted Collateral Liens*; provided* that if such failure is susceptible to cure, no Event of Default shall arise with respect thereto until 30 days after any officer of the Company or any Restricted Subsidiary becomes aware of such failure, which failure has not been cured during such time period; and

(3) the Company or any other Collateral Grantor, or any Person acting on behalf of any of them, denies or disaffirms, in writing, any obligation of the Company or any other Collateral Grantor set forth in or arising under any Collateral Agreement establishing Junior Liens; or

(l) the Required Stockholder Approval is not obtained and the Charter Amendment has not become effective, in each case by December 31, 2016, and such failure shall continue for a period of 90 days.

Section 6.02. Acceleration of Maturity; Rescission and Annulment.

(a) If an Event of Default (other than an Event of Default specified in Section 6.01(i) or (j) hereof) occurs and is continuing, the Trustee or the Holders of not less than 25% in aggregate principal amount of the Notes then Outstanding, by written notice to the Company (and to the Trustee if such notice is given by the Holders), may declare all unpaid principal of, premium, if any, and accrued and unpaid interest on all the Notes to be due and payable immediately, upon which declaration all amounts payable in respect of the Notes shall be immediately due and payable. If an Event of Default specified in Section 6.01(i) or (j) 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.

(b) 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 Outstanding Notes, by written notice to the Company, the Subsidiary Guarantors and the Trustee, may rescind and annul such declaration and its consequences if:

(1) the Company or any Subsidiary Guarantor has paid (or issued Additional Notes with respect to the payment of interest) or deposited with the Trustee a sum sufficient to pay:

(I) all overdue interest on all Outstanding Notes,

(II) all unpaid principal of (and premium, if any, on) any Outstanding Notes which have become due otherwise than by such declaration of acceleration, including any Notes 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 Notes,

(III) to the extent that payment of such interest is lawful, interest on overdue interest and overdue principal at the rate borne by the Notes (without duplication of any amount paid or deposited pursuant to clauses (1) and (2) above), and

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

(2) 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

(3) all Events of Default, other than the non-payment of amounts of principal of (or premium, if any, on) or interest on Notes which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 6.13 hereof.

(c) No such rescission shall affect any subsequent default or impair any right consequent thereon.

(d) Notwithstanding the foregoing, if an Event of Default specified in Section 6.01(f) 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* that, 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 Notes, and so long as such rescission of any such acceleration of the Notes does not conflict with any judgment or decree as certified to the Trustee by the Company.

Section 6.03. Collection of Indebtedness and Suits for Enforcement by Trustee.

(a) The Company covenants that if

(1) default is made in the payment of any installment of interest on any Note when such interest becomes due and payable and such default continues for a period of 30 days, or

(2) default is made in the payment of the principal of (or premium, if any, on) any Note at the Maturity thereof or with respect to any Note 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 Notes, the whole amount then due and payable on such Notes for principal (and premium, if any) and Cash 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 Notes, 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.

(b) 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 Notes 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 Notes, wherever situated.

(c) 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 the Indenture or in aid of the exercise of any power granted in the Indenture, or to enforce any other proper remedy.

Section 6.04. Trustee May File Proofs of Claim.

(a) In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company, any Subsidiary Guarantor or any other obligor upon the Notes, their creditors or the Property of the Company, of any Subsidiary Guarantor or of any such other obligor, the Trustee (irrespective of whether the principal of the Notes 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 Subsidiary 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,

(1) 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 Notes 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

(2) 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 Section 7.06 hereof.

(b) Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the Subsidiary 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 6.05. Trustee May Enforce Claims Without Possession of Notes.

All rights of action and claims under the Indenture or the Notes or the Subsidiary Guarantees may be prosecuted and enforced by the Trustee without the possession of any of the Notes 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 Notes in respect of which such judgment has been recovered.

Section 6.06. Application of Money Collected.

Any money collected by the Trustee pursuant to this Article 6 shall be applied, subject to the Intercreditor Agreement and the Collateral Trust Agreement, 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 Cash Interest, upon presentation of the Notes and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

(a) FIRST: to the payment of all amounts due the Trustee under Section 7.06 hereof;

(b) SECOND: to the payment of the amounts then due and unpaid for principal of (and premium, if any, on) and Cash Interest on the Notes 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 Notes for principal (and premium, if any) and Cash Interest, respectively; and

(c) 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 6.07. Limitation on Suits.

No Holder of any Notes shall have any right to institute any proceeding, judicial or otherwise, with respect to the 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 Notes 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 the Trustee 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 Notes;

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

Notwithstanding any other provision in the Indenture, the Holder of any Note shall have the right, which is absolute and unconditional, to receive payment, as provided herein (including, if applicable, Article 8 hereof) and in such Note of the principal of (and premium if any, on) and (subject to Section 2.12 hereof) interest on, such Note on the respective Stated Maturities expressed in such Note (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 6.09. 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 Subsidiary 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 6.10. Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07 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 6.11. Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Note 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 6.12. Control by Holders.

(a) The Holders of not less than a majority in aggregate principal amount of the Outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; *provided* that

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

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

(3) the Trustee need not take any action which might involve it in personal liability, and

(4) the Trustee may decline to take any action that would benefit some Holders to the detriment of other Holders.

(b) Prior to taking any such action under this Section 6.12, 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 6.13. Waiver of Past Defaults.

(a) Subject to Section 6.02(b)(1)(IV), the Holders of not less than a majority in aggregate principal amount of the Outstanding Notes may, on behalf of the Holders of all the Notes, waive any existing Default or Event of Default hereunder and its consequences, except a Default or Event of Default

(1) in respect of the payment of the principal of (or premium, if any, on) or interest on any Note, or

(2) in respect of a covenant or provision hereof which under Article 9 hereof cannot be modified or amended without the consent of the Holder of each Outstanding Note affected thereby.

(b) Upon any such waiver, such Default or Event of Default shall cease to exist for every purpose under this Indenture, but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

Section 6.14. Waiver of Stay, Extension or Usury Laws.

Each of the Company and the Subsidiary 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 Subsidiary Guarantor from paying all or any portion of the principal of (premium, if any, on) or interest on the Notes as contemplated herein, or which may affect the covenants or the performance of this Indenture; and (to the extent that it may lawfully do so) each of the Company and the Subsidiary Guarantors hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 6.15. The Collateral Agent.

Whenever in the exercise of any remedy available to the Trustee or the exercise of any trust or power conferred on it with respect to the Notes, the Trustee may also direct the Collateral Agent in the exercise of any of the rights and remedies available to the Collateral Agent pursuant to the Collateral Agreements.

ARTICLE 7.
TRUSTEE

Section 7.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise 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 person would exercise or use under the circumstances in the conduct of his own affairs.

(b) 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 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, and shall be fully protected in so relying, 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; provided, however, that, 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 examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture, but the Trustee has no obligation to determine the accuracy or completeness (other than as to conformity with the requirements of this Indenture) of the statements made therein.

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(1) this paragraph shall not limit the effect of Section 7.01(b);

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

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.12.

Section 7.02. Certain Rights of Trustee.

Subject to the provisions of Section 7.01 hereof:

(a) the Trustee may conclusively rely and shall be 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 (whether in its original or facsimile form), 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 mentioned herein shall be sufficiently evidenced by a Company Request or Company Order 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) may, in the absence of bad faith on its part, rely upon an Officers' 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 reasonably see fit;

(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;

(h) the Trustee shall not be liable for any action taken, suffered or omitted by it in good faith and believed by it in good faith to be authorized or within the discretion or rights or powers conferred upon it by this Indenture;

(i) the Trustee shall not be deemed to have notice or knowledge of any matter unless a Responsible Officer has actual knowledge thereof or unless written notice thereof is received by the Trustee at its Corporate Trust Office and such notice references the Notes generally, the Company or this Indenture;

(j) the Trustee shall not be required to advance, 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;

(k) the Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture;

(l) anything in this Indenture notwithstanding, in no event shall the Trustee be liable for any special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including but not limited to loss of profit), even if the Trustee has been advised as to the likelihood of such loss or damage and regardless of the form of action;

(m) the Trustee may request that the Company and, if applicable, the Guarantors deliver an Officers' 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 Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded;

(n) the permissive rights of the Trustee enumerated herein shall not be construed as duties; and

(o) notwithstanding anything to the contrary contained herein, the Trustee shall have no responsibility for (i) preparing, recording, filing, re-recording, or re-filing any financing statement, perfection statement, continuation statement or other instrument in any public office or for otherwise ensuring the perfection or maintenance of any security interest granted pursuant to, or contemplated by, any document; (ii) taking any necessary steps to preserve rights against any parties with respect to the Collateral; or (iii) taking any action to protect against any diminution in value of the Collateral.

Section 7.03. Trustee Not Responsible for Recitals or Issuance of Notes.

The recitals contained herein and in the Notes, except for the Trustee's certificates of authentication, shall be taken as the statements of the Company or the Subsidiary Guarantors, as the case may be, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture, the Subsidiary Guarantees or the Notes. The Trustee shall not be accountable for the use or application by the Company of any Notes or the proceeds thereof.

Section 7.04. May Hold Notes.

The Trustee, any Paying Agent, any Registrar or any other agent of the Company, the Subsidiary Guarantors or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and, subject to TIA Sections 310(b) and 311 in the case of the Trustee, may otherwise deal with the Company and the Subsidiary Guarantors with the same rights it would have if it were not the Trustee, Paying Agent, Registrar or such other agent.

Section 7.05. 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 with the Company or any Subsidiary Guarantor.

Section 7.06. Compensation and Reimbursement.

(a) The Company agrees:

(1) to pay to the Trustee from time to time such compensation as the Company and the Trustee may agree in writing 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 compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Trustee's willful misconduct, negligence or bad faith; and

(3) to indemnify the Trustee for, and to hold it harmless against, any loss, liability, claim, damage or expense incurred without willful misconduct or negligence on its part, (i) arising out of or in connection with the acceptance or administration of this trust, 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 or (ii) in connection with enforcing this indemnification provision.

(b) The obligations of the Company under this Section 7.06 to compensate the Trustee, to pay or reimburse the Trustee for expenses, disbursements and advances and to indemnify and hold harmless the Trustee shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture, the resignation or removal of the Trustee, or any other termination under any Insolvency or Liquidation Proceeding. As security for the performance of such obligations of the Company, the Trustee shall have a claim and lien prior to the Notes upon all property and funds held or collected by the Trustee as such, except funds held in trust for payment of principal of (and premium, if any, on) or interest on Notes. Such lien shall survive the satisfaction and discharge of this Indenture or any other termination under any Insolvency or Liquidation Proceeding.

(c) When the Trustee incurs expenses or renders services after the occurrence of an Event of Default specified in paragraph (i) or (j) of Section 6.01 of this Indenture, such expenses and the compensation for such services are intended to constitute expenses of administration under any Insolvency or Liquidation Proceeding.

Section 7.07. Corporate Trustee Required; Eligibility.

There shall at all times be a Trustee hereunder which shall be eligible to act as Trustee under TIA Section 310(a)(1) and shall have a combined capital and surplus of at least $50,000,000. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of federal, state, territorial or District of Columbia supervising or examining authority, then for the purposes of this Section 7.07, 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. 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 7.

Section 7.08. Conflicting Interests.

The Trustee shall comply with the provisions of Section 310(b) of the Trust Indenture Act; *provided* that there shall be excluded from the operation of TIA Section 310(b)(1) any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Company are outstanding if the requirements for such exclusion set forth in TIA Section 310(b)(1) are met.

Section 7.09. 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 7 shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 7.10 hereof.

(b) The Trustee may resign at any time by giving written notice thereof to the Company. If the instrument of acceptance by a successor Trustee required by Section 7.10 hereof shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may, at the expense of the Company, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time by Act of the Holders of not less than a majority in aggregate principal amount of the Outstanding Notes, delivered to the Trustee and to the Company.

(d) If at any time:

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

(2) the Trustee shall cease to be eligible under Section 7.07 hereof and shall fail to resign after written request therefor by the Company or by any Holder who has been a bona fide Holder for at least six months, 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, or (ii) subject to TIA Section 315(e), any Holder who has been a bona fide Holder 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 and the appointment of a successor Trustee.

(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, the Company, by a Board Resolution, shall promptly appoint a successor Trustee. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Holders of a majority in aggregate principal amount of the Outstanding Notes delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the successor Trustee appointed by the Company. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, the retiring Trustee or any Holder who has been a bona fide Holder for at least six months may, on behalf of himself and all others similarly situated, at the expense of the Company, petition any court of competent jurisdiction for the appointment of a successor Trustee. The evidence of such successorship may, but need not be, evidenced by a supplemental indenture.

(f) The Company shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee to the Holders in the manner provided for in Section 14.5 hereof. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

(g) Notwithstanding the replacement of the Trustee pursuant to this Section 7.09, the Company's obligations under Section 7.06 shall continue for the benefit of the retiring Trustee.

Section 7.10. Acceptance of Appointment by Successor.

(a) Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Company 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 request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of all amounts due it under Section 7.06 hereof, 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 money and other Property held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Company 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.

(b) 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.

Section 7.11. Merger, Conversion, Consolidation or Succession to Business.

Any corporation or banking association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or banking association resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or banking association succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation or banking association shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Notes 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 Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes; and in case at that time any of the Notes shall not have been authenticated, any successor Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture provided; provided, however, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Notes in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 7.12. Preferential Collection of Claims Against Company.

If and when the Trustee shall be or become a creditor of the Company (or any other obligor under the Notes), the Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Company (or any such other obligor).

Section 7.13. Notice of Defaults.

Within 60 days after the occurrence of any Default hereunder, the Trustee shall transmit in the manner and to the extent provided in TIA Section 313(c), 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 premium, if any, on) or interest on any Note, 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 determines that the withholding of such notice is in the interest of the Holders. The Trustee shall not be deemed to have notice of any Default, other than a Default under Section 6.01(a) or 6.01(b), unless a Responsible Officer of the Trustee shall have been advised in writing that a Default has occurred. No duty imposed upon the Trustee in this Indenture shall be applicable with respect to any Default of which the Trustee is not deemed to have notice.

Section 7.14. Reports by Trustee.

(a) Within 60 days after May 15 of each year commencing with May 15, 2017, the Trustee shall transmit by mail to the Holders, as their names and addresses appear in the Note Register, a brief report dated as of such May 15 in accordance with and to the extent required under TIA Section 313(a). The Trustee shall also comply with TIA Sections 313(b) and 313(c).

(b) The Company shall promptly notify the Trustee in writing if the Notes become listed on any stock exchange or automatic quotation system

(c) A copy of each Trustee's report, at the time of its mailing to Holders of Notes, shall be mailed to the Company and filed with the Commission and each stock exchange, if any, on which the Notes are listed.

ARTICLE 8.
DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01. 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 Notes, elect to have either Section 8.02 or Section 8.03 hereof be applied to all Outstanding Notes upon compliance with the conditions set forth below in this Article 8.

Section 8.02. Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company and the Subsidiary Guarantors shall be deemed to have been discharged from their respective obligations with respect to all Outstanding Notes on the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "*legal defeasance*"). For this purpose, such legal defeasance means that the Company and the Subsidiary Guarantors shall be deemed (1) to have paid and discharged their respective obligations under the Outstanding Notes; *provided* that the Notes shall continue to be deemed to be "Outstanding" for purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in clauses (a) and (b) below, (2) to have satisfied all their other obligations with respect to such Notes and this Indenture (and the Trustee, at the expense and direction of the Company, shall execute proper instruments acknowledging the same) and (3) in the case of the Collateral Grantors, to have satisfied all of their obligations under the Collateral Agreements, except for the following which

shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of Outstanding Notes to receive, solely from the trust fund described in Section 8.04 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 Notes when such payments are due (or at such time as the Notes would be subject to redemption at the option of the Company in accordance with this Indenture), (b) the respective obligations of the Company and the Subsidiary Guarantors under Sections 2.01, 2.03, 2.04, 2.05, 2.07, 2.08, 2.09, 6.08, 6.14, 4.02, 10.01 (to the extent it relates to the foregoing Sections and this Article 8), 10.04 and 10.05 hereof and the Exhibits, (c) the rights, powers, trusts, duties, indemnities and immunities of the Trustee hereunder, and (d) the obligations of the Company and the Subsidiary Guarantors under this Article 8. Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof with respect to the Notes.

Section 8.03. Covenant Defeasance.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company and each Subsidiary Guarantor shall be released from their respective obligations under any covenant contained in Section 4.05(a) and (b) hereof, in Sections 4.06 through 4.19 hereof and in clauses (c) and (e) of Section 5.01 hereof with respect to the Outstanding Notes on and after the date the conditions set forth below are satisfied (hereinafter, "*covenant defeasance*"), and the Notes 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 Notes, the Company and each Subsidiary 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 6.01(c), 6.01(d) or 6.01(e) hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby.

Section 8.04. Conditions to Defeasance or Covenant Defeasance.

The following shall be the conditions to application of either Section 8.02 or Section 8.03 hereof to the Outstanding Notes:

(a) The Company or any Subsidiary Guarantor shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 7.07 hereof who shall agree to comply with the provisions of this Article 8 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 Notes, (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 without consideration of any reinvestment of interest, 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 Notes 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 Notes. Before such a deposit, the Company may give to the Trustee, in accordance with Section 3.01 hereof, a notice of its election to redeem all of the Outstanding Notes at a future date in accordance with Article 3 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 Notes shall have occurred and be continuing on the date of such deposit or, insofar as Sections 6.01(i) and 6.01(j) 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 Indenture or the Trust Indenture Act with respect to any securities of the Company or any Subsidiary 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 Subsidiary 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 8.02 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 Indenture there has been a change in the applicable federal income tax laws, in either case providing that the Holders of the Outstanding Notes 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 8.03 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of the Outstanding Notes 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 8.03 hereof or the covenant defeasance under Section 8.03 (as the case may be) have been complied with.

Section 8.05. Deposited Money and U.S. Government Obligations to Be Held in Trust; Other Miscellaneous Provisions.

(a) Subject to the provisions of Section 8.03(e) hereof, 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 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the Outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes 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 Holders of such Notes 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.

(b) 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 8.04 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 Notes.

(c) Anything in this Article 8 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 8.04 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 8.06. Reinstatement.

If the Trustee or any Paying Agent is unable to apply any money in accordance with Section 11.5 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 Subsidiary Guarantors' obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 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 8.05 hereof; *provided* that if the Company or any Subsidiary Guarantor makes any payment of principal of (or premium, if any, on) or interest on any Note following the reinstatement of its obligations, the Company or such Subsidiary Guarantor shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9.
SUPPLEMENTAL INDENTURES

Section 9.01. Without Consent of Holders of Notes.

(a) Without the consent of any Holders, the Company, when authorized by a Board Resolution, each of the Subsidiary Guarantors, when authorized by a Board Resolution, and the Trustee upon Company Request, at any time and from time to time, may amend or supplement any of the Note Documents in the following circumstances, 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 contained in the Indenture and in the Notes;

(2) 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;

(3) to comply with any requirement of the SEC in connection with qualifying the Indenture under the TIA or maintaining such qualification thereafter;

(4) 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 the Indenture, provided that such action shall not adversely affect the interests of any Holder;

(5) to add any Restricted Subsidiary as an additional Subsidiary Guarantor as provided in Section 4.13(a) hereof or to evidence the succession of another Person to any Subsidiary Guarantor pursuant to Section 10.02(b) hereof and the assumption by any such successor of the covenants and agreements of such Subsidiary Guarantor contained herein, in the Notes and in the Subsidiary Guarantee of such Subsidiary Guarantor;

(6) to release a Subsidiary Guarantor from its Subsidiary Guarantee pursuant to Section 10.03 hereof;

(7) to provide for uncertificated Notes in addition to or in place of certificated Notes

(8) to make, complete or confirm any grant of Collateral permitted or required by this Indenture or any of the Convertible Note Documents;

(9) to add any additional Collateral or to evidence the release of any Liens, in each case as provided in this Indenture or the other Note Documents, as applicable; and

(10) with respect to the Collateral Agreements, as provided in the Intercreditor Agreement or the Collateral Trust Agreement, as applicable.

(b) The Intercreditor Agreement and the Collateral Trust Agreement may be amended in accordance with its terms and without the consent of any Holder, the Trustee, the Priority Lien Collateral Agent or the Collateral Agent to add other parties (or any authorized agent thereof or trustee therefor) holding Indebtedness subject thereto and to establish that the Liens on any Collateral securing such Indebtedness shall rank equally with the Liens on such Collateral Securing the Convertible Note Obligations then Outstanding.

Section 9.02. With Consent of Holders of Notes.

(a) With the consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Notes, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, each of the Subsidiary Guarantors, when authorized by a Board Resolution, and the Trustee upon Company Request may amend or supplement this Indenture and the other Note Documents for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or the other Note Documents, or of modifying in any manner the rights of the Holders under this Indenture or the other Note Documents, in each case in addition to any required consent of holders of other Convertible Note Obligations that may be required with respect to an amendment of or waiver under the Intercreditor Agreement or any other Collateral Agreement; *provided* that no such amendment or supplement shall, without the consent of the Holder of each Outstanding Note affected thereby:

(1) change the Stated Maturity of the principal of, or any installment of interest on, any Note, 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 Note or any premium or the interest on any Note 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);

(2) reduce the percentage of aggregate principal amount of the Outstanding Notes, 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 the Indenture or certain defaults hereunder or the consequences of a default provided for in the Indenture;

(3) modify any of the provisions of this Section 9.02 or Section 6.13 hereof, except to increase any percentage of Holders referred to therein or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Note affected thereby;

(4) modify any provisions of the Indenture relating to the Subsidiary Guarantees in a manner adverse to the Holders, except in accordance with the terms of this Indenture, the Intercreditor Agreement or the Collateral Trust Agreement;

(5) 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, 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;

(6) release any Subsidiary Guarantor of the Notes from any of its obligations under its Subsidiary Guaranty or this Indenture, except in accordance with the terms of this Indenture, the Intercreditor Agreement or the Collateral Trust Agreement.

(b) The consent of Holders representing at least two-thirds of Outstanding Notes will be required to release the Liens for the benefit of the Holders of the Notes on all or substantially all of the Collateral, other than in accordance with the Note Documents.

(c) It shall not be necessary for any Act of the Holders under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such Act shall approve the substance thereof.

Section 9.03. Consents in connection with Purchase, Tender or Exchange.

A consent to any amendment, supplement or waiver under this Indenture by any Holder given in connection with a purchase, tender or exchange of such Holder's Notes shall not be rendered invalid by such purchase, tender or exchange.

Section 9.04. Revocation and Effect of Consents.

(a) Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of such Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and, except as provided in clause (c) of this Section 9.04, thereafter binds every Holder.

(b) The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver. If a record date is fixed, then notwithstanding the second to last sentence of the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to consent to such amendment, supplement or waiver or revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No consent shall be valid or effective for more than 90 days after such record date except to the extent that the requisite number of consents to the amendment, supplement or waiver have been obtained within such 90-day period or as set forth in clause (c) of this Section 9.04.

(c) After an amendment, supplement or waiver becomes effective, it shall bind every Holder, unless it makes a change described in any of clauses (1) through (5) of Section 9.02(a), in which case, the amendment, supplement or waiver shall bind only each Holder of a Note who has consented to it and every subsequent Holder of a Note or portion of a Note that evidences the same indebtedness as the consenting Holder's Note.

Section 9.05. Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company, in exchange for all Notes, may issue and the Trustee shall authenticate new Notes that reflect the amendment, supplement or waiver. Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06. Trustee to Sign Amendments, etc.

The Trustee shall sign any amendment or supplemental indenture or grant any waiver authorized pursuant to this Article 9 if the amendment or supplemental indenture or waiver does not adversely affect its rights, duties, liabilities or immunities. If any such amendment, supplemental indenture or waiver does adversely affect the rights, duties, liabilities or immunities of the Trustee, the Trustee may, but need not, sign such amendment, supplemental indenture or grant such waiver. In executing any such amendment, supplemental indenture or waiver, the Trustee shall be entitled to receive and (subject to Section 7.01) shall be fully protected in relying upon, in addition to the documents required by Section 14.01, an Officers' Certificate and an Opinion of Counsel each stating that the execution of such amendment, supplemental indenture or waiver is authorized or permitted by this Indenture.

ARTICLE 10.
SUBSIDIARY GUARANTEES

Section 10.01. Unconditional Guarantee.

(a) Each Subsidiary Guarantor hereby unconditionally, jointly and severally, guarantees to each Holder of Notes 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 Notes and that:

(1) the principal of (and premium, if any, on) and interest on the Notes 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 Notes, 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

(2) in case of any extension of time of payment or renewal of any Notes 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 10.04 hereof.

(b) Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Subsidiary Guarantors will be jointly and severally obligated to pay the same immediately. Each Subsidiary 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 Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, 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 Subsidiary 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 Subsidiary Guarantee will not be discharged except by complete performance of the obligations contained in the Notes, the Indenture and in this Subsidiary Guarantee. If any Holder or the Trustee is required by any court or otherwise to return to the Company, any Subsidiary Guarantor, or any custodian, trustee, liquidator or other similar official acting in relation to the Company or any Subsidiary Guarantor, any amount paid by the Company or any Subsidiary Guarantor to the Trustee or such Holder, this Subsidiary Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect. Each Subsidiary 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 Subsidiary Guarantor further agrees that, as between each Subsidiary 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 6 hereof for the purposes of this Subsidiary 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 6 hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by each Subsidiary Guarantor for the purpose of this Subsidiary Guarantee.

Section 10.02. Subsidiary Guarantors May Consolidate, etc., on Certain Terms.

(a) Except as set forth in Article 5 hereof, nothing contained in this Indenture or in any of the Notes shall prevent any consolidation or merger of a Subsidiary Guarantor with or into the Company or another Subsidiary Guarantor or shall prevent any sale, conveyance or other disposition of all or substantially all the Properties of a Subsidiary Guarantor to the Company or another Subsidiary Guarantor.

(b) Except as set forth in Article 5 hereof, nothing contained in this Indenture or in any of the Notes shall prevent any consolidation or merger of a Subsidiary Guarantor with or into a Person other than the Company or another Subsidiary Guarantor (whether or not Affiliated with such Subsidiary Guarantor), or successive consolidations or mergers in which a Subsidiary 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 Subsidiary

Guarantor to a Person other than the Company or another Subsidiary Guarantor (whether or not Affiliated with such Subsidiary Guarantor) authorized to acquire and operate the same; *provided* 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 4.01 through 4.19 hereof, and (iii) upon any such consolidation, merger, sale, conveyance or other disposition, such Subsidiary Guarantor's Subsidiary Guarantee set forth in this Article 10, and the due and punctual performance and observance of all of the covenants and conditions of this Indenture to be performed by such Subsidiary Guarantor, shall be expressly assumed, 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 such Subsidiary Guarantor shall have merged (if other than such Subsidiary Guarantor), or by the Person that shall have acquired such Property (except to the extent the following Section 10.03 would result in the release of such Subsidiary 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 Subsidiary Guarantor's Subsidiary 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 and observance of all of the covenants and conditions of this Indenture to be performed by the applicable Subsidiary Guarantor, such successor Person shall succeed to and be substituted for such Subsidiary Guarantor with the same effect as if it had been named herein as the initial Subsidiary Guarantor.

Section 10.03. Release of Subsidiary Guarantors.

Upon the sale or disposition (by merger or otherwise) of a Subsidiary Guarantor (or all or substantially all of its Properties) to a Person other than the Company or another Subsidiary Guarantor and pursuant to a transaction that is otherwise in compliance with the terms of this Indenture, including but not limited to the provisions of Section 10.02 hereof or pursuant to Article 5 hereof, such Subsidiary Guarantor shall be deemed released from its Subsidiary Guarantee and all related obligations under this Indenture; *provided* that any such release shall occur only to the extent that all obligations of such Subsidiary 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 Indenture. In addition, in the event that any Subsidiary 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 Agreement, such Subsidiary Guarantor shall also be released from its Subsidiary Guarantee and the related obligations under this 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 Subsidiary Guarantor has ceased to guarantee or otherwise be liable with respect to such other Indebtedness of the Company and the

other Restricted Subsidiaries. Each Subsidiary Guarantor that is designated as an Unrestricted Subsidiary in accordance with the provisions of this Indenture shall be released from its Subsidiary Guarantee and all related obligations under this 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 Subsidiary Guarantor not released in accordance with this Section 10.03 shall remain liable for the full amount of principal of (and premium, if any, on) and interest on the Notes as provided in this Article 10.

Section 10.04. Limitation of Subsidiary Guarantors' Liability.

Each Subsidiary Guarantor, and by its acceptance hereof each Holder, hereby confirm that it is the intention of all such parties that the guarantee by such Subsidiary Guarantor pursuant to its Subsidiary 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 Subsidiary Guarantor hereby irrevocably agree that the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee shall be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Subsidiary Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Subsidiary Guarantor in respect of the obligations of such other Subsidiary Guarantor under its Subsidiary Guarantee or pursuant to Section 10.05 hereof, result in the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee not constituting such a fraudulent conveyance or fraudulent transfer. This Section 10.04 is for the benefit of the creditors of each Subsidiary Guarantor.

Section 10.05. Contribution.

In order to provide for just and equitable contribution among the Subsidiary Guarantors, the Subsidiary Guarantors agree, inter se, that in the event any payment or distribution is made by any Subsidiary Guarantor (a "*Funding Guarantor*") under its Subsidiary Guarantee, such Funding Guarantor shall be entitled to a contribution from each other Subsidiary Guarantor (if any) in a pro rata amount based on the Adjusted Net Assets of each Subsidiary 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 Notes or any other Subsidiary Guarantor's obligations with respect to its Subsidiary Guarantee.

Section 1.1 Severability.

In case any provision of this Subsidiary 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 11.
SECURITY

Section 11.01. Collateral Agreements; Additional Collateral.

(a) In order to secure the due and punctual payment of the Note Obligations, on the Issue Date, simultaneously with the execution and delivery of this Indenture, the Company and the Subsidiary Guarantors shall have executed the Collateral Agreements granting to the Collateral Agent for the benefit of the Secured Parties (in accordance with the Intercreditor Agreement) a second-priority perfected Lien in the Collateral.

(b) The Company shall promptly deliver, and to cause each of the other Collateral Grantors to deliver, but in each case not later than the date that is 30 days following the Issue Date, to further secure the Convertible Note Obligations, deeds of trust, Mortgages, chattel mortgages, security agreements, financing statements and other Collateral Agreements in form and substance satisfactory to the Collateral Agent for the purpose of granting, confirming, and perfecting second-priority liens or security interests in (1) prior to the occurrence of a default under the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the Issue Date) or, if no Revolving Credit Agreement is then in effect, a Default under this Indenture, (A) at least ninety percent (90%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties constituting Proved Reserves and the Provided and Probable Drilling Locations, (B) after the occurrence of a default under the Revolving Credit Agreement (or any agreements refinancing, replacing, refunding or restating the Revolving Credit Agreement as in effect on the Issue Date) or, if no Revolving Credit Agreement is then in effect, a Default under this Indenture, at least ninety-five percent (95%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties and the Proved and Probable Drilling Locations, (2) all of the equity interests of the Company or any Subsidiary Guarantor in any other Subsidiary Guarantor now owned or hereafter acquired by the Company or any Subsidiary Guarantor, and (3) all property of the Collateral Grantors of the type described in the Security Agreement. If no Engineering Report is delivered pursuant to Section 4.05(b), the Company shall deliver to the Collateral Agent semi-annually on or before April 1 and October 1 in each calendar year an Officers' Certificate certifying that as of the date of such certificate, (i) no Default has occurred and is continuing and (ii) at least ninety percent (90%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties constituting Proved Reserves and the Proved and Probable Drilling Locations.

(c) In connection with each delivery of an Engineering Report, the Company shall review the Engineering Report and the list of current Mortgaged Properties to ascertain whether the Mortgaged Properties represent at least ninety percent (90%) of the PV-9 of (i) the Oil and Gas Properties constituting Proved Reserves evaluated in the most recently completed Engineering Report after giving effect to exploration and production activities, acquisitions, dispositions and production and (ii) the Proved and Probable Drilling Locations. In the event that the Mortgaged Properties do not represent at least such required percentages, then the Company shall, and shall cause its Restricted Subsidiaries to, promptly grant to the Collateral Agent as security for the Convertible Note Obligations a second-priority perfected Lien on additional Oil and Gas Properties and Proved and Probable Drilling Locations not already subject to a Lien created by Collateral Agreements such that after giving effect thereto, the

Mortgaged Properties will represent at least such required percentages. All such Liens will be created and perfected by and in accordance with the provisions of deeds of trust, security agreements and financing statements or other Collateral Agreements, all in form and substance reasonably satisfactory to the Collateral Agent and in sufficient executed (and acknowledged where necessary or appropriate) counterparts for recording purposes. In order to comply with the foregoing, if any Restricted Subsidiary places a Lien on its Oil and Gas Properties or Proved and Probable Drilling Locations and such Subsidiary is not a Subsidiary Guarantor, then it shall become a Subsidiary Guarantor and comply. To the extent that any Oil and Gas Properties constituting Collateral are disposed of after the date of any applicable Engineering Report or certificate delivered pursuant to clause (b) of this Section 11.01, any Proved Reserves attributable to such Oil and Gas Properties shall be deemed excluded from such Engineering Report or certificate for the purpose of determining whether such minimum Mortgage requirement is met after giving effect to such release.

(d) The Company also agrees to promptly deliver, or to cause to be promptly delivered, to the extent not already delivered, whenever requested by the Collateral Agent in its sole and absolute discretion (1) favorable title information (including, if reasonably requested by the Collateral Agent, title opinions) acceptable to the Collateral Agent with respect to any Collateral Grantor's Oil and Gas Properties constituting at least ninety percent (90%) of the PV-9 of the Oil and Gas Properties constituting Proved Reserves and the Proved and Probable Drilling Locations, and demonstrating that such Collateral Grantor has good and defensible title to such properties and interests, free and clear of all Liens (other than Permitted Liens) and covering such other matters as the Collateral Agent may reasonably request and (2) favorable opinions of counsel satisfactory to the Collateral 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.

(e) If (1) a Collateral Grantor acquires any asset or property of a type that is required to constitute Collateral pursuant to the terms of this Indenture and such asset or property is not automatically subject to a second-priority perfected Lien in favor of the Collateral Agent, (2) a Subsidiary of the Company that is not already a Subsidiary Guarantor is required to become a Subsidiary Guarantor pursuant to Section 4.13 or (3) any Collateral Grantor creates any additional Lien upon any Oil and Gas Properties, Proved and Probable Drilling Locations or any other assets or properties to secure any Priority Lien Obligations or Convertible Note Obligations (or takes additional actions to perfect any existing Lien on Collateral), then such Collateral Grantor or such other Subsidiary shall, as soon as practicable after the acquisition of the applicable asset or property, the occurrence of the event requiring such Subsidiary to become a Subsidiary Guarantor or the creation of any such additional Lien or taking of any such additional perfection action (and, in any event, within 10 Business Days after such acquisition, event or creation), (i) grant to the Collateral Agent a second-priority perfect Lien in all assets and property of such Collateral Grantor or such other Subsidiary that are required to, but do not already, constitute Collateral, (ii) deliver any certificates to the Collateral Agent in respect thereof and (iii) take all other appropriate actions as necessary to ensure the Collateral Agent has a second-priority perfect Lien therein.

(f) In addition and not by way of limitation of the foregoing, in the case of the Company or any Subsidiary Guarantor granting a Lien in favor of the Collateral Agent upon any assets having a present value in excess of $10,000,000 located in a new jurisdiction, the Company or Subsidiary Guarantor will at its own expense, promptly obtain and furnish to the Collateral Agent all such opinions of legal counsel as the Collateral Agent may reasonably request in connection with any such security or instrument.

(g) Commencing on a date no later than 60 days after the Issue Date, the Company and its Restricted Subsidiaries shall keep and maintain each deposit account and each securities account with a financial institution reasonably acceptable to the Collateral Agent and subject to an Account Control Agreement, other than deposit accounts holding in the aggregate less than $3,000,000.

(h) The Company shall cause every Subsidiary Guarantor to make all filings (including filings of continuation statements and amendments to Uniform Commercial Code financing statements in the United States (or the applicable political subdivision, territory or possession thereof) that may be necessary to continue the effectiveness of such Uniform Commercial Code financing statements) and take all other actions as are reasonably necessary or required by the Collateral Agreements to maintain (at the sole cost and expense of the Subsidiary Guarantors) the security interest created by the Collateral Agreements in the Collateral as a second-priority perfected Lien.

(i) All references to a "second-priority perfected Lien" in this Section 11.01 shall be understood to be subject to the terms of the Intercreditor Agreement and the Permitted Collateral Liens, if any.

(j) The Company shall, and shall cause every other Collateral Grantor to, from time to time take the actions required by Section 4.18.

Section 11.02. Release of Liens Securing Notes.

The Collateral Grantors shall be entitled to releases of assets included in the Collateral from the Liens securing Note Obligations under any one or more of the following circumstances:

(a) upon the full and final payment in cash and performance of all Note Obligations of the Company and the Subsidiary Guarantors;

(b) with respect to any asset constituting Collateral, if such Collateral is sold or otherwise disposed of to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary in accordance with Section 4.10 (other than the provisions thereof relating to the future use of proceeds of such sale or other disposition)*; provided* that to the extent that any Collateral is sold or otherwise disposed of in accordance with Section 4.10, the non-cash consideration received is pledged as Collateral under the Collateral Agreements contemporaneously with such sale, in accordance with the requirements set forth in this Indenture and the Collateral Agreements*; provided*, *further*, that the Liens securing the Note Obligations will not be released if the sale or disposition is subject to Section 5.01;

(c) upon Legal Defeasance, Covenant Defeasance or satisfaction and discharge of the Notes in accordance with Article 8;

(d) if any Subsidiary Guarantor is released from its Subsidiary Guarantee in accordance with the terms of this Indenture, that Subsidiary Guarantor's assets and property included in the Collateral shall be released from the Liens securing the Note Obligations;

(e) with the requisite consent of Holders given in accordance with this Indenture;

(f) as provided in the Intercreditor Agreement or the other Collateral Agreements; or

(g) upon the conversion of the Notes into Common Stock in accordance with Article 12.

Section 11.03. Release Documentation.

Upon compliance with the conditions to release of all or any portion of the Collateral set forth in Section 11.02, the Collateral Agent and the Trustee shall forthwith take all necessary action (at the written request of and the expense of the Company, accompanied by an Officers' Certificate and Opinion of Counsel that the conditions precedent to such release have been satisfied) to release and re-convey to the applicable Collateral Grantor the applicable portion of the Collateral that is authorized to be released pursuant to Section 11.02, and shall deliver such Collateral in its possession to the applicable Collateral Grantor, including, without limitation, executing and delivering releases and satisfactions wherever required.

Section 11.04. No Impairment of the Security Interests.

The Company shall not, and shall not permit any other Collateral Grantor to take any action, or knowingly omit to take any action, which action or omission would have the result of materially impairing the validity, perfection or priority of the security interests in the Collateral created by the Collateral Agreements (except as permitted in this Indenture, the Intercreditor Agreement or the other Collateral Agreements, including any action that would result in a Permitted Collateral Lien).

Section 11.05. Collateral Agent.

(a) The Trustee and each of the Holders by acceptance of the Notes hereby authorize the appointment of the Collateral Agent as the Trustee's and the Holders' collateral agent under the Collateral Agreements, and the Trustee and each of the Holders by acceptance of the Notes hereby irrevocably authorize the Collateral Agent to take such action on their behalf under the provisions of the Collateral Agreements, including the Intercreditor Agreements, and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Indenture, the Intercreditor Agreements and the other Collateral Agreements, together with such powers as are reasonably incidental thereto.

(b) The Collateral Agent may resign and its successor appointed in accordance with the terms of the Intercreditor Agreement.

(c) The Trustee is authorized and directed by the Holders and the Holders by acquiring the Notes are deemed to have authorized the Trustee, as applicable, to (1) enter into the Intercreditor Agreement, (2) bind the Holders on the terms as set forth in the Intercreditor Agreement, (3) perform and observe its obligations and exercise its rights and powers under the Intercreditor Agreement, including entering into amendments permitted by the terms of this Indenture, the Intercreditor Agreement or the other Collateral Agreements and (4) cause the Collateral Agent to enter into and perform its obligations under the Collateral Agreements. The Collateral Agent is authorized and directed by the Trustee and the Holders and the Holders by acquiring the Notes are deemed to have authorized the Collateral Agent, to (i) enter into the other Collateral Agreements to which it is a party, (ii) bind the Trustee and the Holders on the terms as set forth in such Collateral Agreements and (iii) perform and observe its obligations and exercise its rights and powers under such Collateral Agreements, including entering into amendments permitted by the terms of this Indenture or the Collateral Agreements. Each Holder, by its acceptance of a Note, is deemed to have consented and agreed to the terms of the Intercreditor Agreement and each other Collateral Agreement, as originally in effect and as amended, restated, replaced, supplemented or modified from time to time in accordance with its terms or the terms of this Indenture. Each of the Trustee and the Holders by acquiring the Notes is hereby deemed to (A) agree that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreement and the Collateral Trust Agreement and (B) acknowledge that it has received copies of the Intercreditor Agreement and the Collateral Trust Agreement and that the exercise of certain of the Trustee's rights and remedies hereunder may be subject to, and restricted by, the provisions of the Intercreditor Agreement and the Collateral Trust Agreement. NOTWITHSTANDING ANY OTHER PROVISION CONTAINED IN THIS INDENTURE, IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THE PROVISIONS OF THIS INDENTURE AND THE INTERCREDITOR AGREEMENT OR THE COLLATERAL TRUST AGREEMENT, THE INTERCREDITOR AGREEMENT OR THE COLLATERAL TRUST AGREEMENT, AS APPLICABLE, SHALL CONTROL.

(d) The Collateral Agent shall have no obligation whatsoever to the Trustee or any of the Holders to assure that the Collateral exists or is owned by the Company or any of the Collateral Grantors or is cared for, protected or insured or has been encumbered, or that the Collateral Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, maintained or enforced or are entitled to any particular priority, or to determine whether all of the applicable Collateral Grantor's property constituting Collateral intended to be subject to the Lien and security interest of the Collateral Agreements has been properly and completely listed or delivered, as the case may be, or the genuineness, validity, marketability or sufficiency thereof or title thereto.

(e) The grant of permissive rights or powers to the Collateral Agent shall not be construed to impose duties to act. For the avoidance of doubt, nothing herein shall require the Collateral Agent to file financing statements or continuation statements, or be responsible for maintaining the security interests purported to be created by the Collateral Agreements and such responsibility shall be solely that of the Company.

Section 11.06. Purchaser Protected.

No purchaser or grantee of any property or rights purporting to be released from the Liens in favor of the Collateral Agent shall be bound to ascertain the authority of the Collateral Agent or Trustee to execute the release or to inquire as to the existence of any conditions herein prescribed for the exercise of such authority so long as the conditions set forth in Section 11.03 have been satisfied.

Section 11.07. Authorization of Receipt of Funds by the Trustee Under the Collateral Agreements.

The Trustee is authorized to receive any funds for the benefit of Holders distributed under the Collateral Agreements and to apply such funds as provided in Section 6.10.

Section 11.08. Powers Exercisable by Receiver or Trustee.

In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article 11 upon the Company or any other Collateral Grantor, as applicable, with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Company or any other Collateral Grantor, as applicable, or of any officer or officers thereof required by the provisions of this Article 11.

Section 11.09. Compensation and Indemnification.

The Collateral Agent shall be entitled to the compensation and indemnification set forth in Section 7.06 (with the references to the Trustee therein being deemed to refer to the Collateral Agent).

ARTICLE 12.
CONVERSION

Section 12.01. Conversion

(a) At any time following the receipt of the Required Stockholder Approval and the effectiveness of the Charter Amendment, Holders of the Notes shall have the right convert (the "*Optional Conversion*") their outstanding Notes, at any time and from time to time, on any Business Day, prior to the earliest of (1) if applicable, with respect to a Note called for redemption, the close of business on the Business Day immediately preceding the Redemption Date or (2) the close of business on the Business Day immediately preceding the Maturity Date, into Common Stock, at a conversion rate (the "*Conversion Rate*") of 81.2 shares per $1,000 principal amount of the Notes (plus cash in lieu of fractional shares of Common Stock in accordance with Section 12.03); *provided* that any Holder of Notes who would beneficially own (as determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder) in excess of 9.99% of the outstanding shares of Common Stock upon conversion of such Holder's Notes shall be required to provide 61 days' written notice to the Company prior to any such conversion. The Conversion Rate is subject to adjustment pursuant to Section 12.06.

(b) Following the receipt of the Required Stockholder Approval and the effectiveness of the Charter Amendment, the Company shall convert (the "*Mandatory Conversion*") any outstanding Notes into a number of shares of Common Stock per $1,000 principal amount of Notes equal to the Conversion Rate then in effect (plus cash in lieu of fractional shares) if the Daily VWAP of the Common Stock exceeds or is equal to the Threshold Price in effect on each applicable Trading Day for at least 15 consecutive Trading Days (the "*Mandatory Conversion Event*"). Upon the occurrence of the Mandatory Conversion Event, the Company shall deliver notice to the Holders of the Notes, the Trustee and the Conversion Agent (if other than the Trustee) (such notice, a "*Mandatory Conversion Notice*") not later than the open of business on the second business day following such Mandatory Conversion Event, which notice shall specify that the Mandatory Conversion shall occur not later than the third business day following the notice of the Mandatory Conversion Event.

(c) Interest shall cease to accrue on any Notes on the date of occurrence of the Optional Conversion or the Mandatory Conversion (such date, the "*Conversion Date*"). The accrued and unpaid interest on any Note being converted pursuant to an Optional Conversion or Mandatory Conversion shall be added to the principal amount of such Note being converted.

(d) If a Holder exercises its right to require the Company to repurchase its Notes pursuant to a Prepayment Offer or a Change of Control Offer in accordance with Section 4.10 or Section 4.15, respectively, such Holder may convert its Notes into Common Stock only if it withdraws its election to have its Notes repurchased in connection with such Prepayment Offer or Change of Control Offer.

(e) In the event that any Holder notified the Company (1) in the case of an Optional Conversion pursuant to Section 12.01(a), at any time beginning on the date of the provision of the Optional Conversion Notice and ending with the effectiveness of such Optional Conversion, and (2) in the case of a Mandatory Conversion pursuant to Section 12.01(b), at any time beginning with the date of the Mandatory Conversion Event and ending 30 calendar days following the effectiveness of such conversion, that such Holder will beneficially own (as determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder) in excess of 9.99% of the outstanding shares of Common Stock or otherwise be deemed to be an "affiliate" of the Company for purposes of the Securities Act and/or the Exchange upon such conversion, then the Company will promptly enter into a Registration Rights Agreement covering the shares of Common Stock received upon such conversion.

(f) At the request of any Holder, the Company will use its reasonable efforts to cooperate with such Holder to confirm with brokers that such Holder will not be an "affiliate" of the Company for purposes of the Securities Act and/or the Exchange Act upon any Optional Conversion pursuant to Section 12.01(a) or Mandatory Conversion pursuant to Section 12.01(b).

Section 12.02. Conversion Procedures

(a) To convert its Note pursuant to an Optional Conversion, a Holder of a Definitive Note must:

(1) complete and manually sign the Optional Conversion Notice or a facsimile of the Optional Conversion Notice with appropriate signature guarantee, and deliver the completed Conversion Notice (which shall be irrevocable) to the Conversion Agent;

(2) surrender the Note to the Conversion Agent;

(3) furnish appropriate endorsements and transfer documents if required by the Registrar or Conversion Agent; and

(4) pay all transfer or similar taxes if required pursuant to Section 12.04.

If a Holder holds a beneficial interest in a Global Note, to convert such Note, the Holder must comply with clause (4) above and the Depositary's procedures for converting a beneficial interest in a Global Note.

(b) In connection with an Optional Conversion or Mandatory Conversion, the Company shall deliver to the Holder of a Definitive Note, through the Conversion Agent, a number of shares of Common Stock per $1,000 of principal amount of Notes being converted equal to the Conversion Rate in effect on the applicable Conversion Date (plus cash in lieu of fractional shares of Common Stock in accordance with Section 12.03 and adjusted pro rata for amounts being converted in integral multiples of $1.00). The shares of Common Stock due upon conversion of a Global Note shall be delivered by the Company in accordance with the Depositary's customary practices.

(c) A Note shall be deemed to have been converted immediately prior to the close of business on the Conversion Date. The Person in whose name the shares of Common Stock shall be issued upon any conversion pursuant to this Article 12 shall become the holder of record of such shares as of the close of business on the applicable Conversion Date. Prior to such time, a Holder receiving shares of Common Stock upon conversion shall not be entitled to any rights relating to such shares of Common Stock, including, among other things, the right to vote, tender in a tender offer and receive dividends and notices of shareholder meetings. On and after the close of business on the applicable Conversion Date with respect to a conversion of a Note pursuant hereto, all rights of the Holder of such Note shall terminate, other than the right to receive the consideration deliverable or payable upon conversion of such Note as provided in this Article 12, and all Liens securing the Obligations under such Note shall be released and terminated. Settlement of any conversion provided in this Article 12 shall occur on the third Business Day immediately following the applicable Conversion Date.

Section 12.03. Cash in Lieu of Fractional Shares.

The Company will not issue a fractional share of Common Stock upon conversion of a Note. Instead, the Company shall pay cash in lieu of fractional shares based on the Daily VWAP of the Common Stock on the applicable Conversion Date (or, if such Conversion Date is not a Trading Day, the Daily VWAP of the Common Stock on the Trading Day immediately preceding such Conversion Date).

Section 12.04. Taxes on Conversion.

The Company shall pay any documentary, stamp or similar issue or transfer tax or duty due on the issue, if any, of Common Stock upon the conversion of a Note. However, such Holder shall pay any such tax or duty that is due because such shares are issued in a name other than such Holder's name. The Conversion Agent may refuse to deliver a certificate representing the Common Stock to be issued in a name other than such Holder's name until the Conversion Agent receives a sum sufficient to pay any tax or duty which will be due because such shares are to be issued in a name other than such Holder's name.

Section 12.05. Company to Reserve, Provide and List Common Stock.

(a) After giving effect to the Charter Amendment, the Company shall at all times reserve out of its authorized but unissued Common Stock or Common Stock held in its treasury a sufficient number of shares of Common Stock to permit the conversion, in accordance herewith, of all of the Notes (assuming, for such purposes, that at the time of computation of such number of shares, all such Notes would be held or converted by a single Holder, as applicable).

(b) All shares of Common Stock issued upon conversion of the Notes shall be validly issued, fully paid and non-assessable and shall be free of preemptive or similar rights and free of any lien or adverse claim that arises from the action or inaction of the Company.

(c) The Company shall comply with all securities laws regulating the offer and delivery of shares of Common Stock upon conversion of Notes and shall list such shares on each national securities exchange or automated quotation system on which the shares of Common Stock are listed on the applicable Conversion Date.

Section 12.06. Adjustment of Conversion Rate.

(a) If the Company issues shares of Common Stock as a dividend or distribution on all shares of the Common Stock, or if the Company effects a share split or share combination (including a "reverse split"), the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{OS'}{OS_0}$$

where,

CR' = the Conversion Rate in effect immediately after the close of business on the record date for such dividend or distribution, or immediately after the open of business on the effective date of such share split or share combination, as the case may be;

CR_0 = the Conversion Rate in effect immediately prior to the close of business on the record date for such dividend or distribution, or immediately prior to open of business on the effective date of such share split or share combination, as the case may be;

OS' = the number of shares of Common Stock outstanding immediately after such dividend or distribution, or such share split or share combination, as the case may be; and

OS_0 = the number of shares of Common Stock outstanding immediately prior to the close of business on the record date for such dividend or distribution, or immediately prior to the open of business on the effective date of such share split or share combination, as the case may be.

Any adjustment made under this Section 12.06(a) shall become effective immediately after the close of business on the record date for such dividend or distribution, or immediately after the open of business on the effective date for such share split or share combination, as the case may be. If any dividend or distribution of the type described in this Section 12.06 is declared but not so paid or made, then the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors of the Company determines not to pay such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(b) In addition to the foregoing adjustments in subsection (a) above, the Company may, from time to time and to the extent permitted by law, increase the Conversion Rate by any amount for a period of at least 20 Business Days or any longer period as may be permitted or required by law, if the Board of Directors of the Company has made a determination, which determination shall be conclusive, that such increase would be in the best interests of the Company. Such Conversion Rate increase shall be irrevocable during such period. The Company shall give notice to the Trustee and cause notice of such increase to be mailed to each Holder of Notes at such Holder's address as the same appears in the Register at least 15 days prior to the date on which such increase commences.

(c) All calculations under this Article 12 shall be made to the nearest cent or to the nearest 1/10,000th of a share, as the case may be. Adjustments to the Conversion Rate will be calculated to the nearest 1/10,000th.

Section 12.07. No Adjustments.

The Conversion Rate shall not be adjusted for any transaction or event other than as specified in this Article 12.

Section 12.08. Notice of Adjustments.

Whenever the Conversion Rate is adjusted, the Company shall promptly mail to Holders at the addresses appearing on the Registrar's books a notice of the adjustment and file with the Trustee and the Conversion Agent an Officers' Certificate briefly stating the facts requiring the adjustment and the manner of computing it. The certificate shall be conclusive evidence of the correctness of such adjustment.

Section 12.09. Notice of Certain Transactions.

In the event that:

(a) the Company takes any action that would require an adjustment in the Conversion Rate;

(b) the Company takes any action that would require a supplemental indenture pursuant to Section 12.10; or

(c) there is a dissolution or liquidation of the Company;

the Company shall promptly mail to Holders at the addresses appearing on the Registrar's books and the Trustee a written notice stating the proposed record date and effective date of the transaction referred to in clause (a), (b) or (c) of this Section 12.09.

Section 12.10. Effect of Reclassifications, Consolidations, Mergers, Binding Share Exchanges or Sales on Conversion Privilege.

(a) In the event of:

(1) any reclassification of the Common Stock (other than a change as a result of a subdivision or combination of Common Stock as to which Section 12.06(a) applies);

(2) a consolidation, merger, binding share exchange or combination involving the Company; or

(3) a sale or conveyance to another person or entity of all or substantially all of the Company's property or assets,

in which holders of Common Stock would be entitled to receive stock, other securities, other property, assets or cash for their Common Stock (any such event, a "*Merger Event*"), the principal amount of the Notes will, from and after the effective time of such Merger Event, in lieu of being convertible into Common Stock, be convertible into the same kind, type and proportions of consideration that a holder of a number of shares of Common Stock equal to the Conversion Rate in effect (adjusted pro rata for amounts in integral multiples of $1.00) immediately prior to such Merger Event would have received in such Merger Event ("*Reference Property*") and, prior to or at the effective time of such Merger Event, the Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture providing for such change in the right to convert the Notes.

(b) If the Merger Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), then:

(1) the Reference Property into which the Notes will be convertible shall be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make such an election; and

(2) the unit of Reference Property for purposes of the immediately preceding paragraph shall refer to the consideration referred to in clause (1) attributable to one share of Common Stock.

(c) The Company shall notify Holders, the Trustee and the Conversion Agent (if other than the Trustee) of such weighted average as soon as practicable after such determination is made.

(d) The supplemental indenture referred above shall, in the good faith judgment of the Company as evidenced by an Officers' Certificate, (i) provide for adjustments to the Conversion Rate that shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Rate provided for in this Article 12 and for the delivery of cash by the Company in lieu of fractional securities or property that would otherwise be deliverable to applicable Holders upon conversion as part of the Reference Property, with such amount of cash determined by the Company in a manner as nearly equivalent as may be practicable to that used by the Company to determine the Daily VWAP of the Common Stock and (ii) provide that after the Merger Event, the Mandatory Conversion Event (and related calculations) shall be determined with reference to the trading value of the Reference Property as determined in good faith by the Company in a manner as nearly equivalent as may be practicable to that used by the Company to determine the Daily VWAP of the Common Stock. If the Reference Property includes shares of stock, other securities or other property or assets (including any combination thereof) of a company other than the Company or the successor or purchasing entity, as the case may be, in such Merger Event, then such other company shall also execute such supplemental indenture, and such supplemental indenture shall contain such additional provisions to protect the interests of the Holders, including the right of Holders to require the Company to repurchase their Notes upon a Change of Control in accordance with Section 4.15. The provisions of this Section 12.10 shall similarly apply to successive consolidations, mergers, binding share exchanges, sales, transfers, leases, conveyances or dispositions.

(e) The Company shall not become a party to any Merger Event unless its terms are consistent with this Section 12.10.

(f) None of the foregoing provisions shall affect the right of a Holder to convert its Notes into shares of Common Stock (and cash in lieu of any fractional share) as set forth in Section 12.01 and Section 12.02 prior to the effective date of such Merger Event.

(g) In the event the Company shall execute a supplemental indenture pursuant to this Section 12.10, the Company shall promptly file with the Trustee an Officers' Certificate briefly stating the reasons therefor, the kind or amount of Reference Property receivable by Holders of the Notes upon the conversion of their Notes after any such Merger Event and any adjustment to be made with respect thereto.

Section 12.11. Trustee's Disclaimer.

(a) Neither the Trustee nor the Conversion Agent shall have any duty to determine when an adjustment under this Article 12 should be made, how it should be made or what such adjustment should be, but the Trustee and the Conversion Agent may accept as conclusive

evidence of the correctness of any such adjustment, and shall be protected in relying upon, the Officers' Certificate with respect thereto which the Company is obligated to file with the Trustee and the Conversion Agent pursuant to Section 12.08 hereof and the Company agrees to deliver such Officers' Certificate to the Trustee and the Conversion Agent promptly after the occurrence of any such adjustment. Neither the Trustee nor the Conversion Agent shall be accountable with respect to, and makes no representation as to, the validity or value of any securities or assets issued upon conversion of Notes, and neither the Trustee nor the Conversion Agent shall be responsible for the failure by the Company to comply with any provisions of this Article 12.

(b) Neither the Trustee nor the Conversion Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture executed pursuant to Section 12.10, but may accept as conclusive evidence of the correctness thereof, and shall be protected in relying upon, the Officers' Certificate with respect thereto which the Company is obligated to file with the Trustee and the Conversion Agent pursuant to Section 12.10 hereof.

(c) The Trustee and the Conversion Agent shall not at any time be under any duty or responsibility to any Holder of Notes to either calculate the Conversion Price or determine whether any facts exist which may require any adjustment of the Conversion Price, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed herein, or in any supplemental indenture provided to be employed, in making the same and shall be protected in relying upon an Officers' Certificate with respect to the same. Neither the Trustee nor the Conversion Agent shall be responsible for any failure of the Company to make any cash payment or to issue, transfer or deliver any shares of Common Stock or stock or share certificates or other securities or property upon the surrender of any Note for the purpose of conversion; and the Trustee and the Conversion Agent shall not be responsible or liable for any failure of the Company to comply with any of the covenants of the Company contained in this Article. Neither the Trustee nor the Conversion Agent shall be responsible for determining whether any event contemplated by Section 12.01 has occurred that makes the Notes eligible for conversion until the Company has delivered to the Trustee and the Conversion Agent an Officers' Certificate stating that such event has occurred, on which certificate the Trustee and any the Conversion Agent may conclusively rely, and the Company agrees to deliver such Officers' Certificate to the Trustee and the Conversion Agent promptly after the occurrence of any such event.

ARTICLE 13.
SATISFACTION AND DISCHARGE

Section 13.01. Satisfaction and Discharge of Indenture.

(a) The Indenture shall upon Company Request cease to be of further effect (except as to surviving rights of registration of transfer or exchange of Notes, as expressly provided for in the Indenture) as to all Outstanding Notes, and the Trustee, at the expense of the Company, shall, upon payment of all amounts due the Trustee under Section 7.06 hereof, execute proper instruments acknowledging satisfaction and discharge of this Indenture when

(1) either

(I) all Notes theretofore authenticated and delivered (other than (i) Notes which have been replaced as provided in Section 2.07 hereof and (ii) Notes for whose payment money or United States governmental obligations of the type described in clause (1) of the definition of Cash Equivalents have theretofore been deposited in trust with the Trustee or any Paying Agent or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 4.03 hereof) have been delivered to the Trustee for cancellation, or

(II) all such Notes not theretofore delivered to the Trustee for cancellation

(A) have become due and payable, or

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

(C) 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 clause (II)(A), (II)(B) or (II)(C) above, has irrevocably deposited or caused to be deposited with the Trustee funds in an amount sufficient to pay and discharge the entire indebtedness on such Notes 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 Notes which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be, together with instructions from the Company irrevocably directing the Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be;

(2) the Company has paid or caused to be paid all other sums then due and payable hereunder by the Company; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, which, taken together, state that all conditions precedent herein relating to the satisfaction and discharge of this Indenture with respect to the Notes have been complied with.

(b) Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 7.06 hereof and, if money shall have been deposited with the Trustee pursuant to this Section 13.01, the obligations of the Trustee under Section 13.02 hereof and the last paragraph of Section 4.03 hereof shall survive.

Section 13.02. Application of Trust Money.

Subject to the provisions of the last paragraph of Section 4.03 hereof, all money deposited with the Trustee pursuant to Section 13.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes 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 premium, if any) and interest for whose payment such money has been deposited with the Trustee.

ARTICLE 14.
MISCELLANEOUS

Section 14.01. Compliance Certificates and Opinions.

(a) Upon any application or request by the Company or any Subsidiary Guarantor to the Trustee to take any action under any provision of this Indenture, the Company or such Subsidiary Guarantor, as the case may be, shall furnish to the Trustee such certificates and opinions as may be required under the Trust Indenture Act or this Indenture. Each such certificate and each such legal opinion shall be in the form of an Officers' Certificate or an Opinion of Counsel, as applicable, and shall comply with the requirements of this Indenture.

(b) Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(1) a statement that each Person 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 Person, such Person 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 Person, such condition or covenant has been complied with.

(c) The certificates and opinions provided pursuant to this Section 14.01 and the statements required by this Section 14.01 shall be satisfactory to the Trustee and comply in all respects with TIA Sections 314(c) and (e).

Section 14.02. Form of Documents Delivered to Trustee.

(a) 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.

(b) Any certificate or opinion of an officer 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 Opinion of Counsel may be based, insofar as it relates to factual matters, upon an officers' certificate, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate with respect to such matters is erroneous.

(c) 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 14.03. Acts of Holders.

(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 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 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 Notes held by any Person, and the date of holding the same, shall be proved by the Note Register.

(d) If the Company shall solicit from the Holders of Notes 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 Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the Outstanding Notes 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 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 Notes shall bind every future Holder of the Notes and the Holder of Notes 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 Notes.

Section 14.04. Notices, etc. to Trustee, Company and Subsidiary 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,

(a) the Trustee by any Holder, the Company or any Subsidiary Guarantor 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

(b) the Company or any Subsidiary 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 Subsidiary Guarantor, as applicable, addressed to it at the Company's offices located at 5300 Town and Country Blvd., 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 14.05. Notice to Holders; Waiver.

(a) Where this 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 Note 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.

(b) 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 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.

(c) The Trustee may rely upon and comply with instructions or directions sent via unsecured facsimile or email transmission and the Trustee shall not be liable for any loss, liability or expense of any kind incurred by the Company or the Holders due to the Trustee's reliance upon and compliance with instructions or directions given by unsecured facsimile or email transmission; *provided* that such losses have not arisen from the negligence or willful misconduct of the Trustee, it being understood that the failure of the Trustee to verify or confirm that the person providing the instructions or directions, is, in fact, an authorized person does not constitute negligence or willful misconduct.

Section 14.06. 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 14.07. Successors and Assigns.

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

Section 14.08. Severability.

In case any provision in this Indenture or in the Notes or the Subsidiary 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 14.09. Benefits of Supplemental Indenture.

Nothing in this Indenture or in the Notes, 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 12.4 hereof, creditors of Subsidiary Guarantors) any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 14.10. Governing Law; Trust Indenture Act Controls.

(a) THIS INDENTURE, THE SUBSIDIARY GUARANTEES, THE NOTES, THE INTERCREDITOR AGREEMENT AND THE COLLATERAL TRUST AGREEMENT 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 SUBSIDIARY 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 INDENTURE, THE NOTES OR THE SUBSIDIARY GUARANTEES, AND THE COMPANY AND EACH SUBSIDIARY GUARANTOR IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED BY ANY SUCH COURT.

(b) This Indenture is subject to the provisions of the Trust Indenture Act that are required to be part of this Indenture and shall, to the extent applicable, be governed by such provisions. If and to the extent that any provision of this 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 this Indenture by operation of such Trust Indenture Act section, such imposed duties or incorporated provision shall control.

Section 14.11. Legal Holidays.

In any case where any Interest Payment Date, Redemption Date, or Stated Maturity or Maturity of the Notes shall not be a Business Day, then (notwithstanding any other provision of this Indenture or of the Notes or the Subsidiary Guarantee) payment of interest or principal (and premium, if any) need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the Interest Payment Date, Redemption Date or at the Stated Maturity or Maturity; *provided* that no interest shall accrue for the period from and after such Interest Payment Date, Redemption Date, Stated Maturity or Maturity, as the case may be.

Section 14.12. No Personal Liability of Directors, Officers, Employees and Stockholders.

No director, officer, employee, incorporator, stockholder, member, partner or trustee of the Company or any Subsidiary Guarantor, as such, shall have any liability for any obligations of the Company or any Subsidiary Guarantor under the notes, the Indenture or the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 14.13. Holder Communications.

Holders may communicate pursuant to Section 312(b) of the TIA with other Holders with respect to their rights under this Indenture or the Notes. Every Holder of Notes, by receiving and holding the same, agrees with the Company, the Subsidiary Guarantors, the Registrar and the Trustee that none of the Company, the Subsidiary Guarantors, the Registrar or the Trustee, or any agent of any of them, shall be held accountable by reason of the disclosure of any information as to the names and addresses of the Holders in accordance with TIA Section 312, regardless of the source from which such information was derived, that each of such Persons shall have the protection of TIA Section 312(c) and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under TIA Section 312(b).

Section 14.14. Duplicate Originals.

The parties may sign any number of copies or counterparts of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

Section 14.15. No Adverse Interpretation of Other Agreements.

This 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 Indenture.

Section 14.16. Force Majeure.

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 14.17. Waiver of Jury Trial.

EACH OF THE COMPANY, THE SUBSIDIARY GUARANTORS AND THE TRUSTEE AND HOLDERS OF NOTES BY ACCEPTING A BENEFICIAL INTEREST IN THE NOTES HEREBY IRREVOCABLE WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[Signatures on following pages]

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed and delivered as of the date first set forth above.

COMPANY:

COMSTOCK RESOURCES INC.

By: _____
Name:
Title:

GUARANTORS:

COMSTOCK OIL & GAS, LP

By: _____
Name:
Title:

COMSTOCK OIL & GAS - LOUISIANA, LLC

By: _____
Name:
Title:

COMSTOCK OIL & GAS GP, LLC

By: _____
Name:
Title:

COMSTOCK OIL & GAS INVESTMENTS LLC

By: _____
Name:
Title:

COMSTOCK OIL & GAS HOLDINGS, INC.

By: _____
Name:
Title:

Signature Page to 2020 Convertible Notes Indenture

TRUSTEE:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS TRUSTEE

By: _____
Name:
Title:

EXHIBIT A

[FORM OF FACE OF NOTE]

(Face of Note)

[THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (*"DTC"*), TO THE COMPANY OR ITS AGENTS FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.][1]

1 For Global Notes only.

No. [ ] Principal Amount $[ ]

CUSIP NO. [ ]

ISIN NO. [ ]

Comstock Resources, Inc.

9 ½% Convertible Secured PIK Notes due 2020

Comstock Resources, Inc., a Nevada corporation, promises to pay to _____, or registered assigns, the principal sum of ____ Dollars on June 15, 2020 [or such greater or lesser amount as may be indicated on Schedule A hereto][2].

Interest Payment Dates: June 15 and December 15, commencing December 15, 2016

Record Dates: June 1 and December 1

Additional provisions of this Note are set forth on the other side of this Note.

IN WITNESS WHEREOF, Comstock Resources, Inc. has caused this instrument to be duly executed.

COMSTOCK RESOURCES, INC.

By: _____
Name:
Title:

2 If this Note is a Global Note, add this provision.

TRUSTEE'S CERTIFICATE OF
AUTHENTICATION

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,
as Trustee, certifies that this is one of the
Notes referred to in the Indenture.

By: _____
Authorized Signatory

Dated: _____, 20__

[FORM OF REVERSE SIDE OF NOTE]

9 ½% Convertible Secured PIK Notes due 2020

Capitalized terms used herein but not defined shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest. Comstock Resources, Inc., a Nevada corporation (such corporation, and its successors and assigns under the Indenture hereinafter referred to, begin herein called the "*Company*"), promises to pay interest on the unpaid principal amount of this Note at the rate of 9 ½% per annum. The Company will pay interest in kind semi-annually in arrears on June 15 and December 15 of each year (each an "*Interest Payment Date*"), commencing December 15, 2016. If any date for payment on the Notes falls on a day that is not a Business Day, such payment may be made on the next succeeding Business Day with the same force and effect as if made on the due date, and no additional interest will accrue solely as a result of such delayed payment. Interest on the Notes will accrue from the most recent date to which interest has been paid in kind by issuing Additional Notes, if no interest has been paid in kind, from the date of original issuance thereof. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The Company shall pay interest on overdue principal at the rate borne by the Notes plus 1% per annum, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

Interest on the Notes will be payable by issuing additional securities (the "*Additional Notes*") in an amount equal to the applicable amount of interest for the interest period (rounded down to the nearest whole dollar). Not later than 10 business days prior to the relevant Interest Payment Date, the Company shall deliver to the Trustee and the Paying Agent (if other than the Trustee), (i) with respect to Notes represented by Definitive Notes, the required amount of Additional Notes represented by Definitive Notes (rounded down to the nearest whole dollar) and a company order to authenticate and deliver such Additional Notes or (ii) with respect to Notes represented by one or more Global Notes, a company order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the depositary or otherwise, the required amount of Additional Noted represented by Global Notes (rounded down to the nearest whole dollar) and a company order to authenticate and deliver such new Global Notes). All Additional Notes issued pursuant to an interest payment as described above will mature on June 15, 2020 and will be governed by, and subject to the terms, provisions and conditions of, the Indenture. The Additional Notes shall have the same rights and benefits as the Notes issued on the Issue Date, and shall be treated together with the Notes as a single class for all purposes under the Indenture.

Any Additional Notes shall, after being executed and authenticated pursuant to the Indenture, be (i) if such Additional Notes are Definitive Notes, mailed to the Person entitled thereto as shown on the register maintained by the Note Registrar for the Definitive Notes as of the relevant record date or (ii) if such Additional Notes are Global Notes, deposited into the account specified by the Holder or Holders thereof as of the relevant record date. Alternatively, in connection with any payment of interest, the Company may direct the Paying Agent to make appropriate amendments to the schedule of principal amounts of the relevant Global Notes outstanding for which Additional Notes will be issued and arrange for deposit into the account specified by the Holder or Holders thereof as of the relevant record date.

Notwithstanding anything to the contrary herein or in the Indenture, and for the avoidance of doubt, accrued and unpaid interest that is due and payable at the Maturity of this Note, with respect to an optional redemption, or with respect to any requirement of the Company to purchase this Note on the Change of Control Purchase Date or the Purchase Date pursuant to a Change of Control Offer or Prepayment Offer, shall be payable solely in cash (such interest payment, "*Cash Interest*").

2. Method of Payment. The Company will pay interest on the Notes (except defaulted interest) by issuing Additional Notes to the Persons who are registered holders of Notes at the close of business on the June 1 or December 1 next preceding the Interest Payment Date even if Notes are canceled after the record date and on or before the Interest Payment Date. Holders must surrender Notes to a Paying Agent to collect principal payments. The Company will pay principal and Cash Interest in money of the United States of America that at the time of payment is legal tender for payment of public and private debts. Payments in respect of the Notes represented by a Global Note (including principal, premium and Cash Interest) will be made by wire transfer of immediately available funds to the accounts specified by The Depository Trust Company. The Company will make all payments in respect of a Definitive Note (including principal, premium, if any, and Cash Interest), by mailing a check to the registered address of each Holder thereof; *provided* that payments on the Notes may also be made, in the case of a Holder of at least $500,000 aggregate principal amount of Notes, by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

3. Paying Agent and Registrar. Initially, American Stock Transfer & Trust Company, LLC (the "*Trustee*") will act as Paying Agent and Registrar. The Company may appoint and change any Paying Agent, Registrar or co-registrar without notice. The Company may act as Paying Agent, Registrar or co-registrar.

4. Indenture. The Company issued the Notes under an Indenture dated as of , 2016 ("*Indenture*") among the Company, the Subsidiary Guarantors and the Trustee. The Notes are subject to the terms of the Indenture, and Holders are referred to the Indenture for a statement of such terms. The Notes are secured obligations of the Company subject to the Priority Liens securing the Priority Lien Obligations and the Permitted Collateral Liens. In the event of a conflict between the Indenture and this Note, the terms of the Indenture shall control. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S.C. Sections 77aaa-77bbbb) as in effect on the date of the Indenture (the "*TIA*"). Terms defined in the Indenture and not defined herein have the meanings ascribed thereto in the Indenture. The Notes are subject to all such terms, and the Holders are referred to the Indenture and the TIA for a statement of those terms.

The Indenture imposes certain limitations on the ability of the Company and its Restricted Subsidiaries to, among other things, make certain Investments and other Restricted Payments, pay dividends and other distributions, incur Indebtedness, enter into consensual restrictions upon the payment of certain dividends and distributions by such Restricted Subsidiaries, issue or sell shares of certain capital stock of such Restricted Subsidiaries, enter into or permit certain transactions with Affiliates, create or incur Liens and make Asset Sales. The Indenture also imposes limitations on the ability of the Company or any Subsidiary Guarantor to consolidate or merge with or into any other Person or convey, transfer or lease all or substantially all of the Property of the Company or any Subsidiary Guarantor.

To guarantee the due and punctual payment of the principal and interest on the Notes and all other amounts payable by the Company under the Indenture and the Notes when and as the same shall be due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Notes and the Indenture, the Subsidiary Guarantors will unconditionally guarantee the Obligations on a joint and several basis pursuant to the terms of the Indenture.

5. Optional Redemption.

The Notes are subject to redemption, at the option of the Company, in whole or in part, at any time at the following Redemption Prices (expressed as percentages of principal amount) set forth below if redeemed during the 12-month period beginning June 15 of the years indicated below (or the Issue Date for Notes redeemed prior to June 15, 2017):

Year	Redemption Price
2016	**104.750%**
2017	**102.375%**
2018 and thereafter	**100.000%**

together in the case of any such redemption with accrued and unpaid interest, if any, to the Redemption Date (subject to the right of Holders of record on the relevant record date to receive interest due on an Interest Payment Date that is on or prior to the Redemption Date), all as provided in the Indenture. For the avoidance of doubt, any offer to redeem the Notes shall be made only in cash.

6. Sinking Fund. The Notes are not subject to any sinking fund.

7. Notice of Redemption. Notice of redemption will be sent at least 30 days but not more than 60 days before the redemption date to each Holder of Notes to be redeemed at his or her registered address. If money sufficient to pay the redemption price of and accrued interest on all Notes (or portions thereof) to be redeemed on the redemption date is deposited with the Paying Agent on or before the redemption date and certain other conditions are satisfied, on and after such date interest ceases to accrue on such Notes (or such portions thereof) called for redemption.

8. Repurchase of Notes at the Option of Holders upon Change of Control. Upon the occurrence of a Change of Control, any Holder of Notes will have the right, subject to certain conditions specified in the Indenture, to cause the Company to repurchase all or any part of the

Notes of such Holder at a purchase price equal to 101% of the principal amount of the Notes to be repurchased plus accrued and unpaid interest, if any, to the date of purchase as provided in, and subject to the terms of, the Indenture.

9. Conversion. At any time following the receipt of the Required Stockholder Approval and the effectiveness of the Charter Amendment, the Notes shall be convertible into shares of Common Stock in accordance with Article 12 of the Indenture. To convert a Note at its option, a Holder must satisfy the requirements of Section 12.02(a) of the Indenture, including the requirement to deliver an Optional Conversion Notice in the case of an Optional Conversion Notice in the form attached to this Note. Upon conversion of a Note pursuant to an Optional Conversion or Mandatory Conversion, the Holder thereof shall be entitled to receive the shares of Common Stock payable upon conversion in accordance with Article 12 of the Indenture, at the Conversion Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture.

10. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in denominations of integral multiples of $1.00. A Holder may transfer or exchange Notes in accordance with the Indenture. Upon any transfer or exchange, the Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements or transfer documents and to pay any taxes required by law or permitted by the Indenture.

11. Persons Deemed Owners. The registered Holder of this Note may be treated as the owner of it for all purposes.

12. Unclaimed Money. If money for the payment of principal or interest remains unclaimed for two years, the Trustee or Paying Agent shall pay the money back to the Company at its written request unless an abandoned property law designates another Person. After any such payment, Holders entitled to the money must look only to the Company and not to the Trustee for payment.

13. Discharge and Defeasance. Subject to certain conditions, the Company at any time may terminate some of or all its obligations under the Notes and the Indenture if the Company deposits with the Trustee money or U.S. Government Obligations for the payment of principal and interest on the Notes to redemption or maturity, as the case may be

14. Amendment, Supplement and Waiver. The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the Subsidiary Guarantors and the rights of the Holders under the Indenture at any time by the Company, the Subsidiary Guarantors and the Trustee with the consent of the Holders of a majority in aggregate principal amount of the Notes at the time Outstanding. The Indenture also contains provisions permitting the Holders of specified percentages in aggregate principal amount of the Notes at the time Outstanding, on behalf of the Holders of all the Notes, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by or on behalf of the Holder of this Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note 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 Note. Without the consent of any Holder, the Company, the Subsidiary Guarantors and the Trustee may amend or supplement the Indenture or the Notes to cure any ambiguity, defect or inconsistency, to qualify or maintain the qualification of the Indenture under the TIA, to add or release any Subsidiary Guarantor or Collateral pursuant to the Indenture and the Collateral Agreements and to make certain other specified changes and other changes that do not adversely affect the interests of any Holder.

15. Defaults and Remedies. As set forth in the Indenture, an Event of Default is generally (i) failure to pay principal upon maturity, redemption or otherwise (including pursuant to a Change of Control Offer or a Prepayment Offer); (ii) default for 30 days in payment of interest on any of the Notes; (iii) default in the performance of agreements relating to mergers, consolidations and sales of all or substantially all assets or the failure to make or consummate a Change of Control Offer or a Prepayment Offer; (iv) failure for 90 days after notice to comply with Section 9.9 of the Indenture; (v) failure for 60 days after notice to comply with any other covenants in the Indenture, any Subsidiary Guarantee or the Notes; (vi) certain payment defaults under, and the acceleration prior to the maturity of, certain Indebtedness of the Company or any Restricted Subsidiary in an aggregate principal amount in excess of $50,000,000; (vi) the failure of any Subsidiary Guarantee to be in full force and effect (except as permitted by the Indenture); (vii) certain final judgments or orders against the Company or any Restricted Subsidiary in an aggregate amount of more than $50,000,000 (net of any amounts covered by insurance with a reputable and creditworthy insurance company that has not disclaimed liability) which remain unsatisfied and either become subject to commencement of enforcement proceedings or remain unstayed for a period of 60 days; (viii) the liens securing the Obligations under the Notes cease to be enforceable and perfected second-priority liens with respect to collateral, individually or in the aggregate, having a fair market value in excess of $10,000,000; (ix) any Collateral Agreement ceases to be enforceable, the result of which any liens securing the Obligations under the Notes cease to be enforceable and perfected second-priority liens with respect to collateral, individually or in the aggregate, having a fair market value in excess of $10,000,000; (x) certain events of bankruptcy, insolvency or reorganization of the Company or any Restricted Subsidiary and (xi) the Required Stockholder Approval is not obtained and the Charter Amendment has not become effective, in each case by December 31, 2016, and such failure shall continue for a period of 90 days. If any Event of Default occurs and is continuing, the Trustee or the holders of at least 25% in aggregate principal amount of the Outstanding Notes may declare the principal amount of all the Notes to be due and payable immediately, except that (i) in the case of an Event of Default arising from certain events of bankruptcy, insolvency or reorganization of the Company or any Restricted Subsidiary, the principal amount of the Notes will become due and payable immediately without further action or notice, and (ii) in the case of an Event of Default which relates to certain payment defaults or the acceleration with respect to certain Indebtedness, any such Event of Default and any consequential acceleration of the Notes will be automatically rescinded if any such Indebtedness is repaid or if the default relating to such Indebtedness is cured or waived, and if the holders thereof have accelerated such Indebtedness, such holders have rescinded their declaration of acceleration. No Holder may pursue any remedy under the Indenture unless the Trustee shall have failed to act after notice from such Holder of an Event of Default and written request by Holders of at least 25% in aggregate principal amount of the Outstanding Notes to institute proceedings in respect of such Event of Default, and the offer to the Trustee of indemnity reasonably satisfactory to it; however, such provision does not affect the right to sue for enforcement of any overdue payment on a Note by the Holder thereof.

Subject to certain limitations, Holders of a majority in aggregate principal amount of the Outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders notice of any continuing default (except default in payment of principal, premium or interest) if it determines in good faith that withholding the notice is in the interest of the Holders. The Company is required to file annual reports with the Trustee as to the absence or existence of defaults.

16. Trustee Dealings with the Company. Subject to certain limitations imposed by the TIA, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee.

17. No Personal Liability of Directors, Officers, Employees and Stockholders. No director, officer, employee, incorporator, stockholder, member, partner or trustee of the Company or any Subsidiary Guarantor, as such, shall have any liability for any obligations of the Company or any Subsidiary Guarantor under the notes, the Indenture or the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

18. Collateral Agreements. The obligations of the Company and the Subsidiary Guarantors under the Indenture, the Notes and the Subsidiary Guarantees will be secured by a second-priority perfected Lien granted to the Collateral Agent in the Collateral, subject to the terms of the Intercreditor Agreement. The Holders of the Notes will also be subject to the terms of the Collateral Trust Agreement.

19. Authentication. This Note shall not be valid until an authorized signatory of the Trustee (or an authenticating agent) manually signs the certificate of authentication on the other side of this Note.

20. Abbreviations. Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

21. Governing Law. THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED 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.

22. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers and corresponding ISIN numbers to be printed on the Notes and the Trustee may use CUSIP numbers and corresponding ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

THE COMPANY WILL FURNISH TO ANY HOLDER OF NOTES UPON WRITTEN REQUEST AND WITHOUT CHARGE TO THE HOLDER A COPY OF THE INDENTURE WHICH HAS IN IT THE TEXT OF THIS NOTE.

[FORM OF NOTICE OF CONVERSION]

To: Comstock Resources, Inc.

The undersigned registered owner of this Note hereby exercises the option to convert this Note (which together with other Notes of the Holder being converted is $1,000 in aggregate principal amount or an integral multiple thereof) below designated, into shares of Common Stock, in accordance with the terms of the Indenture referred to in the Note, and directs that any shares of Common Stock issuable and deliverable upon such conversion, together with any cash for any fractional share, and any Notes representing any unconverted principal amount thereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If any shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all documentary, stamp or similar issue or transfer taxes, if any in accordance with Section 12.04 of the Indenture. Any amount required to be paid to the undersigned on account of interest accompanies the Note.

In the case of Definitive Notes, the certificate numbers of the Notes to be converted are as set forth below:

Date: _____

_____

Signature(s)

Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Common Stock are to be issued, or Notes are to be delivered, other than to and in the name of the registered holder.

Fill in for registration of shares if to be issued, and Notes if to be delivered, other than to and in the name of the registered holder:

(Name)

(Street Address)

(City, State and Zip Code)
Please print name and address

Principal amount to be converted:
$,000

NOTICE: The above signature(s) of the Holder (s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

Social Security or Other Taxpayer
Identification Number

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to

_____

(Print or type assignee's name, address and zip code)

_____

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint _____ agent to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: _____

Your Signature: _____
Sign exactly as your name appears on the other side of this Note.

Signature Guarantee:

_____

(signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture, check the box below:

☐ Section 4.10 ☐ Section 4.15

If you want to elect to have only part of this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture, state the amount in integral multiples of $1.00 that you elect to have purchased: $____

Date: Your Signature _____

(Sign exactly as your name appears on the other side of this Note)

Soc. Sec. or Tax Identification No.: _____

Signature Guarantee: _____

_____

(signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

SCHEDULE A

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

Date	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized officer of Trustee or Notes Custodian

EXHIBIT B

COMSTOCK RESOURCES, INC.

and

the Subsidiary Guarantors named herein

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9 ½% Convertible Secured PIK Notes due 2020

FORM OF SUPPLEMENTAL INDENTURE

DATED AS OF _____, ____

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,

as Trustee

This SUPPLEMENTAL INDENTURE, dated as of _____, ____ (this "*Supplemental Indenture*") is among Comstock Resources, Inc., (the "*Company*"), [_____] (the "*Guaranteeing Subsidiary*"), which is a subsidiary of the Company, each of the existing Subsidiary Guarantors (as defined in the Indenture referred to below) and American Stock Transfer & Trust Company, LLC, as Trustee.

RECITALS

WHEREAS, the Company, the Subsidiary Guarantors and the Trustee entered into an Indenture, dated as of , 2016 (as heretofore amended, supplemented or otherwise modified, the "*Indenture*"), providing for the issuance of the Company's 9 ½% Convertible Secured PIK Notes due 2020 (the "*Notes*") and the Additional Notes;

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall become a Subsidiary Guarantor (as defined in the Indenture);

WHEREAS, Section 9.01(a)(9) of the Indenture provides that the Company, the Subsidiary Guarantors and the Trustee may amend or supplement the Indenture in order to add any additional Subsidiary Guarantor with respect to the Notes, without the consent of the Holders of the Notes; and

WHEREAS, all acts and things prescribed by the Indenture, by law and by the Certificate of Incorporation and the Bylaws (or comparable constituent documents) of the Company, of the Subsidiary Guarantors and of the Trustee necessary to make this Supplemental Indenture a valid instrument legally binding on the Company, the Subsidiary Guarantors and the Trustee, in accordance with its terms, have been duly done and performed;

NOW, THEREFORE, to comply with the provisions of the Indenture and in consideration of the above premises, the Company, the Guaranteeing Subsidiary, the other Subsidiary Guarantors and the Trustee covenant and agree for the equal and proportionate benefit of the respective Holders of the Notes as follows:

Section 1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings ascribed to them in the Indenture.

Section 2. Relation to Indenture. This Supplemental Indenture is supplemental to the Indenture and does and shall be deemed to form a part of, and shall be construed in connection with and as part of, the Indenture for any and all purposes.

Section 3. Effectiveness of Supplemental Indenture. This Supplemental Indenture shall become effective immediately upon its execution and delivery by each of the Company, the Guaranteeing Subsidiary, the other Subsidiary Guarantors and the Trustee.

Section 4. Agreement to Guarantee. The Guaranteeing Subsidiary hereby agrees, by its execution of this Supplemental Indenture, to be bound by the provisions of the Indenture applicable to Subsidiary Guarantors to the extent provided for and subject to the limitations therein, including Article 10 thereof.

Section 5. Ratification of Obligations. Except as specifically modified herein, the Indenture and the Notes are in all respects ratified and confirmed (*mutatis mutandis*) and shall remain in full force and effect in accordance with their terms.

Section 6. The Trustee. Except as otherwise expressly provided herein, no duties, responsibilities or liabilities are assumed, or shall be construed to be assumed, by the Trustee by reason of this Supplemental Indenture. This Supplemental Indenture is executed and accepted by the Trustee subject to all the terms and conditions set forth in the Indenture with the same force and effect as if those terms and conditions were repeated at length herein and made applicable to the Trustee with respect hereto. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture or to the recitals contained herein, all of which are made exclusively by the Company and the Subsidiary Guarantors.

Section 7. Governing Law. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 8. Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of such executed copies together shall represent the same agreement. Signature of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

[*Signatures on following pages*]

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

COMPANY:

COMSTOCK RESOURCES, INC.

By: _____
Name:
Title:

GUARANTEEING SUBSIDIARY:

[_____]

By: _____
Name:
Title:

EXISTING SUBSIDIARY GUARANTORS:

[Insert signature blocks for each of the Subsidiary Guarantors existing at the time of execution of this Supplemental Indenture**]**

TRUSTEE:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS TRUSTEE

By: _____
Name:
Title:

EXHIBIT C

REGISTRATION RIGHTS AGREEMENT

by and among

COMSTOCK RESOURCES, INC.,

and

THE STOCKHOLDER[S] NAMED HEREIN

Table of Contents

REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (this "Agreement") is made and entered into as of , 20 by and among COMSTOCK RESOURCES, INC., a Nevada corporation (the "Company"), and (the "Stockholder").

WHEREAS, this Agreement is made in connection with the conversion of the Company's 9 ½% Convertible Secured PIK Notes due 2020 (the "Notes") into Common Stock pursuant to the terms of that certain Indenture, dated as of [ ], 2016, by and among the Company, each Subsidiary Guarantor from time to time party thereto and American Stock Transfer & Trust Company, LLC as Trustee (the "Indenture"); and

WHEREAS, the Company has agreed to provide the registration and other rights set forth in this Agreement for the benefit of the Stockholder pursuant to the Indenture;

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, the parties hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. The terms set forth below are used herein as so defined:

"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 10.0% 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.

"Agreement" has the meaning specified therefor in the introductory paragraph of this Agreement.

"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.

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

"Common Stock" means the common stock, par value $0.50 per share, of the Company.

"Company" has the meaning specified therefor in the introductory paragraph of this Agreement.

"Conversion Price" means $12.32 per share of Common Stock, as the same may be adjusted as set forth in the Indenture.

"Effective Date" means the date of effectiveness of any Registration Statement.

"Effectiveness Period" has the meaning specified therefor in Section 2.1(a).

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, and the rules and regulations of the Commission promulgated thereunder.

"Filing Date" has the meaning specified therefor in Section 2.1(a).

"Holder" means the record holder of any Registrable Securities.

"Holder Underwriter Registration Statement" has the meaning specified therefor in Section 2.2(o).

"Indenture" has the meaning specified therefor in the Recitals of this Agreement.

"Liquidated Damages" has the meaning specified therefor in Section 2.1(b).

"Liquidated Damages Multiplier" means the product of (i) the Conversion Price and (ii) the number of Registrable Securities then held by the applicable Holder and included on the applicable Registration Statement.

"Losses" has the meaning specified therefor in Section 2.5(a).

"NYSE" means the New York Stock Exchange.

"Notes" has the meaning specified therefor in the Recitals of this Agreement.

"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.

"Registration" means any registration pursuant to this Agreement, including pursuant to a Registration Statement.

"Registrable Securities" means the Common Stock issuable upon conversion of the Notes, which are subject to the rights provided herein until such time as such securities cease to be Registrable Securities pursuant to Section 1.2.

"Registration Expenses" has the meaning specified therefor in Section 2.4(a).

"Registration Statement" has the meaning specified therefor in Section 2.1(a).

"Securities Act" means the Securities Act of 1933, as amended from time to time, and the rules and regulations of the Commission promulgated thereunder.

"Selling Expenses" has the meaning specified therefor in Section 2.4(a).

"Selling Holder" means a Holder who is selling Registrable Securities pursuant to a registration statement.

"Selling Holder Indemnified Persons" has the meaning specified therefor in Section 2.5(a).

"Stockholder" has the meaning specified therefor in the introductory paragraph of this Agreement.

"Target Effective Date" has the meaning specified therefor in Section 2.1(b).

"WKSI" means a well-known seasoned issuer (as defined in the rules and regulations of the Commission).

Section 1.2 Registrable Securities. Any Registrable Security will cease to be a Registrable Security upon the earliest to occur of the following: (a) when a registration statement covering such Registrable Security becomes or has been declared effective by the Commission and such Registrable Security has been sold or disposed of pursuant to such effective registration statement, (b) when such Registrable Security has been disposed of (excluding transfers or assignments by a Holder to an Affiliate or to another Holder or any of its Affiliates or to any assignee or transferee to whom the rights under this Agreement have been transferred pursuant to Section 2.7) pursuant to any section of Rule 144 (or any similar provision then in effect) under the Securities Act, (c) when such Registrable Security is held by the Company or one of its direct or indirect subsidiaries, (d) when the Holder of such Registrable Security beneficially owns less than 10% of the total number of shares of Common Stock outstanding and (e) when such Registrable Security has been sold or disposed of in a private transaction in which the transferor's rights under this Agreement are not assigned to the transferee of such securities pursuant to Section 2.7.

ARTICLE II
REGISTRATION RIGHTS

Section 2.1 Shelf Registration.

(a) Shelf Registration. As soon as practicable following the date of this Agreement and upon written notice by the Stockholder of a request to register the Registrable Securities (but in no event longer than 30 days after the date of this Agreement), the Company shall prepare and file a registration statement under the Securities Act to permit the public resale of Registrable Securities then outstanding from time to time as permitted by Rule 415 (or any similar provision adopted by the Commission then in effect) of the Securities Act (a "Registration Statement"); *provided, however*, that if the Company is then eligible, it shall file such initial registration statement on Form S-3. If the Company is not a WKSI, the Company shall use its commercially reasonable efforts to cause such initial Registration Statement to

become effective no later than 180 days after the date of filing of such Registration Statement (the "Filing Date"). The Company will use its commercially reasonable efforts to cause such Registration Statement filed pursuant to this Section 2.l(a) to be continuously effective under the Securities Act until the earliest to occur of the following: (i) all Registrable Securities covered by the Registration Statement have been distributed in the manner set forth and as contemplated in such Registration Statement, (ii) there are no longer any Registrable Securities outstanding and (iii) one year from the Effective Date of such Registration Statement (in each case of clause (i), (ii) or (iii), the "Effectiveness Period"). A Registration Statement filed pursuant to this Section 2.l(a) shall be on such appropriate registration form of the Commission as shall be selected by the Company. A Registration Statement when declared effective (including the documents incorporated therein by reference) will comply as to form in all material respects with all applicable requirements of the Securities Act and the Exchange Act and will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. As soon as practicable following the date that a Registration Statement becomes effective, but in any event within three (3) Business Days of such date, the Company shall provide the Holders with written notice of the effectiveness of a Registration Statement.

(b) Failure to Become Effective. If a Registration Statement required by Section 2.1(a) does not become or is not declared effective within 180 days after the Filing Date (the "Target Effective Date"), then each Holder shall be entitled to a payment (with respect to each of the Holder's Registrable Securities which are included in such Registration Statement), as liquidated damages and not as a penalty, (i) for each non-overlapping 30 day period for the first 60 days following the Target Effective Date, an amount equal to 0.25% of the Liquidated Damages Multiplier, which shall accrue daily, and (ii) for each non-overlapping 30 day period beginning on the 61st day following the Target Effective Date, an amount equal to the amount set forth in clause (i) *plus* an additional 0.25% of the Liquidated Damages Multiplier for each subsequent 60 days (*i.e.*, 0.5% for 61-120 days, 0.75% for 121-180 days, and 1.0% thereafter), which shall accrue daily, up to a maximum amount equal to 1.0% of the Liquidated Damages Multiplier per non-overlapping 30 day period (the "Liquidated Damages"), until such time as such Registration Statement is declared or becomes effective or there are no longer any Registrable Securities outstanding. The Liquidated Damages shall be payable within 10 Business Days after the end of each such 30 day period in immediately available funds to the account or accounts specified by the applicable Holders. Any amount of Liquidated Damages shall be prorated for any period of less than 30 days accruing during any period for which a Holder is entitled to Liquidated Damages hereunder.

(c) Waiver of Liquidated Damages. If the Company is unable to cause a Registration Statement to become effective on or before the Target Effective Date as a result of an acquisition, merger, reorganization, disposition or other similar transaction, then the Company may request a waiver of the Liquidated Damages, which may be granted by the consent of the Holders of a majority of the outstanding Registrable Securities that have been included on such Registration Statement, in their sole discretion, and which such waiver shall apply to all the Holders of Registrable Securities included on such Registration Statement.

(d) Delay Rights.

(1) Notwithstanding anything to the contrary contained herein, the Company may, upon written notice to any Selling Holder whose Registrable Securities are included in a Registration Statement, suspend such Selling Holder's use of any prospectus which is a part of such Registration Statement (in which event the Selling Holder shall discontinue sales of the Registrable Securities pursuant to such Registration Statement) if (i) the Company is pursuing an acquisition, merger, reorganization, disposition or other similar transaction and the Company determines in good faith that the Company's ability to pursue or consummate such a transaction would be materially and adversely affected by any required disclosure of such transaction in such Registration Statement or (ii) the Company has experienced some other material non-public event, the disclosure of which at such time, in the good faith judgment of the Company, would materially and adversely affect the Company; *provided*, *however*, that in no event shall the Selling Holders be suspended from selling Registrable Securities pursuant to such Registration Statement for a period that exceeds an aggregate of 60 days in any 180-day period or 90 days in any 365-day period. Upon disclosure of such information or the termination of the condition described above, the Company shall provide prompt notice to the Selling Holders whose Registrable Securities are included in such Registration Statement, and shall promptly terminate any suspension of sales it has put into effect and shall take such other actions necessary or appropriate to permit registered sales of Registrable Securities as contemplated in this Agreement.

(2) If the Selling Holders are prohibited from selling their Registrable Securities under a Registration Statement as a result of a suspension pursuant to the immediately preceding paragraph in excess of the periods permitted therein, then, until the suspension is lifted, but not including any day on which a suspension is lifted, the Company shall be prohibited from engaging in registered sales of Common Stock or other equity securities representing interests in the Company under any registration statement other than any registration statement on Form S-8 on file with the Commission prior to the date of commencement of such suspension.

Section 2.2 Sales Procedures. In connection with its obligations under this Article II, the Company will, as expeditiously as possible:

(a) prepare and file with the Commission such amendments and supplements to a Registration Statement and the prospectus used in connection therewith as may be necessary to keep such Registration Statement effective for the Effectiveness Period and as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities covered by such Registration Statement;

(b) furnish to each Selling Holder (i) as far in advance as reasonably practicable before filing a Registration Statement or any other registration statement contemplated by this Agreement or any supplement or amendment thereto, upon request, copies of reasonably complete drafts of all such documents proposed to be filed (including exhibits and each document incorporated by reference therein to the extent then required by the rules and

regulations of the Commission), and provide each such Selling Holder the opportunity to object to any information pertaining to such Selling Holder and its plan of distribution that is contained therein and make the corrections reasonably requested by such Selling Holder with respect to such information prior to filing such Registration Statement or such other registration statement and the prospectus included therein or any supplement or amendment thereto, and (ii) such number of copies of such Registration Statement or such other registration statement and the prospectus included therein and any supplements and amendments thereto as such Persons may reasonably request in order to facilitate the public sale or other disposition of the Registrable Securities covered by such Registration Statement or other registration statement;

(c) if applicable, use its commercially reasonable efforts to register or qualify the Registrable Securities covered by any Registration Statement or any other registration statement contemplated by this Agreement under the securities or blue sky laws of such jurisdictions as the Selling Holders shall reasonably request; *provided, however*, that the Company will not be required to qualify generally to transact business in any jurisdiction where it is not then required to so qualify or to take any action that would subject it to general service of process in any such jurisdiction where it is not then so subject;

(d) promptly notify each Selling Holder, at any time when a prospectus relating thereto is required to be delivered by any of them under the Securities Act, of (i) the filing of a Registration Statement or any other registration statement contemplated by this Agreement or any prospectus or prospectus supplement to be used in connection therewith, or any amendment or supplement thereto, and, with respect to a Registration Statement or any other registration statement or any post-effective amendment thereto, when the same has become effective; and (ii) the receipt of any written comments from the Commission with respect to any filing referred to in clause (i) and any written request by the Commission for amendments or supplements to any such Registration Statement or any other registration statement or any prospectus or prospectus supplement thereto;

(e) immediately notify each Selling Holder, at any time when a prospectus relating thereto is required to be delivered by any of them under the Securities Act, of (i) the happening of any event as a result of which the prospectus or prospectus supplement contained in a Registration Statement or any other registration statement contemplated by this Agreement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; (ii) the issuance or express threat of issuance by the Commission of any stop order suspending the effectiveness of a Registration Statement or any other registration statement contemplated by this Agreement, or the initiation of any proceedings for that purpose; or (iii) the receipt by the Company of any notification with respect to the suspension of the qualification of any Registrable Securities for sale under the applicable securities or blue sky laws of any jurisdiction. Following the provision of such notice, the Company agrees to, as promptly as practicable, amend or supplement the prospectus or prospectus supplement or take other appropriate action so that the prospectus or prospectus supplement does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading and to take such other action as is reasonably necessary to remove a stop order, suspension, threat thereof or proceedings related thereto;

(f) upon request and subject to appropriate confidentiality obligations, furnish to each Selling Holder copies of any and all transmittal letters or other correspondence with the Commission or any other governmental agency or self-regulatory body or other body having jurisdiction (including any domestic or foreign securities exchange) relating to such offering of Registrable Securities;

(g) otherwise use its commercially reasonable efforts to comply with all applicable rules and regulations of the Commission, and make available to its security holders, as soon as reasonably practicable, an earnings statement, which earnings statement covering the period of at least 12 months, but not more than 18 months, beginning with the first full calendar month after the effective date of such registration statement, shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 promulgated thereunder;

(h) make available to the appropriate representatives of the Selling Holders during normal business hours access to such information and Company personnel as is reasonable and customary to enable such parties to establish a due diligence defense under the Securities Act; *provided*, *however*, that the Company need not disclose any non-public information to any such representative unless and until such representative has entered into a confidentiality agreement with the Company;

(i) use its commercially reasonable efforts to cause all Registrable Securities registered pursuant to this Agreement to be listed on each securities exchange or nationally recognized quotation system on which similar securities issued by the Company are then listed;

(j) use its commercially reasonable efforts to cause Registrable Securities to be registered with or approved by such other governmental agencies or authorities as may be necessary by virtue of the business and operations of the Company to enable the Selling Holders to consummate the disposition of such Registrable Securities;

(k) provide a transfer agent and registrar for all Registrable Securities covered by any Registration Statement not later than the Effective Date of such Registration Statement;

(l) if reasonably requested by a Selling Holder, (i) incorporate in a prospectus supplement or post-effective amendment such information as such Selling Holder reasonably requests to be included therein relating to the sale and distribution of Registrable Securities, including information with respect to the number of Registrable Securities being offered or sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering; and (ii) make all required filings of such prospectus supplement or post-effective amendment after being notified of the matters to be incorporated in such prospectus supplement or post-effective amendment;

(m) if reasonably required by the Company’s transfer agent, the Company shall promptly deliver any authorizations, certificates and directions required by the transfer agent which authorize and direct the transfer agent to transfer such Registrable Securities without legend upon sale by the Holder of such Registrable Securities under the Registration Statement; and

(n) if any Holder could reasonably be deemed to be an "underwriter," as defined in Section 2(a)(11) of the Securities Act, in connection with the Registration Statement and any amendment or supplement thereof (a "Holder Underwriter Registration Statement"), then the Company will reasonably cooperate with such Holder in allowing such Holder to conduct customary "underwriter's due diligence" with respect to the Company and satisfy its obligations in respect thereof. In addition, at any Holder's request, the Company will furnish to such Holder, on the date of the effectiveness of the Holder Underwriter Registration Statement and thereafter from time to time on such dates as such Holder may reasonably request (provided that such request shall not be more frequently than on an annual basis unless such Holder is offering Registrable Securities pursuant to a Holder Underwriter Registration Statement), (i) a "comfort" letter, dated such date, from the Company's independent certified public accountants in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to such Holder, (ii) an opinion, dated as of such date, of counsel representing the Company for purposes of the Holder Underwriter Registration Statement, in form, scope and substance as is customarily given in an underwritten public offering, including standard "10b-5" negative assurance for such offering, addressed to such Holder and (iii) a standard officer's certificate from the chief executive officer or chief financial officer, or other officers serving such functions, of the general partner of the Company addressed to the Holder. The Company will also permit legal counsel to such Holder to review and comment upon any such Holder Underwriter Registration Statement at least five Business Days prior to its filing with the Commission and all amendments and supplements to any such Holder Underwriter Registration Statement with a reasonable number of days prior to their filing with the Commission and not file any Holder Underwriter Registration Statement or amendment or supplement thereto in a form to which such Holder's legal counsel reasonably objects. Each Selling Holder, upon receipt of notice from the Company of the happening of any event of the kind described in subsection (e) of this Section 2.2, shall forthwith discontinue offers and sales of the Registrable Securities until such Selling Holder's receipt of the copies of the supplemented or amended prospectus contemplated by subsection (e) of this Section 2.2 or until it is advised in writing by the Company that the use of the prospectus may be resumed and has received copies of any additional or supplemental filings incorporated by reference in the prospectus, and, if so directed by the Company, such Selling Holder will deliver to the Company (at the Company's expense) all copies in their possession or control, other than permanent file copies then in such Selling Holder's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice.

Notwithstanding anything to the contrary in this Section 2.2, the Company will not name a Holder as an underwriter (as defined in Section 2(a)(11) of the Securities Act) in any Registration Statement or Holder Underwriter Registration Statement, as applicable, without such Holder's consent. If the staff of the Commission requires the Company to name any Holder as an underwriter (as defined in Section 2(a)(11) of the Securities Act), and such Holder does not consent thereto, then such Holder's Registrable Securities shall not be included on the applicable Registration Statement, such Holder shall no longer be entitled to receive Liquidated Damages under this Agreement with respect to such Holder's Registrable Securities, and the Company shall have no further obligations hereunder with respect to Registrable Securities held by such Holder, unless such Holder has not had an opportunity to conduct customary underwriter's due diligence as set forth in subsection (o) of this Section 2.2 with respect to the Company at the time such Holder's consent is sought.

Each Selling Holder, upon receipt of notice from the Company of the happening of any event of the kind described in subsection (e) of this Section 2.2, shall forthwith discontinue offers and sales of the Registrable Securities by means of a prospectus or prospectus supplement until such Selling Holder's receipt of the copies of the supplemented or amended prospectus contemplated by subsection (e) of this Section 2.2 or until it is advised in writing by the Company that the use of the prospectus may be resumed and has received copies of any additional or supplemental filings incorporated by reference in the prospectus, and, if so directed by the Company, such Selling Holder will, or will request the managing underwriter or managing underwriters, if any, to deliver to the Company (at the Company's expense) all copies in their possession or control, other than permanent file copies then in such Selling Holder's possession, of the prospectus covering such Registrable Securities current at the time of receipt of such notice.

If reasonably requested by a Selling Holder, the Company shall: (i) as soon as practicable incorporate in a prospectus supplement or post-effective amendment such information as such Selling Holder reasonably requests to be included therein relating to the sale and distribution of Registrable Securities, including information with respect to the number of Registrable Securities being offered or sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering and (ii) as soon as practicable make all required filings of such prospectus supplement or post-effective amendment after being notified of the matters to be incorporated in such prospectus supplement or post-effective amendment.

Section 2.3 Cooperation by Holders. The Company shall have no obligation to include Registrable Securities of a Holder in a Registration Statement who has failed to timely furnish such information that the Company determines, after consultation with its counsel, is reasonably required in order for any registration statement or prospectus supplement, as applicable, to comply with the Securities Act.

Section 2.4 Expenses.

(a) Certain Definitions. "Registration Expenses" means all expenses incident to the Company's performance under or compliance with this Agreement to effect the registration of Registrable Securities on a Registration Statement pursuant to Section 2.1 and the disposition of such Registrable Securities, including, without limitation, all registration, filing, securities exchange listing and NYSE fees, all registration, filing, qualification and other fees and expenses of complying with securities or blue sky laws, fees of the Financial Industry Regulatory Authority, fees of transfer agents and registrars, all word processing, duplicating and printing expenses, and the fees and disbursements of counsel and independent public accountants for the Company, including the expenses of any special audits or "cold comfort" letters required by or incident to such performance and compliance. "Selling Expenses" means all underwriting fees, discounts and selling commissions and transfer taxes allocable to the sale of the Registrable Securities.

(b) Expenses. The Company will pay all reasonable Registration Expenses, as determined in good faith, in connection with a shelf Registration, whether or not any sale is made pursuant to such shelf Registration. Each Selling Holder shall pay its pro rata share of all Selling Expenses in connection with any sale of its Registrable Securities hereunder. In addition, except as otherwise provided in Section 2.5, the Company shall not be responsible for professional fees (including legal fees) incurred by Holders in connection with the exercise of such Holders' rights hereunder.

Section 2.5 Indemnification.

(a) By the Company. In the event of a registration of any Registrable Securities under the Securities Act pursuant to this Agreement, the Company will indemnify and hold harmless each Selling Holder thereunder, its directors, officers, managers, partners, employees and agents and each Person, if any, who controls such Selling Holder within the meaning of the Securities Act and the Exchange Act, and its directors, officers, managers, partners, employees or agents (collectively, the "Selling Holder Indemnified Persons"), against any losses, claims, damages, expenses or liabilities (including reasonable attorneys' fees and expenses) (collectively, "Losses"), joint or several, to which such Selling Holder Indemnified Person may become subject under the Securities Act, the Exchange Act or otherwise, insofar as such Losses (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in (which, for the avoidance of doubt, includes documents incorporated by reference in) the applicable Registration Statement or other registration statement contemplated by this Agreement, any preliminary prospectus, prospectus supplement or final prospectus contained therein, or any amendment or supplement thereof, or any free writing prospectus relating thereto, or arise out of or are based upon the omission or alleged omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, and will reimburse each such Selling Holder Indemnified Person for any legal or other expenses reasonably incurred by them in connection with investigating, defending or resolving any such Loss or actions or proceedings; *provided*, *however*, that the Company will not be liable in any such case if and to the extent that any such Loss arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission so made in conformity with information furnished by such Selling Holder Indemnified Person in writing specifically for use in the applicable Registration Statement or other registration statement, or prospectus supplement, as applicable. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Selling Holder Indemnified Person, and shall survive the transfer of such securities by such Selling Holder.

(b) By Each Selling Holder. Each Selling Holder agrees severally and not jointly to indemnify and hold harmless the Company, the Company's directors, officers, employees and agents and each Person, who, directly or indirectly, controls the Company within the meaning of the Securities Act or of the Exchange Act to the same extent as the foregoing indemnity from the Company to the Selling Holders, but only with respect to information regarding such Selling Holder furnished in writing by or on behalf of such Selling Holder expressly for inclusion in a Registration Statement or any other registration statement contemplated by this Agreement, any preliminary prospectus, prospectus supplement or final prospectus contained therein, or any amendment or supplement thereto or any free writing prospectus relating thereto; *provided*, *however*, that the liability of each Selling Holder shall not be greater in amount than the dollar amount of the proceeds (net of any Selling Expenses) received by such Selling Holder from the sale of the Registrable Securities giving rise to such indemnification.

(c) Notice. Promptly after receipt by an indemnified party hereunder of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party hereunder, notify the indemnifying party in writing thereof, but the omission to so notify the indemnifying party shall not relieve it from any liability that it may have to any indemnified party other than under this Section 2.5(c) except to the extent that the indemnifying party is materially prejudiced by such failure. In any action brought against any indemnified party, it shall notify the indemnifying party of the commencement thereof. The indemnifying party shall be entitled to participate in and, to the extent it shall wish, to assume and undertake the defense thereof with counsel reasonably satisfactory to such indemnified party and, after notice from the indemnifying party to such indemnified party of its election so to assume and undertake the defense thereof, the indemnifying party shall not be liable to such indemnified party under this Section 2.5 for any legal expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation and of liaison with counsel so selected; *provided*, *however*, that, (i) if the indemnifying party has failed to assume the defense or employ counsel reasonably satisfactory to the indemnified party or (ii) if the defendants in any such action include both the indemnified party and the indemnifying party and counsel to the indemnified party shall have concluded that there may be reasonable defenses available to the indemnified party that are different from or additional to those available to the indemnifying party, or if the interests of the indemnified party reasonably may be deemed to conflict with the interests of the indemnifying party, then the indemnified party shall have the right to select a separate counsel and to assume such legal defense and otherwise to participate in the defense of such action, with the reasonable expenses and fees of such separate counsel and other reasonable expenses related to such participation to be reimbursed by the indemnifying party as incurred. Notwithstanding any other provision of this Agreement, no indemnifying party shall settle any action brought against any indemnified party with respect to which such indemnified party may be entitled to indemnification hereunder without the consent of the indemnified party, unless the settlement thereof imposes no liability or obligation on, includes a complete and unconditional release from liability of, and does not contain any admission of wrongdoing by, the indemnified party.

(d) Contribution. If the indemnification provided for in this Section 2.5 is held by a court or government agency of competent jurisdiction to be unavailable to any indemnified party or is insufficient to hold them harmless in respect of any Losses, then each such indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such Losses in such proportion as is appropriate to reflect the relative fault of the indemnifying party, on the one hand, and of the indemnified party, on the other hand, in connection with the statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations; *provided*, *however*, that in no event shall any Selling Holder be required to contribute an aggregate amount in excess of the dollar amount of proceeds (net of Selling Expenses) received by such Selling Holder from the sale of Registrable Securities giving rise to such indemnification. The relative fault of the indemnifying party, on the one hand, and the indemnified party, on the other, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement

of a material fact or the omission or alleged omission to state a material fact has been made by, or relates to, information supplied by such party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The parties hereto agree that it would not be just and equitable if contributions pursuant to this paragraph were to be determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to herein. The amount paid by an indemnified party as a result of the Losses referred to in the first sentence of this paragraph shall be deemed to include any legal and other expenses reasonably incurred by such indemnified party in connection with investigating, defending or resolving any Loss that is the subject of this paragraph. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who is not guilty of such fraudulent misrepresentation.

(e) Other Indemnification. The provisions of this Section 2.5 shall be in addition to any other rights to indemnification or contribution that an indemnified party may have pursuant to law, equity, contract or otherwise.

Section 2.6 Rule 144 Reporting. With a view to making available the benefits of certain rules and regulations of the Commission that may permit the sale of the Registrable Securities to the public without registration, the Company agrees to use its commercially reasonable efforts to:

(a) make and keep public information regarding the Company available, as those terms are understood and defined in Rule 144 under the Securities Act (or any similar provision then in effect), at all times from and after the date hereof;

(b) file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act at all times from and after the date hereof; and

(c) so long as a Holder owns any Registrable Securities, furnish (i) to the extent accurate, forthwith upon request, a written statement of the Company that it has complied with the reporting requirements of Rule 144 under the Securities Act (or any similar provision then in effect) and (ii) unless otherwise available via the Commission's EDGAR filing system, to such Holder forthwith upon request a copy of the most recent annual or quarterly report of the Company, and such other reports and documents so filed as such Holder may reasonably request in availing itself of any rule or regulation of the Commission allowing such Holder to sell any such securities without registration.

Section 2.7 Transfer or Assignment of Registration Rights. The rights to cause the Company to register Registrable Securities under this Article II may be transferred or assigned by each Holder to one or more transferees or assignees of Registrable Securities; *provided, however*, that (a) unless any such transferee or assignee is an Affiliate of, and after such transfer or assignment continues to be an Affiliate of, such Holder, the amount of Registrable Securities transferred or assigned to such transferee or assignee shall represent at least $75 million of Registrable Securities (determined by multiplying the number of Registrable Securities owned by the average of the closing price on the NYSE for the Common Stock for the ten trading days

preceding the date of such transfer or assignment), (b) the Company is given written notice prior to any said transfer or assignment, stating the name and address of each such transferee or assignee and identifying the securities with respect to which such registration rights are being transferred or assigned and (c) each such transferee or assignee assumes in writing responsibility for its portion of the obligations of such transferring Holder under this Agreement.

ARTICLE III
MISCELLANEOUS

Section 3.1 Communications. All notices and demands provided for hereunder shall be in writing and shall be given by registered or certified mail, return receipt requested, telecopy, air courier guaranteeing overnight delivery, personal delivery or (in the case of any notice given by the Company to the Stockholder) email to the following addresses:

(a) if to the Stockholder:

with a copy, which shall not constitute notice, to:

(b) if to the Company:

Comstock Resources, Inc.
5300 Town and Country Blvd.
Suite 500
Frisco, TX 75034
Facsimile: (972) 668-8812
Attention: Roland O. Burns, President and Chief Financial Officer

with a copy, which shall not constitute notice, to:

Locke Lord LLP
2200 Ross Avenue
Suite 2800
Dallas, TX 75201
Facsimile: (214) 756-8553
Attention: Jack E. Jacobsen

or to such other address as the Company or the Stockholder may designate to each other in writing from time to time or, if to a transferee or assignee of the Stockholder or any transferee or assignee thereof, to such transferee or assignee at the address provided pursuant to Section 2.7. All notices and communications shall be deemed to have been duly given: (i) at the time delivered by hand, if personally delivered, (ii) upon actual receipt if sent by certified or registered mail, return receipt requested, or regular mail, if mailed, (iii) upon actual receipt of the facsimile or email copy, if sent via facsimile or email and (iv) upon actual receipt when delivered to an air courier guaranteeing overnight delivery.

Section 3.2 Successors and Assigns. This Agreement shall be binding upon the Company, the Stockholder and their respective successors and permitted assigns, including subsequent Holders of Registrable Securities to the extent permitted herein. Except as expressly provided in this Agreement, this Agreement shall not be construed so as to confer any right or benefit upon any Person other than the parties to this Agreement and their respective successors and permitted assigns.

Section 3.3 Assignment of Rights. Except as provided in Section 2.7, neither this Agreement nor any of the rights, benefits or obligations hereunder may be assigned or transferred, by operation of law or otherwise, by any party hereto without the prior written consent of the other party.

Section 3.4 Recapitalization, Exchanges, Etc. Affecting Common Stock. The provisions of this Agreement shall apply to the full extent set forth herein with respect to any and all common stock of the Company or any successor or assign of the Company (whether by merger, consolidation, sale of assets or otherwise) that may be issued in respect of, in exchange for or in substitution of, the Registrable Securities, and shall be appropriately adjusted for combinations, unit splits, recapitalizations, pro rata distributions of units and the like occurring after the date of this Agreement.

Section 3.5 Aggregation of Registrable Securities. All Registrable Securities held or acquired by Persons who are Affiliates of one another shall be aggregated together for the purpose of determining the availability of any rights under this Agreement.

Section 3.6 Specific Performance. Damages in the event of breach of this Agreement by a party hereto may be difficult, if not impossible, to ascertain, and it is therefore agreed that each such Person, in addition to and without limiting any other remedy or right it may have, will have the right to seek an injunction or other equitable relief in any court of competent jurisdiction, enjoining any such breach, and enforcing specifically the terms and provisions hereof, and each of the parties hereto hereby waives any and all defenses it may have on the ground of lack of jurisdiction or competence of the court to grant such an injunction or other equitable relief. The existence of this right will not preclude any such Person from pursuing any other rights and remedies at law or in equity that such Person may have.

Section 3.7 Counterparts. This Agreement may be executed in any number of counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same agreement.

Section 3.8 Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

Section 3.9 Governing Law, Submission to Jurisdiction. This Agreement and all claims or causes of action (whether in contract or tort) that may be based upon, arise out of or relate to this Agreement or the negotiation, execution, termination, performance or nonperformance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement) will be construed in accordance with and governed by the laws of the State of New York without regard to principles of conflicts of laws that might otherwise require the application of the laws of any other jurisdiction. Any action against any party relating to the foregoing shall be brought in any federal or state court of competent jurisdiction located within the State of New York, and the parties hereto hereby irrevocably submit to the non-exclusive jurisdiction of any federal or state court located within the State of New York over any such action. The parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the parties hereto agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Section 3.10 Waiver of Jury Trial. Each party to this Agreement irrevocably waives the right to a trial by jury in connection with any matter arising out of this Agreement to the fullest extent permitted by applicable law.

Section 3.11 Severability of Provisions. If any provision in this Agreement is held to be illegal, invalid, not binding, or unenforceable, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid, not binding, or unenforceable provision had never comprised a part hereof, and the remaining provisions shall remain in full force and effect, shall be construed so as to give effect to the original intent of the parties as closely as possible.

Section 3.12 Entire Agreement. This Agreement and the Indenture and the other agreements and documents referred to herein are intended by the parties as a final expression of their agreement and are intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto, in respect of the subject matter contained herein and therein. There are no, and neither the Company nor any Stockholder has relied upon, restrictions, promises, warranties or undertakings, other than those set forth or referred to herein or in the Indenture with respect to the rights and obligations of the Company, the Stockholder or any of their respective Affiliates hereunder or thereunder, and each of the Company and the Stockholder expressly disclaims that it is owed any duties or is entitled to any remedies not expressly set forth in this Agreement. This Agreement supersedes all prior agreements and understandings between the parties with respect to the subject matter hereof.

Section 3.13 Amendment. This Agreement may be amended only by means of a written amendment signed by the Company and the Holders of a majority of the then outstanding Registrable Securities; *provided*, *however*, that no such amendment shall adversely affect the rights of any Holder hereunder without the consent of such Holder. Any amendment, supplement or modification of or to any provision of this Agreement, any waiver of any provision of this Agreement, and any consent to any departure by the Company or any Stockholder from the terms of any provision of this Agreement shall be effective only in the specific instance and for the specific purpose for which such amendment, supplement, modification, waiver or consent has been made or given.

Section 3.14 No Presumption. This Agreement has been reviewed and negotiated by sophisticated parties with access to legal counsel and shall not be construed against the drafter.

Section 3.15 Obligations Limited to Parties to Agreement. Each of the parties hereto covenants, agrees and acknowledges that, other than as set forth herein, no Person other than the Stockholder, the Selling Holders, their respective permitted assignees and the Company shall have any obligation hereunder and that, notwithstanding that one or more of such Persons may be a corporation, partnership or limited liability company, no recourse under this Agreement or under any documents or instruments delivered in connection herewith shall be had against any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder or Affiliate of any of such Persons or their respective permitted assignees, or any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder or Affiliate of any of the foregoing, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any applicable law, it being expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise be incurred by any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder or Affiliate of any of such Persons or any of their respective assignees, or any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder or Affiliate of any of the foregoing, as such, for any obligations of such Persons or their respective permitted assignees under this Agreement or any documents or instruments delivered in connection herewith or for any claim based on, in respect of or by reason of such obligation or its creation, except, in each case, for any assignee of any Stockholder or a Selling Holder hereunder.

Section 3.16 Interpretation. Article, Section and Schedule references herein refer to articles and sections of, or schedules to, this Agreement, unless otherwise specified. All references to instruments, documents, contracts, and agreements are references to such instruments, documents, contracts, and agreements as the same may be amended, supplemented and otherwise modified from time to time, unless otherwise specified. The word “including” shall mean “including but not limited to.” Any reference in this Agreement to $ shall mean U.S. dollars. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day. Any words imparting the

singular number only shall include the plural and vice versa. Words such as “herein,” hereinafter,” “hereof” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision of this Agreement in which such words appear, unless the context otherwise requires. Whenever any determination, consent or approval is to be made or given by a Stockholder under this Agreement, such action shall be in such Stockholder’s sole discretion unless otherwise specified.

[*Signature page follows.*]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

COMPANY

COMSTOCK RESOURCES, INC.

By: _____
Name:
Title:

STOCKHOLDER

By: _____
Name:
Title:

Exhibit 4.14

AMENDED AND RESTATED PRIORITY LIEN INTERCREDITOR AGREEMENT

THIS AMENDED AND RESTATED PRIORITY LIEN INTERCREDITOR AGREEMENT is dated as of [●], 2016 (as amended, restated, supplemented or otherwise modified from time to time in accordance with its terms, this "***Agreement***"), by and among: (i) BANK OF MONTREAL, as Pari Passu Collateral Agent (as defined below) for the Pari Passu Secured Parties referred to below; (ii) BANK OF MONTREAL, as administrative agent for the Revolving Credit Agreement Secured Parties referred to below (together with its successors and permitted assigns, in such capacity, the "***Revolving Credit Agreement Agent***"); (iii) AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, as trustee under the Indenture (as defined below) (together with its successors and permitted assigns, in such capacity, the "***Trustee***"); (iv) COMSTOCK RESOURCES, INC., a Nevada corporation (together with its successors and permitted assigns, the "***Company***"); (v) each other Grantor (as defined below) and other party signatory hereto or that has executed a Joinder Consent Agreement (as defined below) with the written consent of the Company; and (vi) solely for purposes of Section 4.24 of this Agreement, AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, as trustee under the Existing Indenture (as defined below) (together with its successors and permitted assigns, in such capacity, the "***Existing Trustee***").

PRELIMINARY STATEMENTS

1. Capitalized terms used herein and not defined herein have the respective meanings given to them in the Revolving Credit Agreement or, if not defined therein, the Indenture, in each case referred to below.

2. The Company is party to a Credit Agreement, dated as of March 4, 2015 (as amended by that certain Amendment and Waiver to Credit Agreement dated as of June 19, 2015, and that certain Second Amendment to Credit Agreement dated as of [●], 2016 and as the same may be further amended, restated, modified, renewed, refunded, replaced or Refinanced, the "***Revolving Credit Agreement***"), with the lenders from time to time party thereto (collectively, the "***Revolving Credit Agreement Lenders***"), the Issuing Bank (as defined therein) and the Revolving Credit Agreement Agent.

3. The Company is party to an Indenture, dated as of March 13, 2015 (as the same may be amended, restated, modified, renewed, refunded, replaced or Refinanced, the "***Existing Indenture***"), with the Guarantors (as defined below) party thereto and the Existing Trustee.

4. The Revolving Credit Agreement Agent, the Existing Trustee the Company and the other Grantors are parties to an Intercreditor Agreement dated as of March 13, 2015 (the "***Existing Intercreditor Agreement***").

5. Simultaneously herewith, (i) the Company intends to enter into an Indenture, dated as of the date hereof (as the same may be amended, restated, modified, renewed, refunded, replaced or Refinanced, the "***Indenture***"), with the Guarantors (as defined below) party thereto and the Trustee, (ii) the Company intends to enter into a Supplemental Indenture with the consent of the requisite holders of the Senior Secured Notes issued under the Existing Indenture

which will amend the Existing Indenture to, among other things, eliminate the collateral requirements thereunder and authorize the Existing Trustee to enter into this Agreement solely for purposes of Section 4.24 of this Agreement.

6. Certain of the Grantors have granted or intend to grant to the Pari Passu Collateral Agent, for the benefit of the Pari Passu Secured Parties, a pari passu first-priority security interest in and lien upon certain of their assets pursuant to the terms of the Collateral Agreements (as defined below) in order to secure (i) in the case of the Pari Passu Excluded Collateral, the payment in full of the Revolving Credit Agreement Obligations, and (ii) in all other cases, the payment in full of the Pari Passu Obligations (as defined below).

7. In connection with the execution and delivery of the Indenture and the Collateral Agreements, the parties hereto desire to enter into this Agreement and amend and restate the Existing Intercreditor Agreement to read in its entirety as follows.

ARTICLE I

INTERPRETATION OF THIS AGREEMENT

Section 1.1 ***Defined Terms.*** As used in this Agreement, capitalized terms have the respective meanings specified below or set forth in the Section of this Agreement referred to immediately following such term:

"***Affiliate***" shall mean, with respect to any Person, any other Person directly or indirectly controlling (including, but not limited to, all directors and officers of such Person), controlled by, or under direct or indirect common control with, such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power (i) to vote 10% or more of the shares of securities having ordinary voting power for the election of directors (or equivalent governing body) of such Person or (ii) to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting shares of securities, by contract or otherwise.

"***Agents***" means, collectively, the Pari Passu Collateral Agent, the Revolving Credit Agreement Agent, and the Trustee, and "***Agent***" means any one of them.

"***Agreement***" has the meaning set forth in the first paragraph of this Agreement.

"***Alternate Controlling Party***" means the Trustee.

"***Authorized Representative***" means (a) in the case of the Revolving Credit Agreement Obligations or the Revolving Credit Agreement Secured Parties, the Revolving Credit Agreement Agent, and (b) in the case of the Notes Obligations or the Notes Secured Parties, the Trustee.

"***Bankruptcy Case***" has the meaning assigned to such term in Section 4.11.

"***Bankruptcy Code***" means Title 11 of the United States Code, as amended.

"***Bankruptcy Law***" means the Bankruptcy Code and any similar Federal, state or foreign bankruptcy, insolvency, receivership or similar law, including laws for the relief of debtors.

"***Business Day***" means any day except Saturday, Sunday and any day which shall be in New York, New York or Houston, Texas a legal holiday or a day on which banking institutions are authorized or required by law or other government action to close.

"***Collateral Agreements***" means, collectively, each Mortgage, Pledge Agreement, Security Agreement, this Agreement and each other instrument, including any assignment, security agreement, mortgage, deed of trust, pledge agreement or other security instrument, creating Liens in favor of the Pari Passu Collateral Agent as required by the Pari Passu Documents or this Agreement, in each case, as the same may be in effect from time to time.

"***Commodity Exchange Act***" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"***Common Collateral***" means, at any time, Pari Passu Collateral in which the Pari Passu Collateral Agent and/or holders of one or more Series of Pari Passu Obligations (or their respective Authorized Representatives) have been granted (or purported to be granted) Liens, whether or not any such Liens are voided, avoided, invalidated, lapsed or unperfected. Notwithstanding the foregoing, Pari Passu Excluded Collateral shall not constitute Common Collateral.

"***Company***" has the meaning set forth in the first paragraph of this Agreement.

"***Controlling Party***" means:

(a) the Revolving Credit Agreement Agent until the earlier of (i) the Discharge of Revolving Credit Agreement Obligations and (ii) the Non-Controlling Parties Enforcement Date;

(b) thereafter, the Trustee.

"***Controlling Secured Parties***" means, at any time with respect to any Common Collateral, the Series of Pari Passu Secured Parties whose Authorized Representative is the Controlling Party for such Common Collateral at such time.

"***DIP Financing***" has the meaning set forth in Section 4.11.

"***DIP Financing Liens***" has the meaning set forth in Section 4.11.

"***DIP Lenders***" has the meaning set forth in Section 4.11.

"***Discharge***" means, except to the extent otherwise provided in Section 2.14, with respect to any Common Collateral and any Series of Pari Passu Obligations other than the Revolving Credit Agreement Obligations, the date on which such Series of Pari Passu Obligations (according to the provisions thereof) is no longer required to be secured by such Common Collateral. The term "***Discharged***" shall have a corresponding meaning.

"***Discharge of Revolving Credit Agreement Obligations***" shall mean, except to the extent otherwise provided in Section 2.14, payment in full, in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) of all Revolving Credit Agreement Obligations and, with respect to letters of credit outstanding under the Revolving Credit Agreement Obligations, delivery of cash collateral or backstop letters of credit in respect thereof in a manner consistent with the Revolving Credit Agreement and otherwise reasonably satisfactory to the Revolving Credit Agreement Agent, and termination of and payment in full in cash of, all Secured Swap Obligations, in each case after or concurrently with the termination of all commitments to extend credit thereunder and the termination of all commitments of the Revolving Credit Agreement Secured Parties under the Revolving Credit Agreement Documents; *provided* that the Discharge of Revolving Credit Agreement Obligations shall not be deemed to have occurred if such payments are made with the proceeds of other Revolving Credit Agreement Obligations that constitute an exchange or replacement for or a Refinancing of such Revolving Credit Agreement Obligations.

"***Dollars***" and the sign "***$***" shall each mean lawful money of the United States of America.

"***Event of Default***" means, as the context requires, any "Event of Default," as defined in any Pari Passu Document.

"***Existing Indenture***" has the meaning set forth in the Preliminary Statements of this Agreement.

"***Existing Intercreditor Agreement***" has the meaning set forth in the Preliminary Statements of this Agreement.

"***Existing Trustee***" has the meaning set forth in the first paragraph of this Agreement.

"***Grantor***" means the Company and each Guarantor.

"***Guarantor***" means any Person defined as a "Guarantor" or a "Subsidiary Guarantor" in any applicable Pari Passu Document.

"***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 similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing and any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act), 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.

"***Holders***" means the Holders, as defined in the Indenture.

"***Indenture***" has the meaning set forth in the Preliminary Statements of this Agreement.

"***Indenture Documents***" means the Indenture, the Collateral Agreements and any agreement, instrument or other document evidencing or governing any Notes Obligations.

"***Insolvency or Liquidation Proceeding***" means: (a) any voluntary or involuntary case or proceeding under any Bankruptcy Law with respect to any Grantor, (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Grantor or with respect to any of its assets, (c) any liquidation, dissolution, reorganization or winding up of any Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy (other than any liquidation, dissolution, reorganization or winding up of any Subsidiary of the Company permitted by the Pari Passu Documents), (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Grantor or (e) any other proceeding of any type or nature in which substantially all claims of creditors of any Grantor are determined and any payment or distribution is or may be made on account of such claims.

"***Joinder Agreement***" means each document, substantially in the form of Exhibit A hereto, executed and delivered as permitted under this Agreement in order to effect a Refinancing of any existing Series of Pari Passu Obligations to the extent constituting a new Series of Pari Passu Obligations.

"***Joinder Consent Agreement***" means a joinder and consent agreement in substantially the form attached hereto as Schedule I.

"***Lender Provided Hedging Agreement***" means any Hedging Agreement between the Company or any Guarantor and a Secured Swap Counterparty.

"***Mortgage***" means each mortgage, deed of trust, deed to secure debt and any other document or instrument under which any Lien on property owned or leased by any Grantor is granted to secure Pari Passu Obligations under any Pari Passu Document or under which rights or remedies with respect to any such Liens are governed, as the same may be amended, supplemented or modified from time to time.

"***Non-Conforming Plan of Reorganization***" means any Plan of Reorganization that does not provide for payments in respect of the Revolving Credit Agreement Obligations to be made with the priority specified in Section 2.5 and that has not been approved by the Majority Lenders (as defined in the Revolving Credit Agreement).

"***Non-Controlling Authorized Representative***" means, at any time, with respect to any Common Collateral, an Authorized Representative that is not the Controlling Party with respect to such Common Collateral at such time.

"***Non-Controlling Parties Enforcement Date***" means that date that is 180 days after the occurrence of both (a) an Event of Default, as defined in the applicable governing instrument for the Series of Pari Passu Obligations for which the Alternate Controlling Party is the Authorized Representative, as applicable, and (b) the Pari Passu Collateral Agent's and each other Authorized Representative's receipt of written notice from the Alternate Controlling Party certifying that (i) such Authorized Representative is the Alternate Controlling Party and that an Event of Default, as defined in such applicable governing instrument for that Series of Pari Passu Obligations, has occurred and is continuing and (ii) the Pari Passu Obligations of that Series are currently due and payable in full (whether as a result of acceleration thereof or otherwise) in accordance with such applicable governing instrument for that Series of Pari Passu Obligations; *provided* that the Non-Controlling Parties Enforcement Date shall be stayed and shall not occur and shall be deemed not to have occurred with respect to any Common Collateral (1) at any time that (A) the then current Controlling Party has commenced (or caused the Pari Passu Collateral Agent to commence) and is diligently pursuing any enforcement action with respect to all or a material portion of such Common Collateral and (B) each other Authorized Representative has received written notice from the Controlling Party or the Pari Passu Collateral Agent thereof or (2) at any time a Grantor that has granted a security interest in such Common Collateral is then a debtor under or with respect to (or otherwise subject to) any Insolvency or Liquidation Proceeding.

"***Non-Controlling Secured Parties***" means, at any time, with respect to any Common Collateral, the Pari Passu Secured Parties that are not Controlling Secured Parties with respect to such Common Collateral at such time.

"***Notes***" means, collectively, (a) the Company's senior secured toggle notes due 2020, issued on the date hereof, in an aggregate principal amount not to exceed $700,000,000, and (b) the Company's additional senior secured toggle notes due 2020 issued in lieu of cash interest on the Company's senior secured toggle notes due 2020, in an aggregate principal amount not to exceed $75,000,000.

"***Notes Obligations***" means the Senior Secured Note Obligations (as defined in the Indenture) of the Grantors under the Indenture, the Notes, the Collateral Agreements and any other related document or instrument executed and delivered pursuant to the Indenture.

"***Notes Secured Parties***" means, collectively, the Holders and the Trustee.

"***Notice of Default***" means a written notification given by or on behalf of the Pari Passu Collateral Agent stating that an Event of Default has occurred and is continuing.

"***Notice of Shared Payment***" means a written notification given by or on behalf of any Pari Passu Secured Party stating that such Pari Passu Secured Party has received a Shared Payment.

"***Pari Passu Collateral***" means, collectively, all assets and properties subject to Liens created (or purported to be created) pursuant to any Collateral Agreement to secure one or more Series of Pari Passu Obligations.

"***Pari Passu Collateral Agent***" means Bank of Montreal, and its replacements, successors and assigns, in its capacity as the collateral agent for all holders of Pari Passu Obligations.

"***Pari Passu Documents***" means, collectively, the Revolving Credit Agreement Documents and the Indenture Documents.

"***Pari Passu Excluded Collateral***" means any cash, certificate of deposit, deposit account, money market account or other such liquid assets to the extent that such cash, certificate of deposit, deposit account, money market account or other such liquid assets are on deposit or maintained with the Revolving Credit Agreement Agent or any other Revolving Credit Agreement Secured Party (other than the Pari Passu Collateral Agent, in its capacity as such) to cash collateralize letters of credit constituting Revolving Credit Agreement Obligations or Secured Swap Obligations constituting Revolving Credit Agreement Obligations.

"***Pari Passu Lien***" means any Lien on the Common Collateral.

"***Pari Passu Obligations***" means (a) the Revolving Credit Agreement Obligations, (b) the Notes Obligations, and (c) all other obligations of the Grantors in respect of, or arising under, the Pari Passu Documents, plus interest and all fees, costs, charges and expenses, including legal fees and expenses to the extent authorized under the Pari Passu Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding.

"***Pari Passu Secured Party***" means (a) the Pari Passu Collateral Agent, (b) the Revolving Credit Agreement Secured Parties, and (c) the Notes Secured Parties.

"***Permitted Business***" means a business in which the Company and the Restricted Subsidiaries were engaged on the date hereof, as described in the Prospectus, and any business reasonably related or complimentary thereto.

"***Permitted Liens***" means Liens permitted to exist on any Pari Passu Collateral pursuant to any applicable Pari Passu Document.

"***Person***" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, governmental authority or other entity.

"***Plan of Reorganization***" shall mean any plan of reorganization, plan of liquidation, agreement for composition, or other type of plan of arrangement proposed in or in connection with any Insolvency or Liquidation Proceeding.

"***Pledge Agreement***" means, collectively, each Pledge Agreement or other similar agreement executed by a Grantor in favor of the Pari Passu Collateral Agent, as amended, amended and restated, or supplemented from time to time in accordance with its terms.

"***Possessory Collateral***" means any Common Collateral in the possession or control of the Pari Passu Collateral Agent (or its agents or bailees) or any Authorized Representative, to the extent that possession or control thereof perfects a Lien thereon under the Uniform Commercial

Code of any jurisdiction, the equivalent legislation of any other jurisdiction or otherwise. Possessory Collateral includes any Certificated Securities, Promissory Notes, Instruments and Chattel Paper (each as defined in the Uniform Commercial Code).

"***Prospectus***" means the Prospectus dated [●], 2016 of the Company relating to, among other things, the Notes issued on the date hereof.

"***Receiving Party***" has the meaning set forth in Section 2.3(a).

"***Refinance***" means, in respect of any indebtedness, to amend, restate, supplement, waive, replace, restructure, repay, refund, refinance or otherwise modify from time to time all or any part of such indebtedness.

"***Refinanced***" and "***Refinancing***" have correlative meanings.

"***Restricted Subsidiary***" means any Subsidiary of the Company that is not an Unrestricted Subsidiary (however defined) under all Pari Passu Documents.

"***Revolving Credit Agreement***" has the meaning set forth in the Preliminary Statements of this Agreement.

"***Revolving Credit Agreement Agent***" has the meaning set forth in the first paragraph of this Agreement.

"***Revolving Credit Agreement Documents***" means the Revolving Credit Agreement, the Collateral Agreements and any other Loan Documents (as defined in the Revolving Credit Agreement).

"***Revolving Credit Agreement Lenders***" has the meaning set forth in the Preliminary Statements of this Agreement.

"***Revolving Credit Agreement Obligations***" means, collectively, (a) the Obligations (as defined in the Revolving Credit Agreement) of the Company and the Guarantors under the Revolving Credit Agreement Documents, in an aggregate principal amount for all such Obligations not to exceed $50,000,000, plus interest and all fees, costs, charges, penalties and expenses, including legal fees and expenses to the extent authorized under the Revolving Credit Agreement Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding, and (b) the Secured Swap Obligations.

"***Revolving Credit Agreement Secured Parties***" means, collectively, the Revolving Credit Agreement Lenders, the Secured Swap Counterparties and the Revolving Credit Agreement Agent; *provided* that the Secured Swap Counterparties, in their capacities as such, shall not constitute Pari Passu Secured Parties or be considered holders of Pari Passu Obligations for purposes of the proviso in Section 4.5(b).

"***Secured Swap Counterparty***" means, with respect to a Lender Provided Hedging Agreement, a counterparty that at the time such Hedging Agreement is entered into is a Lender

(as defined in the Revolving Credit Agreement) or an Affiliate of a Lender (including a Hedging Agreement in existence prior to the date hereof or prior to such Person or its Affiliate becoming a Lender); *provided* that, for the avoidance of doubt, the term "Lender Provided Hedging Agreement" shall not include any Hedging Agreement or transactions under any Hedging Agreement entered into after the time that such counterparty ceases to be a Lender or an Affiliate of a Lender.

"***Secured Swap Obligations***" means all obligations of the Company or any Guarantor under any Lender Provided Hedging Agreement.

"***Security Agreement***" means, collectively, each Security Agreement or other similar agreement executed by a Grantor in favor of the Pari Passu Collateral Agent, as amended, amended and restated, or supplemented from time to time in accordance with its terms.

"***Series***" means (a) with respect to the Pari Passu Secured Parties, each of (i) the Revolving Credit Agreement Secured Parties (in their capacities as such), and (ii) the Notes Secured Parties (in their capacities as such), and (b) with respect to any Pari Passu Obligations, each of (i) the Revolving Credit Agreement Obligations, and (ii) the Notes Obligations.

"***Shared Payment***" has the meaning set forth in Section 2.3(a).

"***Swap Obligation***" means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

"***Transferee***" has the meaning set forth in Section 4.7(b).

"***Triggering Event***" has the meaning set forth in Section 2.12.

"***Trustee***" has the meaning set forth in the first paragraph of this Agreement.

"***Uniform Commercial Code***" or "***UCC***" means, unless otherwise specified, the Uniform Commercial Code as from time to time in effect in the State of New York.

Section 1.2 ***Certain Other Terms***. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless the context otherwise requires, (i) the term "or" is not exclusive, (ii) words in the singular include the plural, and in the plural include the singular, (iii) "will" shall be interpreted to express a command, (iv) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified in accordance with the Pari Passu Documents and this Agreement, (v) any reference herein to (A) any Person shall be construed to include such Person's successors and permitted assigns and (B) to any Grantor shall include such Grantor as debtor and debtor-in-possession and any receiver or trustee for such Grantor (as the case may be) in any Insolvency or Liquidation Proceeding, (vi) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (vii) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to

this Agreement in its entirety and not to any particular provision hereof, (viii) all references herein to Articles and Sections shall be construed to refer to Articles and Sections of this Agreement unless otherwise stated and (ix) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, and all proceeds thereof.

ARTICLE II

PAYMENTS, ETC.

Section 2.1 ***Event of Default; Receipt of Sharing Payment.*** The Pari Passu Collateral Agent shall give a Notice of Default to each Authorized Representative promptly after having actual knowledge of the occurrence of an Event of Default with respect to any of the Pari Passu Obligations. In addition, the Pari Passu Collateral Agent shall give a Notice of Shared Payment to each Authorized Representative immediately upon having actual knowledge of the receipt of a Shared Payment by it or any Pari Passu Secured Party.

Section 2.2 ***Liens to Rank Equally; Single Set of Security Documents.***

(a) Notwithstanding the date, time, method, manner or order of grant, attachment, recording or perfection of any Pari Passu Lien, and notwithstanding any provision of the Uniform Commercial Code, or any applicable real estate laws or other applicable law or the provisions of any other Pari Passu Documents, or any other circumstance whatsoever, the Pari Passu Collateral Agent and the Pari Passu Secured Parties agree that any Liens held by any Pari Passu Secured Party on the Common Collateral will be equal in all respects with any and all Pari Passu Liens then or thereafter held by or for the benefit of any Pari Passu Secured Party on the Common Collateral and such Liens on the Common Collateral will be and remain equal in all respects for all purposes, including without limitation, with respect to the priority thereof, whether or not any such Liens are subordinated in any respect to any other Liens securing any other obligation or any other Person and whether or not any such Liens are voided, avoided, invalidated, lapsed or unperfected, subject to the provisions of this Section.

(b) Neither the Pari Passu Collateral Agent nor any Pari Passu Secured Party (other than the Revolving Credit Agreement Agent and the Revolving Credit Agreement Secured Parties) shall have a Lien on any Pari Passu Excluded Collateral.

(c) None of the Pari Passu Secured Parties shall cause or permit to exist any Liens on Common Collateral securing any Pari Passu Obligations other than Liens in favor of the Pari Passu Collateral Agent securing the Pari Passu Obligations (or any of them as required by applicable law). If at any time any Lien on the Common Collateral shall exist in favor of any Pari Passu Secured Party other than the Pari Passu Collateral Agent, such Pari Passu Secured Party shall ensure that such Lien is either terminated or promptly transferred in favor of the Pari Passu Collateral Agent, and that any Common Collateral constituting Possessory Collateral, from time to time in its possession or control, shall be promptly transferred to the Pari Passu Collateral Agent.

Section 2.3 ***Sharing of Payments.***

(a) Each Pari Passu Secured Party (a "***Receiving Party***") agrees that, so long as the Discharge of Revolving Credit Agreement Obligations and the Discharge of all Pari Passu Obligations have not occurred, any and all Common Collateral (or assets and property purported to be Common Collateral) or proceeds thereof received by any Pari Passu Secured Party (in the form of cash or otherwise) pursuant to any Collateral Agreement or by the exercise of any rights available to it under applicable law or in any Insolvency or Liquidation Proceeding or in connection with any disposition of, collection on, or in connection with any insurance policy claim or any condemnation award (or deed in lieu of condemnation) with respect to, such Common Collateral (each a "***Shared Payment***"), is to be paid to the Pari Passu Collateral Agent, which shall distribute such proceeds among the Pari Passu Secured Parties in accordance with Section 2.5 below. Without limiting the foregoing and for the avoidance of doubt, a Shared Payment includes any payment or distribution of any kind or character, whether in cash, property, stock or obligations (and the proceeds thereof), which may be payable or deliverable on account of or otherwise by virtue of either the Common Collateral or Liens in favor of a Pari Passu Secured Party on the Common Collateral, including distributions in an Insolvency or Liquidation Proceeding (under a Plan of Reorganization or otherwise) in respect of such Liens or the Common Collateral. If a Shared Payment is in a form other than cash, then such non-cash proceeds shall be held by the Pari Passu Collateral Agent as additional collateral and, at such time as such non-cash proceeds are monetized or produce cash proceeds, shall be applied in the order of application set forth in Section 2.5. If, in any Insolvency or Liquidation Proceeding, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are distributed pursuant to a confirmed Plan of Reorganization or similar dispositive restructuring plan, on account of the Pari Passu Obligations, then, to the extent the debt obligations distributed are secured by Liens upon the same property, the provisions of this Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations and the proceeds thereof.

(b) Each Receiving Party shall segregate and hold all Shared Payments received by it in trust for the benefit of, and forthwith shall transfer and pay over to, the Pari Passu Collateral Agent for the benefit of the Pari Passu Secured Parties in the same form as received, together with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct.

(c) Notwithstanding anything in this Section 2.3 to the contrary but subject to Sections 2.10 and 2.11, the Pari Passu Secured Parties shall have the rights and remedies available to them under the applicable Pari Passu Documents upon the occurrence of an applicable Event of Default or otherwise, including, without limitation, the right to (i) accelerate any of the Pari Passu Obligations owing to such Pari Passu Secured Party, (ii) institute suit against any Grantor, and (iii) take any other enforcement action with respect to any applicable Event of Default.

(d) Whenever any Authorized Representative shall be required, in connection with the exercise of its rights or the performance of its obligations hereunder, to determine the existence or amount of any Pari Passu Obligations of any Series, or the Common Collateral subject to any Lien securing the Pari Passu Obligations of any Series, it may request that such information be furnished to it in writing by each other Authorized Representative, as applicable, and shall be entitled to make such determination on the basis of the information so furnished; *provided*, *however*, that if an Authorized Representative shall fail or refuse reasonably promptly

to provide the requested information, the requesting Authorized Representative shall be entitled to make any such determination or not make any determination by such method as it may, in the exercise of its good faith judgment, determine, including by reliance upon a certificate of the Company. Each Authorized Representative may rely conclusively, and shall be fully protected in so relying, on any determination made by it in accordance with the provisions of the preceding sentence (or as otherwise directed by a court of competent jurisdiction) and shall have no liability to any Grantor, any Pari Passu Secured Party or any other person as a result of such determination.

Section 2.4 ***Pari Passu Collateral Agent and Shared Payments***. Each Pari Passu Secured Party agrees that the Pari Passu Collateral Agent shall distribute Shared Payments to the respective Agents for the Pari Passu Secured Parties in accordance with the terms of this Agreement, which Shared Payments received by any Agent shall be applied by such Agent in accordance with the terms and provisions of the applicable Pari Passu Documents for which such Agent acts as agent. Each Receiving Party shall remit any Shared Payment received by it to the Pari Passu Collateral Agent for distribution in accordance with Section 2.5.

Section 2.5 ***Distribution of Shared Payments.***

(a) Each Pari Passu Secured Party agrees that all Shared Payments shall be distributed by the Pari Passu Collateral Agent as follows:

(i) *first*, to the payment in full in cash of all unpaid fees, expenses, reimbursements and indemnification amounts incurred by the Pari Passu Collateral Agent and all fees owed to it in connection with such collection or sale or otherwise in connection with this Agreement or any other Pari Passu Document (regardless of whether allowed or allowable in an Insolvency or Liquidation Proceeding), pro rata in accordance with the relative amounts thereof on the date of any payment or distribution;

(ii) *second*, (A) to the payment in full in cash of the Revolving Credit Agreement Obligations, including any interest, fees, costs, expenses, charges or other amounts, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding (regardless of whether allowed or allowable in any such Insolvency or Liquidation Proceeding), it being understood that obligations in respect of Lender Provided Hedging Agreements that have been terminated are outstanding and non-contingent for purposes of this Section 2.5(a)(ii), and (B) the deposit of cash collateral under the sole dominion and control of the Revolving Credit Agreement Agent or its designee to collateralize then outstanding Letters of Credit (as defined in the Revolving Credit Agreement) pursuant to the Revolving Credit Agreement and the aggregate facing and similar fees which will accrue thereon through the stated maturity of the Letters of Credit (assuming no drawings thereon before stated maturity);

(iii) *third*, after the Discharge of Revolving Credit Agreement Obligations has occurred, to the payment in full in cash of the other Pari Passu Obligations, including any interest, fees, costs, expenses, charges or other amounts, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding

(regardless of whether allowed or allowable in any such Insolvency or Liquidation Proceeding), *pro rata* in accordance with the relative amounts thereof on the date of any payment or distribution; and

(iv) *fourth*, any surplus proceeds then remaining after the Discharge of all Pari Passu Obligations will be returned to the applicable Grantor or to whomever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct;

provided, in any event, if the Pari Passu Obligations include Swap Obligations, no Shared Payments shall be allocated to any holder of such Swap Obligations (in its capacity as such) on account of such Swap Obligations to the extent a guaranty of such Swap Obligations is made by, or such Common Collateral is owned by, a Guarantor that is not an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the guaranty of such Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation.

(b) For the avoidance of doubt, until the Discharge of Revolving Credit Agreement Obligations has occurred, no payments or distributions of any kind pursuant to Section 2.5(a) shall be made on account of the Pari Passu Obligations other than the Revolving Credit Agreement Obligations (except for payments to the Pari Passu Collateral Agent in accordance with Section 2.5(a)(i)).

Section 2.6 ***Effectiveness in Insolvency or Liquidation Proceedings***. This Agreement, which the parties hereto expressly acknowledge is a "subordination agreement" under Section 510(a) of the Bankruptcy Code, shall be effective before, during and after the commencement of an Insolvency or Liquidation Proceeding notwithstanding Section 1129(b)(1) of the Bankruptcy Code, and is intended to be and shall be interpreted to be enforceable against the parties hereto including each Grantor to the maximum extent permitted pursuant to applicable law. All references in this Agreement to any Grantor shall include such Person as a debtor-in-possession and any receiver or trustee for such Person in any Insolvency or Liquidation Proceeding.

Section 2.7 ***Invalidated Payments***. If any amount paid by any Pari Passu Secured Party to the Pari Passu Collateral Agent for distribution in accordance with the provisions of this Agreement is subsequently required to be returned or repaid in whole or in part, whether by court order, settlement or otherwise, such Pari Passu Secured Party shall promptly notify the Pari Passu Collateral Agent in writing of such requirement, the Pari Passu Collateral Agent shall notify each Authorized Representative thereof in writing, and such Pari Passu Secured Party shall pay to the Pari Passu Collateral Agent the pro rata portion received by it of such amount, without any interest thereon, for payment to the appropriate party in interest; *provided*, *however*, with respect to the Trustee, such amount shall only be paid to the Pari Passu Collateral Agent to the extent that (a) the Trustee has not previously distributed the amount required to be repaid to the Holders, unless the Trustee has been found by a court of competent jurisdiction to have been grossly negligent or to have engaged in willful misconduct in making any such distribution, or (b) such amount has been returned by the Holders to the Trustee, whether as a result of an injunctive order or otherwise. If any such amounts are subsequently recovered by any Pari Passu Secured Party, such Pari Passu Secured Party shall promptly remit such amounts upon receipt to

the Pari Passu Collateral Agent, and the Pari Passu Collateral Agent shall redistribute such amounts to the Pari Passu Secured Parties, without any interest thereon, on the same basis as such amounts were originally distributed. The obligations of the Pari Passu Secured Parties and the Pari Passu Collateral Agent under this Section 2.7 shall survive the repayment of the Pari Passu Obligations and termination of all of the Pari Passu Documents.

Section 2.8 ***Validity of Liens; Gratuitous Bailee for Perfection.***

(a) The Pari Passu Collateral Agent, each Authorized Representative and each other Pari Passu Secured Party agrees that (i) it shall not (and hereby waives any right to) challenge, question, contest or support any other Person in challenging, questioning, or contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the validity or enforceability of any Pari Passu Obligations of any Series or any Collateral Agreement or the perfection, priority, validity or enforceability of any lien or security interest granted to the Pari Passu Collateral Agent or any other Pari Passu Secured Party under any Pari Passu Document constituting a Collateral Agreement, or the validity or enforceability of its priorities, rights or duties established by, or other provisions of, this Agreement, *provided* that nothing in this Agreement will be construed to prevent or impair the rights of any Agent or any other Pari Passu Secured Party to enforce this Agreement to the extent provided hereby, (ii) it will not take or cause to be taken any action the purpose or intent of which is, or could be, to interfere, hinder or delay, in any manner, whether by judicial proceedings or otherwise, any sale, transfer or other disposition of the Common Collateral by the Pari Passu Collateral Agent, (iii) except as provided in Section 2.11, it shall have no right to (A) direct the Pari Passu Collateral Agent or any other Pari Passu Secured Party to exercise any right, remedy or power with respect to any Common Collateral (including pursuant to any intercreditor agreement) or (B) consent to the exercise by the Pari Passu Collateral Agent or any other Pari Passu Secured Party of any right, remedy or power with respect to any Common Collateral, (iv) it will not institute any suit or assert in any suit, bankruptcy, insolvency or other proceeding any claim against the Pari Passu Collateral Agent or any other Pari Passu Secured Party seeking damages for any action taken or omitted to be taken by the Pari Passu Collateral Agent or such other Pari Passu Secured Party with respect to any Common Collateral in accordance with the provisions of this Agreement, and neither the Pari Passu Collateral Agent nor any other Pari Passu Secured Party shall be liable for any action taken or omitted to be taken by the Pari Passu Collateral Agent or such other Pari Passu Secured Party with respect to any Common Collateral in accordance with the provisions of this Agreement, (v) it will not seek, and hereby waives any right, to have any Common Collateral or any part thereof marshaled upon any foreclosure or other disposition of such Collateral and (vi) it will not attempt, directly or indirectly, whether by judicial proceedings or otherwise, to challenge the enforceability of any provision of this Agreement; provided that nothing in this Agreement shall be construed to prevent or impair the rights of any Pari Passu Secured Party to enforce this Agreement.

(b) The Pari Passu Collateral Agent agrees to hold any Common Collateral constituting Possessory Collateral in its possession or control (or in the possession or control of its agents or bailees) as gratuitous bailee for the benefit of each other Pari Passu Secured Party solely for the purpose of perfecting the security interest granted in such Possessory Collateral, if any, pursuant to the applicable Collateral Agreements, in each case, subject to the terms and conditions of this Section 2.8. Pending delivery to the Pari Passu Collateral Agent, each other

Authorized Representative agrees to hold any Common Collateral constituting Possessory Collateral, from time to time in its possession or control, as gratuitous bailee for the benefit of each other Pari Passu Secured Party and any assignee, solely for the purpose of perfecting the security interest granted in such Possessory Collateral, if any, pursuant to the applicable Collateral Agreements, in each case, subject to the terms and conditions of this Section 2.8. The duties or responsibilities of the Pari Passu Collateral Agent and each other Authorized Representative under this Section 2.8 shall be limited solely to holding any Common Collateral constituting Possessory Collateral as gratuitous bailee for the benefit of each other Pari Passu Secured Party for purposes of perfecting the Lien held by such Pari Passu Secured Parties therein.

Section 2.9 ***Additional Collateral***. If, on or after the date hereof, any Grantor grants any additional Liens upon any assets other than Pari Passu Excluded Collateral to secure any Pari Passu Obligations, it must substantially concurrently grant a Lien upon such assets to the Pari Passu Collateral Agent as security for all other Pari Passu Obligations.

Section 2.10 ***Exercise of Rights and Remedies***. The Pari Passu Collateral Agent will, at all times prior to the Discharge of Revolving Credit Agreement Obligations and the Discharge of all Pari Passu Obligations, have the exclusive right to enforce rights and exercise remedies with respect to the Common Collateral, or to commence or seek to commence any action or proceeding with respect to such rights or remedies; *provided, however*, that (a) the Pari Passu Collateral Agent will only take any actions with respect to the Common Collateral at the written direction of the Controlling Party and (b) the Pari Passu Collateral Agent will only take instructions with respect to the Pari Passu Excluded Collateral at the written direction of the Revolving Credit Agreement Agent.

Section 2.11 ***Exercise of Rights and Remedies with Respect to Pari Passu Collateral.***

(a) ***Actions with Respect to Common Collateral***. With respect to any Common Collateral, (i) only the Pari Passu Collateral Agent shall act or refrain from acting with respect to the Common Collateral, and then only on the written instructions of the Controlling Party, (ii) the Pari Passu Collateral Agent shall not follow any instructions with respect to such Common Collateral from any Non-Controlling Authorized Representative (or any other Pari Passu Secured Party other than the Controlling Party) and (iii) no Non-Controlling Authorized Representative or other Pari Passu Secured Party (other than the Controlling Party) shall (and shall be deemed to have waived any right to), or shall instruct the Pari Passu Collateral Agent to, commence any judicial or nonjudicial foreclosure proceedings with respect to, seek to have a trustee, receiver, liquidator or similar official appointed for or over, attempt any action to take possession of, exercise any right, remedy or power with respect to, or otherwise take any action to enforce its security interest in or realize upon, or take any other action available to it in respect of, any Common Collateral, whether under any Collateral Agreement, applicable law or otherwise it being agreed that only the Pari Passu Collateral Agent, acting on the instructions of the applicable Authorized Representative and in accordance with the applicable Pari Passu Security Documents, shall be entitled to take any such actions or exercise any such remedies with respect to Common Collateral (and each Non-Controlling Authorized Representative and Non-Controlling Secured Parties shall be deemed to have waived any right, power, or remedy, whether under any agreement or any applicable law (including in equity) to the contrary);

provided, *however*, without limiting the other provisions of this Agreement, to the extent that the Pari Passu Collateral Agent, in its sole and absolute discretion, determines that action by any other Agent (such as joining in the judicial foreclosure of any deed of trust or mortgage on the Common Collateral) is necessary or otherwise advisable in order to facilitate or accomplish the desired enforcement result undertaken by the Pari Passu Collateral Agent, upon written request of the Pari Passu Collateral Agent, the applicable Non-Controlling Authorized Representative shall advise such other Agent to take such action and otherwise reasonably cooperate with the Pari Passu Collateral Agent and, if for whatever reason such Non-Controlling Authorized Representative shall fail to so advise the other Agent or the other Agent fails to so act and otherwise reasonably cooperate with the Pari Passu Collateral Agent, the Pari Passu Collateral Agent shall be deemed to have been granted an irrevocable power of attorney by such other Agent empowering the Pari Passu Collateral Agent to take such actions on behalf of such other Agent; *provided* that the proceeds of any such enforcement and other amount received in connection therewith shall be applied pursuant to Section 2.3. Notwithstanding the foregoing, the Pari Passu Secured Parties (A) will be entitled to take actions to preserve and protect their claims and interests with respect to the Pari Passu Obligations, to create, prove, preserve and protect the validity, enforceability, perfection and priority of the Pari Passu Collateral and actions that unsecured creditors are entitled to take, and (B) shall take all practical actions in order to preserve and protect their secured claims if the failure to take any such actions could result in a loss of all or any material part of such secured claims, in each case of clauses (A) and (B), to the extent not prohibited herein.

(b) ***Prohibition on Contesting Liens***. No Non-Controlling Authorized Representative or Non-Controlling Secured Party will (and shall be deemed to have waived any right to), or request or attempt to cause the Pari Passu Collateral Agent to, contest, protest or object to any foreclosure proceeding or action brought by the Pari Passu Collateral Agent, the Controlling Party or the Controlling Secured Parties or any other exercise by the Pari Passu Collateral Agent, the Controlling Party or the Controlling Secured Parties of any rights and remedies relating to the Common Collateral, or to cause the Pari Passu Collateral Agent to do so on any ground, including, in the case of non-judicial foreclosure of any personal property collateral, that such foreclosure will not result in a commercially reasonable disposition of the Collateral; provided, however, that nothing herein shall prevent any Non-Controlling Secured Party from making a cash bid or credit bid for any Common Collateral at any foreclosure sale (*provided* that any such credit bid may only be made if the Discharge of Revolving Credit Agreement Obligations has occurred or will occur concurrently as a result of a cash bid for such Common Collateral in addition to such credit bid). The foregoing shall not be construed to limit the rights and priorities of any Pari Passu Secured Party, Agent or Authorized Representative with respect to any property not constituting Common Collateral.

Section 2.12 ***Release of Pari Passu Liens***. In connection with (a) any disposition of any Pari Passu Collateral permitted under the terms of all of the Pari Passu Documents or (b) the enforcement or exercise of any rights or remedies with respect to the Pari Passu Collateral, including any disposition of Pari Passu Collateral (including in connection with any sale pursuant to Section 363 of the Bankruptcy Code), the Liens in favor of the Pari Passu Collateral Agent will automatically be released and discharged upon final conclusion of such disposition or enforcement action, *provided* that (i) any proceeds from such disposition described in clause (a) above occurring prior to the occurrence of a Triggering Event are applied in accordance with the

Pari Passu Documents and (ii) any proceeds from such disposition described in clause (a) above occurring after the occurrence of a Triggering Event and any proceeds from any enforcement action described in clause (b) above are applied in accordance with Section 2.5. Upon the delivery by the Pari Passu Collateral Agent, at the direction of the Controlling Party, of a Notice of Default to each Authorized Representative in accordance with Section 2.1 (a "***Triggering Event***"), the Pari Passu Collateral Agent will be entitled to exercise remedies with respect to the Common Collateral at the written direction of the Controlling Party and will not be permitted to release Liens on any Common Collateral sold or disposed of by any Grantor (other than as expressly permitted by the Pari Passu Documents) without the consent of the Controlling Party. Notwithstanding the foregoing, except in connection with the exercise of remedies against the Common Collateral or a release granted following the Discharge of Revolving Credit Agreement Obligations and the Discharge of all of the Pari Passu Obligations and termination of commitments under the Pari Passu Documents, the Pari Passu Collateral Agent shall not release the Liens under the Pari Passu Documents on all or substantially all of the Common Collateral without the individual consent of the Company and each Authorized Representative representing holders of Pari Passu Obligations for whom such collateral constitutes Common Collateral. Prior to taking any action related to the disposition of Common Collateral, the Pari Passu Collateral Agent must be provided with indemnification to its satisfaction. Notwithstanding anything to the contrary contained in this Agreement, neither the Pari Passu Collateral Agent nor any Authorized Representative shall release or discharge any Lien on the Common Collateral, except for a release or discharge by the Pari Passu Collateral Agent where the Pari Passu Collateral Agent has a good faith belief that the terms set forth in clause (a) or clause (b) of this Section 2.12 have been satisfied.

Section 2.13 ***Post-petition Interest***. No Pari Passu Secured Party shall oppose or seek to challenge or support any Person challenging any claim by the Pari Passu Collateral Agent or any other Pari Passu Secured Party for allowance in any Insolvency or Liquidation Proceeding of Pari Passu Obligations consisting of post-petition interest (at the rate provided for in the documentation with respect thereto), fees or expenses.

Section 2.14 ***Reinstatement***. If, in any Insolvency or Liquidation Proceeding or otherwise, all or part of any payment with respect to any Pari Passu Obligations previously made shall be rescinded for any reason whatsoever, then such Pari Passu Obligations shall be reinstated to the extent of the amount so rescinded and, if theretofore terminated, this Agreement shall be reinstated in full force and effect and such prior termination shall not diminish, release, discharge, impair or otherwise affect the Lien priorities and the relative rights and obligations of the Pari Passu Secured Parties provided for herein.

ARTICLE III

PARI PASSU COLLATERAL AGENT

Section 3.1 ***Appointment and Authority.***

(a) Each of the Pari Passu Secured Parties, by its acceptance hereof, hereby irrevocably designates and appoints the Pari Passu Collateral Agent to act as its agent with respect to the Common Collateral and for purposes of creating a Lien therein and perfection

under the Uniform Commercial Code or applicable real estate laws as in effect in the relevant jurisdiction from time to time, as applicable, or any equivalent foreign legislation, with such powers as are specifically delegated to the Pari Passu Collateral Agent by the terms of this Agreement, together with such powers as are reasonably incidental thereto. The Pari Passu Collateral Agent shall not have a fiduciary relationship in respect of any Pari Passu Secured Party by reason of this Agreement or the exercise of any powers delegated to the Pari Passu Collateral Agent hereunder or under the Collateral Agreements.

(b) Each of the Pari Passu Secured Parties irrevocably authorizes the Pari Passu Collateral Agent, in such capacity, to take such action on such Pari Passu Secured Party's behalf under the provisions of any Collateral Agreement as are expressly delegated to the Pari Passu Collateral Agent and to exercise such powers and perform such duties as are expressly delegated to the Pari Passu Collateral Agent by the terms thereof, together with such other powers as are reasonably incidental thereto. The Pari Passu Collateral Agent shall not have any duties or responsibilities, except those expressly set forth with respect to it in the Collateral Agreements, or any fiduciary relationship with any Pari Passu Secured Party.

(c) Each of the Pari Passu Secured Parties, by its acceptance hereof, hereby further designates and appoints the Pari Passu Collateral Agent its mortgagee trustee, and transfers to the Pari Passu Collateral Agent the respective rights of each other Pari Passu Secured Party to, at the written direction of the Controlling Party, receive, hold, administer and enforce the Mortgages, or any one of them, as trustee mortgagee on behalf of the Pari Passu Secured Parties, and to take such action as trustee mortgagee and to exercise such powers respecting the Mortgages as are delegated to a mortgagee under such Mortgages or by applicable law, together with such powers that are reasonably incidental thereto, in each case at the written direction of the Controlling Party. The Pari Passu Collateral Agent, as trustee mortgagee hereby declares that it accepts the trust hereby created for the limited purpose of holding the Mortgages and exercising remedies thereunder and agrees to perform such trust for the sole use and benefit of the Pari Passu Secured Parties on the terms set forth herein and upon execution and delivery of each respective Mortgage. In its capacity as trustee mortgagee, the Pari Passu Collateral Agent is entitled to all of the protections and indemnities of the Pari Passu Collateral Agent.

(d) Each Non-Controlling Secured Party acknowledges and agrees that the Pari Passu Collateral Agent shall be entitled, for the benefit of the Pari Passu Secured Parties, (i) to sell, transfer or otherwise dispose of or deal with any Common Collateral that is not prohibited by this Agreement and (ii) to act solely on the written instructions of the Controlling Party, in each case without regard to any rights to which the Non-Controlling Secured Parties would otherwise be entitled as a result of the Pari Passu Obligations with respect to the applicable Series. Without limiting the foregoing, each Non-Controlling Secured Party agrees that none of the Pari Passu Collateral Agent, the Controlling Party or any other Pari Passu Secured Party shall have any duty or obligation first to marshal or realize upon any type of Common Collateral (or any other collateral securing any of the Pari Passu Obligations), or to sell, dispose of or otherwise liquidate all or any portion of such Common Collateral (or any other collateral securing any Pari Passu Obligations), in any manner that would maximize the return to the Non-Controlling Secured Parties, notwithstanding that the order and timing of any such realization, sale, disposition or liquidation may affect the amount of proceeds actually received by the Non-Controlling Secured Parties from such realization, sale, disposition or liquidation. Each of the Pari Passu Secured

Parties waives any claim it may now or hereafter have against the Pari Passu Collateral Agent or the Authorized Representative of any other Series of Pari Passu Obligations or any other Pari Passu Secured Party of any other Series arising out of (i) any actions that the Pari Passu Collateral Agent, any Authorized Representative or any Pari Passu Secured Party takes or omits to take (including, actions with respect to the creation, perfection or continuation of Liens on any Common Collateral, actions with respect to the foreclosure upon, sale, release or depreciation of, or failure to realize upon, any of the Common Collateral and actions with respect to the collection of any claim for all or any part of the Pari Passu Obligations from any account debtor, guarantor or any other party) in accordance with the Collateral Agreements or any other agreement related thereto or to the collection of the Pari Passu Obligations or the valuation, use, protection or release of any security for the Pari Passu Obligations, (ii) any election by any Controlling Party or any holders of Pari Passu Obligations, in any proceeding instituted under the Bankruptcy Code, of the application of Section 1111(b) of the Bankruptcy Code or (iii) subject to Section 4.11, any borrowing by, or grant of a security interest or administrative expense priority under Section 364 of the Bankruptcy Code by, any Grantor or any of its Subsidiaries, as debtor-in-possession. Notwithstanding any other provision of this Agreement, the Pari Passu Collateral Agent shall not accept any Common Collateral in full or partial satisfaction of any Pari Passu Obligations without the consent of each Authorized Representative representing holders of Pari Passu Obligations for whom such collateral constitutes Common Collateral.

(e) Each of the Pari Passu Secured Parties, by its acceptance hereof, agrees that it will not propose, sponsor, support, vote in favor of or agree to (i) any Non-Conforming Plan of Reorganization or (ii) any Plan of Reorganization, directly or indirectly, that is pursuant to Section 1129(b)(1) of the Bankruptcy Code that has not been approved by the Majority Lenders (as defined in the Revolving Credit Agreement).

Section 3.2 ***Delegation of Duties***. The Pari Passu Collateral Agent may execute any of its duties and exercise its rights and powers under this Agreement and the other Collateral Agreements by or through employees, agents or attorneys-in-fact and shall not be answerable to the Pari Passu Secured Parties. The Pari Passu Collateral Agent and any such agent or attorney may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates. The exculpatory provisions of this Article III shall apply to any such employee, agent or attorney and to the Affiliates of the Pari Passu Collateral Agent and any such agent or attorney. The Pari Passu Collateral Agent shall not be responsible for the negligence or misconduct of any agents or attorneys in fact selected by it or its Affiliate with reasonable care.

Section 3.3 ***Rights as a Pari Passu Secured Party***. The Person serving as the Pari Passu Collateral Agent hereunder shall have the same rights and powers in its capacity as a Pari Passu Secured Party under any Series of Pari Passu Obligations that it holds as any other Pari Passu Secured Party of such Series and may exercise the same as though it were not the Pari Passu Collateral Agent and the term “Pari Passu Secured Party” or “Pari Passu Secured Parties” or (as applicable) “Revolving Credit Agreement Secured Party”, “Revolving Credit Agreement Secured Parties”, “Notes Secured Party” or “Notes Secured Parties” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Pari Passu Collateral Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Grantor or any Subsidiary or

other Affiliate thereof as if such Person were not the Pari Passu Collateral Agent hereunder and without any duty to account therefor to any other Pari Passu Secured Party. The Pari Passu Collateral Agent, in its individual capacity, is not obligated to be a Pari Passu Secured Party.

Section 3.4 ***Exculpatory Provisions.***

(a) The Pari Passu Collateral Agent shall have no duties to the Pari Passu Secured Parties except those expressly set forth herein and in the Pari Passu Documents. Neither the Pari Passu Collateral Agent nor any of its officers, directors, employees or agents shall be liable to any Pari Passu Secured Party for any action taken or omitted by the Pari Passu Collateral Agent, its officers, directors, employees and agents, as the case may be, hereunder or in connection herewith, except to the extent caused by its or their gross negligence or willful misconduct. Without limiting the generality of the foregoing, the Pari Passu Collateral Agent:

(i) shall not be subject to any fiduciary or other implied duties of any kind or nature to any Person, regardless of whether an Event of Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Collateral Agreements that the Pari Passu Collateral Agent is required to exercise as directed in writing by the Controlling Party; *provided* that the Pari Passu Collateral Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose it to liability or that is contrary to any Pari Passu Document or applicable law;

(iii) shall not, except as expressly set forth herein and in the Collateral Agreements, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company or any of its Affiliates that is communicated to or obtained by the Person serving as the Pari Passu Collateral Agent or any of its Affiliates in any capacity;

(iv) shall not be liable for any action taken or not taken by it (A) with the consent or at the request of the Controlling Party or (B) in the absence of its own gross negligence or willful misconduct, which may include reliance in good faith on a certificate of an authorized officer of the Company stating that such action is permitted by the terms of this Agreement; and shall be deemed not to have knowledge of any Event of Default under any Series of Pari Passu Obligations unless and until written notice describing such Event Default is given by the Company or (as applicable) to the Pari Passu Collateral Agent by the Authorized Representative of such Pari Passu Obligations;

(v) shall not be responsible for or have any duty to ascertain or inquire into (A) any statement, warranty or representation made in or in connection with this Agreement or any other Collateral Agreement, (B) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (C) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Event of

Default or other default, (D) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Collateral Agreement or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Agreements, (E) the value or the sufficiency of the Common Collateral or any other collateral for any Series of Pari Passu Obligations, (F) the satisfaction of any condition set forth in any Pari Passu Document, (G) the state of title to any property purportedly owned by the Company or any other Person, or (H) the percentage or other measurement of the Company's or any other Person's property which is subject to any Lien or security interest, other than to confirm receipt of items expressly required to be delivered to the Pari Passu Collateral Agent;

(vi) with respect to the Pari Passu Documents, may conclusively assume that the Grantors have complied with all of their obligations thereunder unless advised in writing by the Authorized Representative thereunder to the contrary specifically setting forth the alleged violation;

(vii) may conclusively rely on any certificate of an officer of the Company provided pursuant to Section 2.12;

(viii) whenever reference is made in any Pari Passu Document to any action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Pari Passu Collateral Agent or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Pari Passu Collateral Agent, it is understood that in all cases the Pari Passu Collateral Agent shall be acting, giving, withholding, suffering, omitting, making or otherwise undertaking and exercising the same (or shall not be undertaking and exercising the same) solely as directed in writing by the Controlling Party; this provision is intended solely for the benefit of the Pari Passu Collateral Agent and its successors and permitted assigns and is not intended to and will not entitle the other parties hereto to any defense, claim or counterclaim under or in relation to any Pari Passu Document, or confer any rights or benefits on any party hereto or thereto;

(ix) notwithstanding any other provision of this Agreement or the Collateral Agreements to the contrary, the Pari Passu Collateral Agent shall not be liable for any indirect, incidental, consequential, punitive or special losses or damages, regardless of the form of action and whether or not any such losses or damages were foreseeable or contemplated;

(x) the Pari Passu Collateral Agent shall not be required to expend or risk any of its own funds or otherwise incur any financial or other liability in the performance of any of its duties hereunder, and shall not be obligated to take any legal or other action hereunder, which might in its judgment involve or cause it to incur any expense or liability, unless it shall have been furnished with acceptable indemnification; and

(xi) may (and any of its Affiliates may) accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Grantor or any Subsidiary or Affiliate thereof as if such Person were not the Pari Passu Collateral Agent and without any duty to any other Pari Passu Secured Party, including any duty to account therefor.

(b) The Grantors agree that they shall defend and be jointly and severally liable to reimburse and indemnify the Pari Passu Collateral Agent for reasonable expenses actually incurred by the Pari Passu Collateral Agent on behalf of the Pari Passu Secured Parties in connection with the execution, delivery, administration and enforcement of this Agreement and from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, actual reasonable expenses or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against the Pari Passu Collateral Agent, in any way relating to or arising out of this Agreement or any other document delivered in connection herewith or the transactions contemplated hereby, or the enforcement of any of the terms hereof, in each case, except to the extent caused by its gross negligence or willful misconduct. The obligations of the Grantors under this Section 3.4(b) shall survive payment of the Pari Passu Obligations and termination of this Agreement and all of the Pari Passu Documents.

(c) Each Pari Passu Secured Party acknowledges that, in addition to acting as the initial Pari Passu Collateral Agent, Bank of Montreal also serves as Revolving Credit Agreement Agent, and that Bank of Montreal or one or more of its Affiliates may have jointly arranged, syndicated, placed or otherwise participated in the facilities and indebtedness contemplated by the Revolving Credit Agreement and the Indenture, and each Pari Passu Secured Party hereby waives any right to make any objection or claim against Bank of Montreal, any of its Affiliates or its counsel (or any successor Pari Passu Collateral Agent or its counsel) based on any alleged conflict of interest or breach of duties arising from the Pari Passu Collateral Agent, Bank of Montreal or its Affiliates also serving in such other capacities. Any knowledge obtained by the Revolving Credit Agreement Agent or any Affiliate of Bank of Montreal regarding the Company, any Grantor or the nature of the transaction described herein, including a default or potential Event of Default shall not be imputed to the Pari Passu Collateral Agent.

Section 3.5 ***Reliance by Pari Passu Collateral Agent***. The Pari Passu Collateral Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Pari Passu Collateral Agent also may conclusively rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. The Pari Passu Collateral Agent may consult with legal counsel, at the expense of the Company and Grantors (who may include, but shall not be limited to, counsel for the Company or counsel for the Revolving Credit Agreement Agent or the Trustee), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the written advice of any such counsel, accountants or experts.

Section 3.6 ***Resignation of Pari Passu Collateral Agent***. The Pari Passu Collateral Agent may at any time give written notice of its resignation as Pari Passu Collateral Agent under this Agreement and the other Collateral Agreements to each Authorized Representative and the Company. Upon receipt of any such notice of resignation, the Controlling Party shall have the right (subject, unless an Event of Default relating to the commencement of an Insolvency or Liquidation Proceeding has occurred and is continuing, to the consent of the Company (not to be unreasonably withheld or delayed)) in consultation with the Company, to appoint a successor, which shall be a bank or trust company with an office in the United States, or an Affiliate of any such bank or trust company with an office in the United States. If no such successor shall have been so appointed by the Controlling Party and shall have accepted such appointment within 30 days after the retiring Pari Passu Collateral Agent gives notice of its resignation, then the retiring Pari Passu Collateral Agent may, on behalf of the Pari Passu Secured Parties, appoint a successor Pari Passu Collateral Agent meeting the qualifications set forth above (but without the consent of any other Pari Passu Secured Party or the Company); *provided* that if the Pari Passu Collateral Agent shall notify the Company and each Authorized Representative that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Pari Passu Collateral Agent shall be discharged from its duties and obligations hereunder and under the other Collateral Agreements (except that in the case of any collateral security held by the Pari Passu Collateral Agent on behalf of the Pari Passu Secured Parties under any of the Collateral Agreements, the retiring Pari Passu Collateral Agent shall continue to hold such collateral security solely for purposes of maintaining the perfection of the security interests of the Pari Passu Secured Parties therein until such time as a successor Pari Passu Collateral Agent is appointed but with no obligation to take any further action at the request of the Controlling Party, any other Pari Passu Secured Parties or any Grantor) and (b) all payments, communications and determinations provided to be made by, to or through the Pari Passu Collateral Agent shall instead be made by or to each Authorized Representative directly, until such time as the Controlling Party appoints a successor Pari Passu Collateral Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Pari Passu Collateral Agent hereunder and under the Collateral Agreements, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Pari Passu Collateral Agent, and the retiring Pari Passu Collateral Agent shall be discharged from all of its duties and obligations hereunder or under the other Collateral Agreements (if not already discharged therefrom as provided above in this Section). After the retiring Pari Passu Collateral Agent's resignation hereunder and under the other Collateral Agreements, the provisions of this Article, Sections 9.7, 10.4, 10.5 and 10.6 of the Revolving Credit Agreement, and Section 11.09 of the Indenture shall continue in effect for the benefit of such retiring Pari Passu Collateral Agent, its sub-agents and their respective Affiliates in respect of any actions taken or omitted to be taken by any of them while the retiring Pari Passu Collateral Agent was acting as Pari Passu Collateral Agent. Upon any notice of resignation of the Pari Passu Collateral Agent hereunder and under the other Collateral Agreements, the Grantors agree to use commercially reasonable efforts to transfer (and maintain the validity and priority of) the Liens in favor of the retiring Pari Passu Collateral Agent under the Collateral Agreements to the successor Pari Passu Collateral Agent as promptly as practicable.

Section 3.7 ***Collateral and Guaranty Matters***. Each of the Pari Passu Secured Parties irrevocably authorizes the Pari Passu Collateral Agent, at the written direction of the Controlling Party:

(a) to release any Lien on any property granted to or held by the Pari Passu Collateral Agent under any Collateral Agreement in accordance with Section 2.12 or upon receipt of a written request from the Company stating that the releases of such Lien is permitted by the terms of each then extant Pari Passu Document; and

(b) to release any Grantor from its obligations under the Collateral Agreements upon receipt of a written request from the Company stating that such release is permitted by the terms of each then extant Pari Passu Document.

Section 3.8 ***Distributions and Consents***. In making the distributions to the Agents provided for in Article II hereof and to the extent such distributions are entitled to the benefits of this Agreement, the Pari Passu Collateral Agent shall rely upon information supplied to it by each Authorized Representative with respect to the amounts of Pari Passu Obligations owing to the Pari Passu Secured Parties represented by such Authorized Representative. Each Authorized Representative hereby agrees, on three (3) Business Days' telephonic, telecopy, email or similar notice from the Pari Passu Collateral Agent, to deliver to the Pari Passu Collateral Agent in writing, including by facsimile, a statement of the outstanding balance of the Pari Passu Obligations, if any, owing to such Pari Passu Secured Parties represented by such Authorized Representative as of the date or dates specified in such notice; *provided*, *however*, that if an Authorized Representative shall fail or refuse to provide the requested information within such time period, the Pari Passu Collateral Agent shall be entitled to rely on the written direction of the Controlling Party, and the Controlling Party may make any such determination or not make any determination, by such method as the Controlling Party may, in the exercise of its good faith judgment, determine, including by reliance upon a certificate of the Company. The Pari Passu Collateral Agent may rely conclusively, and shall be fully protected in so relying, on any determination made in accordance with the provisions of this Section 3.8 (or as otherwise directed by a court of competent jurisdiction) and shall have no liability to any Grantor, any Pari Passu Secured Party or any other person as a result of such determination in the absence of the Pari Passu Collateral Agent's gross negligence or willful misconduct.

ARTICLE IV

MISCELLANEOUS

Section 4.1 ***Governing Law***. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

Section 4.2 ***Pari Passu Secured Party Credit Decision***. Each Pari Passu Secured Party acknowledges that it has not relied upon the Pari Passu Collateral Agent or any other Pari Passu Secured Party in making any credit analysis or decision to enter into this Agreement. The Pari Passu Collateral Agent makes no representations or warranty with respect to the foregoing.

Each Pari Passu Secured Party also acknowledges that it will not rely upon the Pari Passu Collateral Agent or any other Pari Passu Secured Party in the future in making any credit decisions or in taking or not taking action under this Agreement

Section 4.3 ***Counterparts***. This Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one agreement, and shall constitute a binding agreement when executed by each of the parties hereto. Delivery of an executed signature page to this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually signed counterpart of this Agreement.

Section 4.4 ***Successors and Assigns***. This Agreement shall be binding upon and inure to the benefit of, and be binding upon, the successors and assigns of the parties hereto including any assignees of the Pari Passu Obligations. Each Pari Passu Secured Party agrees that it will not assign any of the Pari Passu Obligations absent an acknowledgment by the assignee thereof of the terms of this Agreement, *provided* that the failure of any Pari Passu Secured Party to obtain such acknowledgment shall not affect the effectiveness of the immediately preceding sentence.

Section 4.5 ***Amendments to Agreement and Documentation.***

(a) Subject to clauses (b) and (c) below, this Agreement may be amended only in a writing executed by the Pari Passu Collateral Agent, each Authorized Representative and, with respect to any amendment that increases the obligations or reduces the rights of any Grantor hereunder, such Grantor. Neither this Section 4.5, nor any other provision of this Agreement, shall in any way limit the ability of any Pari Passu Secured Party to waive, amend or otherwise modify any document relating to the Pari Passu Obligations (including, without limitation, increasing the respective amounts thereof).

(b) Notwithstanding clause (a) above, but subject to Sections 2.11 and 2.12, each Pari Passu Secured Party agrees that the Pari Passu Collateral Agent may enter into any amendment, supplement, consent, waiver, modification or termination with respect to any Collateral Agreement (including to release Liens securing any Pari Passu Obligations), at the written direction of the Controlling Party, in each case, without notice to, or the consent of any Pari Passu Secured Party; *provided*, *however*, that such amendment, supplement, consent, waiver, modification or termination shall not be effective if the effect thereof would be to (i) except as set forth below under Section 4.11, subordinate the Liens of such Pari Passu Secured Party in the Common Collateral to any other Lien in the Common Collateral (other than Permitted Liens that, under the terms of Pari Passu Documents with respect to such Series are entitled to rank senior in priority to the Liens securing the Pari Passu Obligations of such Series), (ii) effect any changes in the application of proceeds of the Common Collateral in Section 2.5 that would adversely affect such Pari Passu Secured Party or (iii) make any change in provisions dealing with the required vote of holders of the Pari Passu Obligations of such Pari Passu Secured Party required to approve any amendment or waiver. In determining whether an amendment, supplement, consent, waiver, modification or termination with respect to any Collateral Agreement is permitted by this Section 4.5(b), the Pari Passu Collateral Agent may in good faith conclusively rely on a certificate of an officer of the Company stating that such amendment, supplement, consent, waiver, modification or termination is permitted by this Section 4.5(b).

(c) Notwithstanding the other provisions of this Section 4.5, each Authorized Representative and the Pari Passu Collateral Agent (acting upon the written direction of the Controlling Party) may amend or supplement this Agreement without the consent of any other Pari Passu Secured Party: (i) to cure any ambiguity, defect or inconsistency; (ii) to make any change that would provide any additional rights or benefits to the Pari Passu Secured Parties; (iii) to make, complete or confirm any grant of Common Collateral permitted or required by this Agreement or any of the Collateral Agreements; and (iv) to provide for additional obligations of the Grantors or Liens securing such obligations to the extent permitted by the terms of the Pari Passu Documents and not otherwise in contravention of this Agreement; *provided* that if any such amendment or supplement increases the obligations or reduces the rights of any Grantor hereunder, such Grantor shall also have consented to such amendment or supplement.

Section 4.6 ***Termination***. Subject to Section 2.14, this Agreement shall terminate upon the Discharge of Revolving Credit Agreement Obligations and the Discharge of all Pari Passu Obligations, as evidenced in a writing furnished to the Pari Passu Collateral Agent by the Controlling Party.

Section 4.7 ***Cooperation/Transfer.***

(a) Each party hereto agrees to cooperate fully with the other parties hereto, in the exercise of its reasonable judgment, to the end that the terms and provisions of this Agreement may be promptly and fully carried out. Each party hereto also agrees, from time to time, to execute and deliver any and all other agreements, documents or instruments and to take such other actions, all as may be reasonably necessary or desirable to effectuate the terms, provisions and intent of this Agreement.

(b) In connection with an assignment of all, or of a proportionate part of all, of any Pari Passu Secured Party's right, title and interest under any Pari Passu Document, as the case may be, to any bank, insurance company, other financial institution or other Person (the "***Transferee***"), such Transferee shall become a Pari Passu Secured Party hereunder immediately upon such assignment without further act on the part of any person, and by the acceptance of such assignment such Transferee agrees to be bound by the terms hereof as if originally bound hereunder as a Pari Passu Secured Party.

Section 4.8 ***No Waiver***. No failure or delay on the part of any Pari Passu Secured Party in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder.

Section 4.9 ***Notices***. All written communications provided for hereunder shall be in English and delivered in person or by first class mail (registered or certified, return receipt requested), facsimile transmission or overnight air courier guaranteeing next day delivery, and addressed to such party at the address specified on its signature page hereto and, as applicable, at the address set forth in Section 4 of the applicable Joinder Agreement, or as such party may otherwise provide in writing to the other parties from time to time. Any notice to a Grantor shall be given to such Grantor care of the Company, at the address of the Company specified on its signature page hereto, or such other address of the Company as the Company may otherwise provide in writing to the other parties from time to time.

Any party hereto may change its address or facsimile number for notices and other communications hereunder by written notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt (if a Business Day) and on the next Business Day thereafter (in all other cases) if delivered by hand or overnight courier service or sent by facsimile, in each case, delivered, sent or mailed (properly addressed) to such party as provided in this Section 4.9 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 4.9.

Section 4.10 ***No Third Party Beneficiary***. No Person other than the parties hereto shall have or be entitled to assert any rights or benefits under this Agreement. The provisions of this Agreement are and are intended solely for the purpose of defining the relative rights of the Pari Passu Secured Parties in relation to one another. Except as expressly provided in this Agreement, none of the Company, any other Grantor, any other Subsidiary of the Company or any other creditor of any of the foregoing shall have any rights or obligations hereunder, and none of the Company, any other Grantor or any other Subsidiary of the Company may rely on the terms hereof. Nothing in this Agreement is intended to or shall impair the obligations of any Grantor, which are absolute and unconditional, to pay any Pari Passu Obligations owed by such Grantor as and when the same shall become due and payable in accordance with their terms.

Section 4.11 ***Bankruptcy Filing.***

(a) The provisions of this Agreement shall continue in full force and effect both before and after the filing of any petition by or against any Grantor under any Bankruptcy Law. If any Grantor shall become subject to a case (a "***Bankruptcy Case***") under the Bankruptcy Code and shall, as debtor(s)-in-possession, move for approval of financing, which, for the avoidance of doubt, may include a roll-up of the Revolving Credit Agreement Obligations ("***DIP Financing***") to be provided by one or more lenders, which, for the avoidance of doubt, may include the Revolving Credit Agreement Secured Parties (the "***DIP Lenders***"), under Section 364 of the Bankruptcy Code or the use of cash collateral or the sale of property that constitutes Common Collateral under Section 363 of the Bankruptcy Code, each Pari Passu Secured Party (other than any Controlling Secured Party or any Authorized Representative of any Controlling Secured Party) agrees that it will raise no objection to, nor support any Person objecting to, and shall be deemed to have consented to, any such financing or to the Liens on the Common Collateral securing the same ("***DIP Financing Liens***") or to any use of cash collateral or sale that constitutes Common Collateral (including any bid or sale procedure in respect thereof), unless any Controlling Secured Party, or an Authorized Representative of any Controlling Secured Party, shall then oppose or object to such DIP Financing or such DIP Financing Liens or use of cash collateral or sale of Common Collateral (and (i) to the extent that such DIP Financing Liens are senior to the Liens on any such Common Collateral for the benefit of the Controlling Secured Parties, each Non-Controlling Secured Party will consent to the subordination of its Liens with respect to such Common Collateral on the same terms as the Liens of the Controlling Secured Parties (other than any Liens of any Pari Passu Secured Parties constituting DIP Financing Liens) are subordinated thereto, and (ii) to the extent that such DIP Financing Liens rank pari passu

with the Liens on any such Common Collateral granted to secure the Pari Passu Obligations of the Controlling Secured Parties, each Non-Controlling Secured Party will confirm the priorities with respect to such Common Collateral as set forth herein), in each case so long as (A) such DIP Financing documentation or cash collateral order does not require any Grantor to propose a specific Plan of Reorganization or to liquidate or sell substantially all of its assets prior to the occurrence of an event of default thereunder, (B) the Pari Passu Secured Parties of each Series retain the benefit of their Liens on all such Common Collateral pledged to the DIP Lenders, including proceeds thereof arising after the commencement of such proceeding, with the same priority vis-à-vis all the other Pari Passu Secured Parties (other than any Liens of the Pari Passu Secured Parties constituting DIP Financing Liens) as existed prior to the commencement of the Bankruptcy Case, (C) the Pari Passu Secured Parties of each Series are granted Liens on any additional collateral pledged to any Pari Passu Secured Parties as adequate protection or otherwise in connection with such DIP Financing or use of cash collateral, with the same priority vis-à-vis the Pari Passu Secured Parties as set forth in this Agreement, (D) if any amount of such DIP Financing or cash collateral is applied to repay any of the Pari Passu Obligations, such amount is applied pursuant to Section 2.5 of this Agreement, and (E) if any Pari Passu Secured Parties are granted adequate protection, including in the form of periodic payments, in connection with such DIP Financing or use of cash collateral, the proceeds of such adequate protection are applied pursuant to Section 2.5 of this Agreement; *provided* that the Pari Passu Secured Parties of each Series shall have a right to object to the grant of a Lien to secure the DIP Financing over any assets subject to Liens in favor of the Pari Passu Secured Parties of such Series that shall not constitute Common Collateral; *provided*, *further*, that all Pari Passu Secured Parties shall have the right to seek and receive the adequate protection permitted by this Section 4.11; and *provided*, *further*, that all Pari Passu Secured Parties receiving adequate protection shall not object to (or support any other party in objecting to) any other Pari Passu Secured Party receiving adequate protection comparable to any adequate protection of any kind or type (including Liens, claims or cash payments) granted to such Pari Passu Secured Parties in connection with a DIP Financing or use of cash collateral, it being understood that such adequate protection in the form of Liens shall be of the same priority as set forth in Section 2.2.

(b) Nothing in this Agreement shall limit the rights of any Non-Controlling Secured Parties to (i) file claims in any such Insolvency or Liquidation Proceeding, (ii) respond to or contest claims seeking the disallowance of, the valuation of, or challenges to the perfection or the priority of, Pari Passu Obligations or a Lien securing such Pari Passu Obligations or otherwise make any agreements or file any motions or objections pertaining to the claims of the Note Secured Parties, in each case not in violation of the specific terms of this Agreement; (iii) subject to Section 3.1(e), vote on a plan proposed in any Bankruptcy Case; (iv) take action to create, perfect, preserve or protect their lien, so long as such actions are not adverse to the other liens securing Pari Passu Obligations or the rights of the Controlling Party or any Controlling Secured Parties to exercise remedies any other Pari Passu Document; and (v) make any election permitted under 11 USC § 1111(b), (vi) file any pleadings, objections or motions in any Insolvency or Liquidation Proceeding that assert rights or interests available to unsecured creditors of any Grantor arising under applicable law, but in each case provided that no such action is otherwise in violation of the specific terms of this Agreement (it being understood that, without limiting the generality of the foregoing, (A) no objection to any DIP Financing or use of cash collateral by any Non-Controlling Secured Parties shall be permissible other than in accordance with Section 4.11(a) above and (B) no objection by any Non-Controlling Secured Party to any sale or other

disposition of any Common Collateral under Section 363 of the Bankruptcy Code in any Insolvency or Liquidation Proceeding supported (or not objected to) by the Controlling Party or by the Controlling Secured Parties shall be permissible other than on the ground, in accordance with clause (viii) of this Section 4.11(b), that the Non-Controlling Secured Parties are being denied the opportunity to make (and intend and have the financial wherewithal to make) a bid for the subject Common Collateral in excess of the proposed purchase price in the subject transaction, which bid will result in the Discharge of Revolving Credit Agreement Obligations in accordance with clause (viii) of this Section 4.11(b)), (vii) take any action to value the Common Collateral in any Insolvency or Liquidation Proceeding, and (viii) in the case of a sale or other disposition of any Common Collateral free and clear of its Liens or other claims under Section 363 of the Bankruptcy Code, make a cash bid or credit bid for such property (*provided* that any such credit bid may only be made if the Discharge of Revolving Credit Agreement Obligations has occurred or will occur concurrently as a result of a cash bid for such property in addition to such credit bid).

(c) In the event that any Pari Passu Secured Party becomes a judgment Lien creditor as a result of its enforcement of its rights as an unsecured creditor, such judgment Lien shall be subject to the terms of this Agreement for all purposes to the same extent as all other Liens securing the Pari Passu Obligations subject to this Agreement.

Section 4.12 ***Refinancings.*** The Pari Passu Obligations of any Series may be Refinanced in whole, but not in part, in each case, without notice to, or the consent (except to the extent a consent is otherwise required to permit the Refinancing transaction under any Pari Passu Document) of any other Pari Passu Secured Party, all without affecting the priorities provided for herein or the other provisions hereof; *provided* that the Authorized Representative for the holders of such Refinancing Indebtedness (if not already a party hereto in such capacity) shall have executed a Joinder Agreement on behalf of the holders of such Refinancing Indebtedness.

Section 4.13 ***Appointment of Pari Passu Collateral Agent***. Each Pari Passu Secured Party hereby irrevocably appoints Bank of Montreal, to act on its behalf as the Pari Passu Collateral Agent hereunder.

Section 4.14 ***Insurance***. As between the Pari Passu Secured Parties, the Controlling Party, acting at the direction of the applicable Authorized Representative, shall have the right to adjust or settle any insurance policy or claim covering or constituting Common Collateral in the event of any loss thereunder and to approve any award granted in any condemnation or similar proceeding affecting the Common Collateral.

Section 4.15 ***Separate Classification***. It is acknowledged and agreed that:

(a) the Revolving Credit Agreement Obligations, including in respect of Common Collateral, constitute claims separate and apart (and of a different nature) from any other Pari Passu Obligations of the Company and each other Grantor, including in respect of the Common Collateral; and

(b) because of, among other things, their differing payment terms, their differing covenant rights, and their differing rights in the Common Collateral (including vis-à-vis any

Grantor and/or in directing the exercise of any rights in and remedies against the Collateral), the Revolving Credit Agreement Obligations are fundamentally different and distinct from (and substantially dissimilar, within the meaning of Section 1122 of the Bankruptcy Code, to) any and all other Pari Passu Obligations and must be separately classified in any Plan of Reorganization, proposed or confirmed in an Insolvency or Liquidation Proceeding and the Pari Passu Obligations of any Series must be separately classified in any such plan from the Pari Passu Obligations of any other Series.

Section 4.16 ***Specific Performance***. Each Authorized Representative party hereto may demand specific performance of this Agreement. Each Authorized Representative party hereto, on behalf of itself and its respective Pari Passu Secured Parties, hereby irrevocably waives any defense based on the adequacy of a remedy at law and any other defense that might be asserted to bar the remedy of specific performance in any action that may be brought by any Controlling Party.

Section 4.17 ***Information Concerning Financial Condition of the Company and the other Grantors***. Each Pari Passu Secured Party (other than the Trustee) shall be responsible for keeping itself informed of (i) the financial condition of the Company and the other Grantors and all endorsers and/or guarantors of its Pari Passu Obligations and (ii) all other circumstances bearing upon the risk of nonpayment of its Pari Passu Obligations. Without limiting the generality of the foregoing, no Controlling Party or Pari Passu Secured Parties shall have any responsibility for keeping any other party to this Agreement informed of (a) the financial condition of the Company and the other Grantors and all endorsers and/or guarantors of any of the Pari Passu Obligations or (b) any other circumstances bearing upon the risk of nonpayment of any of the Pari Passu Obligations. No Controlling Party or Pari Passu Secured Parties shall have any duty to advise any other party hereunder of information known to it or them regarding such condition or any such circumstances or otherwise. In the event that any Controlling Party or any Pari Passu Secured Party, in its or their sole discretion, undertakes at any time or from time to time to provide any such information to any other party, it or they shall be under no obligation (w) to make, and no Controlling Party or Pari Passu Secured Party (as the case may be) shall be deemed to have made any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided, (x) to provide any additional information or to provide any such information on any subsequent occasion, (y) to undertake any investigation or (z) to disclose any information that, pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential. Without limiting the generality of the other provisions of this Agreement, any Controlling Party shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or internet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Such Controlling Party also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. Such Controlling Party may consult with legal counsel (who may be counsel for the Pari Passu Collateral Agent or any Authorized Representative or any Grantor), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 4.18 ***Severability***. Any provision of this Agreement 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 hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

Section 4.19 ***Headings***. The descriptive headings of the several sections of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

Section 4.20 ***Submission to Jurisdiction; Waiver of Jury Trial.***

(a) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER PARI PASSU DOCUMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HEREUNDER HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH OF THE PARTIES HEREUNDER HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER ANY PARTY HEREUNDER, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER PARI PASSU DOCUMENTS BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER ANY PARTY HEREUNDER. EACH OF THE PARTIES HEREUNDER FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 4.9, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. EACH OF THE PARTIES HEREUNDER HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY OTHER PARI PASSU DOCUMENT THAT SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PARI PASSU SECURED PARTY TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY PARTY HEREUNDER IN ANY OTHER JURISDICTION.

(b) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER PARI PASSU DOCUMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR

CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM

(c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER PARI PASSU DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Section 4.21 ***Conflicts***. In the event of any conflict between the provisions of this Agreement and the provisions of any other Pari Passu Document, the provisions of this Agreement shall govern.

Section 4.22 ***Additional Guarantors' Consent***. If after the date hereof any Subsidiary of the Company or any Restricted Subsidiary becomes a Guarantor under any Pari Passu Document that was not a Guarantor as of the date hereof, such Guarantor shall execute and deliver a Joinder Consent Agreement.

Section 4.23 ***Acknowledgment of Authorized Representatives and Agents***. Each Authorized Representative and each other Agent acknowledges and agrees that each of the Pari Passu Collateral Agent and the other Pari Passu Secured Parties have made no express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectability, or enforceability of any of the Pari Passu Documents, the ownership of any Common Collateral, or the perfection or priority of any Liens thereon. Except as otherwise expressly provided herein, the Pari Passu Secured Parties will be entitled to manage and supervise their respective loans and extensions of credit under the applicable Pari Passu Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate. The Pari Passu Collateral Agent and the other Pari Passu Secured Parties shall have no duty to any other Pari Passu Secured Parties to act or refrain from acting in a manner that allows, or results in, the occurrence or continuance of an Event of Default or default under any agreements with any Grantor (including the Pari Passu Documents), regardless of any knowledge thereof that they may have or be charged with.

Section 4.24 ***Amendment and Restatement***. The parties hereto hereby agree that this Agreement amends and restates the Existing Intercreditor Agreement in its entirety, and after giving effect to such amendment and restatement (i) the Existing Trustee shall cease to be a party to this Agreement and shall have no rights or obligations hereunder (other than any rights under the Existing Intercreditor Agreement that expressly survive the termination thereof) and (ii) the obligations of the Company and the other Grantors under the Existing Indenture shall cease to constitute "Notes Obligations" and "Pari Passu Obligations" under this Agreement and the Collateral Agreements.

Section 4.25 ***Entire Agreement***. This Agreement embodies the entire agreement and understanding among the parties hereto and supersedes all prior agreements and understandings related to the subject matter hereof.

Section 4.26 ***The Trustee***. The Trustee shall have all of the rights (including indemnification rights), powers, benefits, privileges, protections, indemnities and immunities granted to the Trustee under the Indenture, all of which are incorporated herein *mutatis mutandis*.

[Remainder of Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the date and year first written above.

BANK OF MONTREAL, as Pari Passu Collateral Agent

By: _____
Name: James V. Ducote
Title: Managing Director

Address:

700 Louisiana, Suite 2100
Houston, Texas 77002
Facsimile: 713-223-4007
Attention: James V. Ducote

BANK OF MONTREAL, as Revolving Credit Agreement Agent

By: _____
Name: James V. Ducote
Title: Managing Director

Address:

700 Louisiana, Suite 2100
Houston, Texas 77002
Facsimile: 713-223-4007
Attention: James V. Ducote

Solely for purposes of Section 4.24 of this Agreement:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, as Existing Trustee

By: _____
Name:
Title:

Address:

American Stock Transfer & Trust Company, LLC
6201 15th Avenue
Brooklyn, NY 11219
T: 718.921.8200
Attention: Corporate Trust Department

with a copy to:

American Stock Transfer & Trust Company, LLC
48 Wall Street, 22nd Floor
New York, NY 10005
T: 718.921.8183
Attention: Legal Department

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, as Trustee

By: _____
Name:
Title:

Address:

American Stock Transfer & Trust Company, LLC
6201 15th Avenue
Brooklyn, NY 11219
T: 718.921.8200
Attention: Corporate Trust Department

with a copy to:

American Stock Transfer & Trust Company, LLC
48 Wall Street, 22nd Floor
New York, NY 10005
T: 718.921.8183
Attention: Legal Department

COMSTOCK RESOURCES, INC.

By: _____
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS GP, LLC,

By: Comstock Resources, Inc., its sole member

By: _____
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS INVESTMENTS, LLC

By: Comstock Resources, Inc., its sole member

By: _____
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS GP, LLC,

By: Comstock Oil & Gas GP, LLC, its general member

By: Comstock Resources, Inc., its sole member

By: _____
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS HOLDINGS, INC.

By: _____
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS—LOUISIANA, INC.

By: _____
Name: Roland O. Burns
Title: President

Address for each Grantor:

5300 Town and Country Blvd., Suite 500
Frisco, Texas 75034
Attn: Roland O. Burns

SCHEDULE I

[FORM OF] JOINDER CONSENT AND AGREEMENT

Pursuant to this Joinder Consent and Agreement, dated as of , 20 , the undersigned hereby consents to and agrees to be bound by all of the terms and provisions of the Amended and Restated Priority Lien Intercreditor Agreement, dated as of , 2016, among Bank of Montreal, as Pari Passu Collateral Agent and Revolving Credit Agreement Agent, American Stock Transfer & Trust Company, LLC, as Trustee, Comstock Resources, Inc., a Nevada corporation, and each other Grantor (as defined therein) and party signatory thereto from time to time (as the same may be amended, restated, supplemented, waived or otherwise modified from time to time in accordance with its terms, the "***Intercreditor Agreement***"). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

[ ]

By: _____
Name:
Title:

[Signature Page to Amended and Restated Priority Lien Intercreditor Agreement]

EXHIBIT A

[FORM OF]

JOINDER AGREEMENT TO AMENDED AND RESTATED PRIORITY LIEN INTERCREDITOR AGREEMENT

Reference is made to the Amended and Restated Priority Lien Intercreditor Agreement, dated as of , 2016, among Bank of Montreal, as Pari Passu Collateral Agent and Revolving Credit Agreement Agent, American Stock Transfer & Trust Company, LLC, as Trustee, Comstock Resources, Inc., a Nevada corporation and each other Grantor (as defined therein) and party signatory thereto from time to time (as the same may be amended, restated, supplemented, waived or otherwise modified from time to time in accordance with its terms, the "***Intercreditor Agreement***"). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

This Joinder Agreement, dated as of , 20 (this "***Joinder Agreement***"), is being delivered pursuant to Section 4.12 of the Intercreditor Agreement in connection with the incurrence of the indebtedness for which the undersigned is acting as agent being entitled to the benefits of being Pari Passu Obligations under the Intercreditor Agreement.

1. ***Joinder***. The undersigned, , a (the "***New Authorized Representative***") as [trustee, administrative agent] under that certain *[describe new Pari Passu Obligations]* (the "***Series of Pari Passu Obligations***") hereby agrees to become party as an Authorized Representative and a Pari Passu Secured Party under the Intercreditor Agreement for all purposes thereof on the terms set forth therein, and to be bound by the terms, conditions and provisions of the Intercreditor Agreement as fully as if the undersigned had been an original signatory thereto. Upon the acknowledgment by the Company of this Joinder, the *[describe the document governing such new Pari Passu Obligations]* will be designated as a Refinancing of the [Notes Obligations][Revolving Credit Agreement Obligations].

2. ***Lien Sharing and Priority Confirmation***. The undersigned New Authorized Representative, on behalf of itself and each Person to which such Series of Pari Passu Obligations are owed from time to time (together with the New Authorized Representative, the "***New Pari Passu Secured Parties***"), hereby agrees, for the enforceable benefit of all existing and future Authorized Representative and each existing and future other Pari Passu Secured Party, that:

   (a) all Pari Passu Obligations will be and are secured equally and ratably by all Liens granted to the Pari Passu Collateral Agent on the Pari Passu Collateral, for the benefit of the Pari Passu Secured Parties, which are at any time granted by any Grantor to secure any Pari Passu Obligations, and that all Liens on the Pari Passu Collateral granted pursuant to the Collateral Agreements will be enforceable by the Pari Passu Collateral Agent for the benefit of all Pari Passu Secured Parties equally and ratably, in each case, pursuant to and subject to the terms of the Intercreditor Agreement;

(b) the New Authorized Representative and each other New Pari Passu Secured Party is bound by the terms, conditions and provisions of the Intercreditor Agreement and the Collateral Agreements, including, without limitation, the provisions relating to the ranking of Liens and the order of application of proceeds from the enforcement of Liens; and

(c) the New Authorized Representative shall perform its obligations under the Intercreditor Agreement and the Collateral Agreements.

3. ***Appointment of Pari Passu Collateral Agent***. The New Authorized Representative, on behalf of itself and the New Pari Passu Secured Parties, hereby (a) irrevocably appoints Bank of Montreal, as Pari Passu Collateral Agent for purposes of the Intercreditor Agreement and the Collateral Agreements, (b) irrevocably authorizes each of the Pari Passu Collateral Agent to take such actions on its behalf and to exercise such powers as are delegated to the Pari Passu Collateral Agent in the Intercreditor Agreement and the Collateral Agreements, together with such actions and powers as are reasonably incidental thereto, and authorizes the Pari Passu Collateral Agent to execute any Collateral Agreements on behalf of all Pari Passu Secured Parties and to take such other actions to maintain and preserve the security interests granted pursuant to any Collateral Agreements, and (c) acknowledges that it has received and reviewed the Intercreditor Agreement and the Collateral Agreements and hereby agrees to be bound by the terms and provisions thereof. The New Authorized Representative, on behalf of the New Pari Passu Secured Parties, and the Pari Passu Collateral Agent, on behalf of the existing Pari Passu Secured Parties, each hereby acknowledges and agrees that the Pari Passu Collateral Agent in its capacity as such shall be agent on behalf of the New Authorized Representative and on behalf of all other Pari Passu Secured Parties in accordance with the terms and provisions of the Intercreditor Agreement and the Collateral Agreements.

4. ***Address of Additional Authorized Representative***. The address of the New Authorized Representative in respect of the Pari Passu Obligations for purposes of all notices and other communications hereunder and under the Intercreditor Agreement is , Attention of its (Facsimile No. is , E-mail address is).

5. ***Counterparts***. This Joinder Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original but all of which when taken together shall constitute a single contract. Delivery of an executed signature page to this Joinder Agreement by facsimile or PDF via electronic transmission shall be as effective as delivery of a manually signed counterpart of this Joinder Agreement. Signatures of the parties hereto transmitted by facsimile or PDF via electronic transmission shall be deemed to be their original signatures for all purposes.

6. ***Governing Law***. THIS JOINDER AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

7. ***Miscellaneous***. All of the provisions of Article IV of the Intercreditor Agreement shall apply with like effect to this Joinder Agreement.

[Remainder of Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, the New Authorized Representative has caused this Joinder Agreement to be duly executed by its authorized representative, and the Company has caused the same to be accepted by its authorized representative, as of the day and year first above written.

[NEW AUTHORIZED REPRESENTATIVE]

By: _____
Name:
Title:

Acknowledged and agreed:

COMSTOCK RESOURCES, INC.

By: _____
Name:
Title:

The Pari Passu Collateral Agent acknowledges receipt of this Joinder Agreement and will act as the Pari Passu Collateral Agent with respect to the Series of Pari Passu Obligations specified herein in accordance with the terms and provisions of the Intercreditor Agreement and the Collateral Agreements.

Dated: . , 20

BANK OF MONTREAL, as Pari Passu Collateral Agent

By: _____
Name:
Title

[Signature Page to Joinder Agreement to Amended and Restated Priority Lien Intercreditor Agreement]

JUNIOR LIEN INTERCREDITOR AGREEMENT

dated as of [●], 2016 between

BANK OF MONTREAL
as Priority Lien Agent,

and

BANK OF MONTREAL
as Second Lien Collateral Agent

THIS IS THE INTERCREDITOR AGREEMENT REFERRED TO IN (A) THE INDENTURE DATED AS OF [●], 2016, AMONG COMSTOCK RESOURCES, INC., CERTAIN OF ITS SUBSIDIARIES FROM TIME TO TIME PARTY THERETO AND AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS SECOND LIEN TRUSTEE, (B) THE INDENTURE DATED AS OF [●], 2016, AMONG COMSTOCK RESOURCES, INC., CERTAIN OF ITS SUBSIDIARIES FROM TIME TO TIME PARTY THERETO AND AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS SECOND LIEN TRUSTEE, (C) THE INDENTURE DATED AS OF [●], 2016 AMONG COMSTOCK RESOURCES, INC., CERTAIN OF ITS SUBSIDIARIES FROM TIME TO TIME PARTY THERETO AND AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS PRIORITY LIEN TRUSTEE, (D) THE CREDIT AGREEMENT DATED AS OF MARCH 4, 2015, AS AMENDED, SUPPLEMENTED, RESTATED OR OTHERWISE MODIFIED FROM TIME TO TIME, AMONG COMSTOCK RESOURCES, INC., AS BORROWER, THE LENDERS PARTY THERETO FROM TIME TO TIME AND BANK OF MONTREAL, AS ADMINISTRATIVE AGENT, (E) THE AMENDED AND RESTATED PRIORITY LIEN INTERCREDITOR AGREEMENT DATED AS OF [●], 2016, AMONG COMSTOCK RESOURCES, INC., CERTAIN OF ITS SUBSIDIARIES FROM TIME TO TIME PARTY THERETO, BANK OF MONTREAL, AS PARI PASSU COLLATERAL AGENT AND AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS TRUSTEE, (F) THE OTHER NOTE DOCUMENTS REFERRED TO IN SUCH INDENTURES AND (G) THE OTHER LOAN DOCUMENTS REFERRED TO IN SUCH CREDIT AGREEMENT.

Table of Contents

Annex and Exhibits

Annex I

Exhibit A Form of Priority Confirmation Joinder
Exhibit B Security Documents

JUNIOR LIEN INTERCREDITOR AGREEMENT, dated as of [●], 2016 (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof, this "Agreement"), between BANK OF MONTREAL, as collateral agent for the Priority Lien Secured Parties referred to herein (in such capacity, and together with its successors and assigns in such capacity, the "Original Priority Lien Agent"), and BANK OF MONTREAL, as collateral agent for the Second Lien Secured Parties referred to herein (in such capacity, and together with its successors and assigns in such capacity, the "Original Second Lien Collateral Agent)."

Reference is made to (a) the Priority Credit Agreement (defined below), (b) the Priority Lien Indenture (defined below) governing the Priority Lien Notes (defined below). (c) the 2019 Second Lien Indenture (defined below) governing the 2019 Second Lien Indenture Notes (defined below) and (d) the 2020 Second Lien Indenture (defined below) governing the 2020 Second Lien Indenture Notes (defined below).

In consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Priority Lien Agent (for itself and on behalf of the Priority Lien Secured Parties) and the Second Lien Collateral Agent (for itself and on behalf of the Second Lien Secured Parties) agree as follows:

ARTICLE I.

DEFINITIONS

Section 1.01 Construction; Certain Defined Terms. (a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any reference herein to any agreement, instrument, other document, statute or regulation shall be construed as referring to such agreement, instrument, other document, statute or regulation as from time to time amended, supplemented or otherwise modified, (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, but shall not be deemed to include the subsidiaries of such Person unless express reference is made to such subsidiaries, (iii) the words "herein," "hereof and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to Articles, Sections and Annexes shall be construed to refer to Articles, Sections and Annexes of this Agreement, (v) unless otherwise expressly qualified herein, the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (vi) the term "or" is not exclusive.

(b) All terms used in this Agreement that are defined in Article 1, 8 or 9 of the New York UCC (whether capitalized herein or not) and not otherwise defined herein have the meanings assigned to them in Article 1, 8 or 9 of the New York UCC. If a term is defined in Article 9 of the New York UCC and another Article of the UCC, such term shall have the meaning assigned to it in Article 9 of the New York UCC.

(c) Unless otherwise set forth herein, all references herein to (i) the Priority Lien Agent shall be deemed to refer to the Priority Lien Agent in its capacity as administrative agent under the Priority Lien Security Documents, and (ii) the Second Lien Collateral Agent shall be deemed to refer to the Second Lien Collateral Agent in its capacity as collateral agent under the Second Lien Security Documents.

(d) As used in this Agreement, the following terms have the meanings specified below:

"2019 Second Lien Indenture" means the Indenture, dated as of [●], 2016, among Comstock, the other Grantors party thereto from time to time, and the Second Lien Trustee, regarding the 2019 Second Lien Indenture Notes.

"2019 Second Lien Indenture Notes" means the 7 ¾% Convertible Secured PIK Notes due 2019 issued on and after the date hereof under the 2019 Second Lien Indenture (including, for the avoidance of doubt, additional securities issued in connection with the payment of interest in kind on such notes).

"2020 Second Lien Indenture" means the Indenture, dated as of [●], 2016, among Comstock, the other Grantors party thereto from time to time, and the Second Lien Trustee, regarding the 2020 Second Lien Indenture Notes.

"2020 Second Lien Indenture Notes" means the 9 ½% Convertible Secured PIK Notes issued on and after the date hereof under the 2020 Second Lien Indenture (including, for the avoidance of doubt, additional securities issued in connection with the payment of interest in kind on such notes).

"Accounts" has the meaning assigned to such term in Section 3.01(a).

"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 purposes of this definition, "control," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.

"Agent" means the Priority Lien Agent and/or the Second Lien Collateral Agent, as applicable.

"Authorized Representative" means (a) in the case of the Priority Credit Agreement, the Revolving Credit Agreement Agent (as defined in the Priority Lien Intercreditor Agreement), (b) in the case of the Priority Lien Indenture, the Priority Lien Trustee, and (c) in the case of any Series of Second Lien Debt, the Authorized Representative named for such Series in the applicable Second Lien Indenture.

"Bankruptcy Code" means Title 11 of the United States Code.

"Bankruptcy Law" means the Bankruptcy Code and any similar federal, state or foreign law for the relief of debtors.

"Business Day" means a day other than a Saturday, Sunday or other day on which banking institutions are authorized or required by law to close in New York State, Texas State or the place of payment.

"Capital Stock" means (a) in the case of a corporation, corporate stock; (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (c) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and (d) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Class" means (a) in the case of Priority Lien Debt, the Priority Lien Debt, taken together, (b) in the case of Second Lien Debt, the Second Lien Debt, taken together.

"Collateral" means all of the assets and property of any Grantor, whether real, personal or mixed, constituting the Priority Lien Collateral and/or the Second Lien Collateral.

"Commodity Agreements" means, in respect of any Person, any forward contract, commodity swap agreement, commodity option agreement, cap or collar contract, hedging contracts or other derivative contracts or other similar agreement or arrangement in respect of Hydrocarbons used, produced, processed or sold by such Person and designed to protect such Person against fluctuation in Hydrocarbon prices.

"Comstock" means Comstock Resources, Inc., a Nevada corporation.

"Credit Facilities" means one or more debt facilities (including, without limitation, the Priority Credit Agreement and any Refinancing Priority Credit Agreement), with banks or other institutional lenders or investors providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced (whether upon or after termination or otherwise) or refinanced in whole or in part from time to time, including any agreement extending the maturity thereof or otherwise restructuring all or any portion of the indebtedness thereunder or increasing the amount loaned thereunder or altering the maturity thereof; excluding, for purposes of clarification, the Priority Lien Indenture and any other debt securities.

"Currency Agreement" means any foreign exchange contract, currency swap agreement, currency futures contract, currency option agreement or other similar agreement intended to manage exposure to fluctuations in currency exchange rates.

"Defaulting Priority Lien Secured Party" has the meaning assigned to such term in Section 10.06(c).

"DIP Financing" has the meaning assigned to such term in Section 4.02(b).

"DIP Financing Liens" has the meaning assigned to such term in Section 4.02(b).

"DIP Lenders" has the meaning assigned to such term in Section 4.02(b).

"Discharge of Priority Lien Obligations" means the occurrence of all of the following:

(a) termination or expiration of all commitments to extend credit that would constitute Priority Lien Debt;

(b) payment in full in cash of the principal of and interest, fees and premium (if any) on all Priority Lien Debt (other than any undrawn letters of credit and Excess Priority Lien Obligations);

(c) discharge or cash collateralization (at 105% of the aggregate undrawn amount) of all outstanding letters of credit constituting Priority Lien Debt;

(d) payment in full in cash of obligations in respect of Hedging Obligations that are secured by the Priority Liens (and, with respect to any particular Hedge Obligation, termination of such agreement and payment in full in cash of all obligations thereunder or such other arrangements as have been made by the counterparty thereto (and communicated to the Priority Lien Agent)); and

(e) payment in full in cash of all other Priority Lien Obligations that are outstanding and unpaid at the time the Priority Lien Debt is paid in full in cash (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at or prior to such time);

provided that, if, at any time after the Discharge of Priority Lien Obligations has occurred, Comstock or any other Grantor enters into any Priority Lien Document evidencing a Priority Lien Obligation which incurrence is not prohibited by the applicable Secured Debt Documents, then such Discharge of Priority Lien Obligations shall automatically be deemed not to have occurred for all purposes of this Agreement with respect to such new Priority Lien Obligations (other than with respect to any actions taken as a result of the occurrence of such first Discharge of Priority Lien Obligations), and, from and after the date on which Comstock designates such Indebtedness as Priority Lien Debt in accordance with this Agreement, the obligations under such Priority Lien Document shall automatically and without any further action be treated as Priority Lien Obligations for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth in this Agreement, any Second Lien Obligations shall be deemed to have been at all times Second Lien Obligations and at no time Priority Lien Obligations. For the avoidance of doubt, a Replacement as contemplated by Section 4.04 shall not be deemed to cause a Discharge of Priority Lien Obligations.

"Disposition" shall mean any sale, lease, exchange, assignment, license, contribution, transfer or other disposition. "Dispose" shall have a correlative meaning.

"Excess Priority Lien Obligations" means Obligations constituting Priority Lien Obligations for the principal amount of loans, letters of credit, reimbursement obligations and Priority Lien Notes under the Priority Lien Documents to the extent that such Obligations are in excess of the Priority Lien Cap.

"Governmental Authority" means the government of the United States or any other nation, or any political subdivision thereof, whether state, provincial or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other Person exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Grantor" means Comstock, and each subsidiary of Comstock that shall have granted any Lien in favor of any of the Priority Lien Agent, or the Second Lien Collateral Agent on any of its assets or properties to secure any of the Secured Obligations.

"Hedging Obligations" means, with respect to any specified Person, the obligations of such Person under Interest Rate Agreements, Currency Agreements or Commodity Agreements.

"Hydrocarbon Interests" 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, net profit interests and production payment interests, including any reserved or residual interests of whatever nature.

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

"Insolvency or Liquidation Proceeding" means:

(a) any case commenced by or against Comstock or any other Grantor under the Bankruptcy Code or any other Bankruptcy Law, any other proceeding for the reorganization, recapitalization or adjustment or marshalling of the assets or liabilities of Comstock or any other Grantor, any receivership or assignment for the benefit of creditors relating to Comstock or any other Grantor or any similar case or proceeding relative to Comstock or any other Grantor or its creditors, as such, in each case whether or not voluntary;

(b) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to Comstock or any other Grantor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or

(c) any other proceeding of any type or nature in which substantially all claims of creditors of Comstock or any other Grantor are determined and any payment or distribution is or may be made on account of such claims.

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

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest, or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

"New York UCC" means the Uniform Commercial Code as from time to time in effect in the State of New York.

"Obligations" means any principal (including reimbursement obligations and obligations to provide cash collateral with respect to letters of credit whether or not drawn), premium, interest (including, to the extent legally permitted, all interest accrued thereon after the commencement of any Insolvency or Liquidation Proceeding at the rate, including any applicable post-default rate even if such interest is not enforceable, allowable or allowed as a claim in such proceeding), premium (if any), penalties, fees, indemnifications, reimbursements, expenses, damages and other liabilities payable under the documentation governing any Indebtedness.

"Officer" means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of such Person.

"Officer's Certificate" means a certificate signed on behalf of Comstock (as applicable) by an Officer of Comstock.

"Original Priority Lien Agent" has the meaning assigned to such term in the preamble hereto.

"Original Second Lien Collateral Agent" has the meaning assigned to such term in the preamble hereto.

"Original 2019 Second Lien Trustee" means American Stock Transfer & Trust Company, LLC, in its capacity as trustee under the 2019 Second Lien Indenture, and together with its successors in such capacity.

"Original 2020 Second Lien Trustee" means American Stock Transfer & Trust Company, LLC, in its capacity as trustee under the 2020 Second Lien Indenture, and together with its successors in such capacity.

"Pari Passu Excluded Collateral" has the meaning set forth in the Priority Lien Intercreditor Agreement.

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

"Priority Confirmation Joinder" means an agreement substantially in the form of Exhibit A.

"Priority Credit Agreement" means (a) the Credit Agreement dated as of March 4, 2015, among Comstock, as Borrower, the Lenders party thereto from time to time and Bank of Montreal, as Administrative Agent, as amended, restated, amended and restated, adjusted, waived, renewed, extended, increased, supplemented or otherwise Replaced from time to time with the same and/or different lenders (who, for the avoidance of doubt, must be (i) lenders party to the Priority Credit Agreement on the date hereof, (ii) commercial bank lenders, (iii) investment banks, or (iv) Affiliates of Persons described in the foregoing clauses (i), (ii) and (iii), which, in each case, regularly participate in reserve based credit facilities) (such Replaced credit facility, a "Refinancing Priority Credit Agreement") and/or agents and (b) any credit agreement, loan agreement or any other agreement or instrument evidencing or governing the terms of any Priority Substitute Credit Facility.

"Priority Lien" means a Lien granted, or purported to be granted, by Comstock or any other Grantor in favor of the Priority Lien Agent, at any time, upon any Property of Comstock or any other Grantor to secure Priority Lien Obligations (including Liens on such Collateral under the security documents associated with any Priority Substitute Credit Facility).

"Priority Lien Agent" means the Original Priority Lien Agent, and its replacements, successors and assigns, in its capacity as the collateral agent for all holders of "Pari Passu Obligations" (as defined in the Priority Lien Intercreditor Agreement).

"Priority Lien Cap" means, as of any date, (a) the aggregate principal amount of Priority Lien Debt and all other Obligations in respect of Priority Lien Debt; provided that (i) the aggregate principal amount of all such Indebtedness outstanding under the Priority Credit Agreement at any time does not exceed $50 million after giving effect to the application of the proceeds therefrom, and (ii) the aggregate principal amount of Priority Lien Notes under the Priority Lien Indenture at any time does not exceed $791,875,000, plus (b) the amount of all Hedging Obligations, to the extent such Hedging Obligations are secured by the Priority Liens, plus (c) the amount of accrued and unpaid interest (excluding any interest paid-in-kind) and outstanding fees, to the extent such Obligations are secured by the Priority Liens. For purposes of this definition, all letters of credit will be valued at the face amount thereof, whether or not drawn.

"Priority Lien Collateral" shall mean all "Collateral" or "Mortgaged Property", as defined in the Priority Credit Agreement or any other Priority Lien Document, and any other assets of any Grantor now or at any time hereafter subject to Liens which secure, but only to the extent securing, any Priority Lien Obligation.

"Priority Lien Debt" means (i) the indebtedness under the Priority Credit Agreement (including letters of credit (with outstanding letters of credit being deemed to have a principal

amount equal to the stated amount thereof) and reimbursement obligations with respect thereto) and additional indebtedness under any Priority Substitute Credit Facility, and (ii) indebtedness outstanding under the Priority Lien Indenture, in each case that was permitted to be incurred and secured under the Priority Credit Agreement, the Second Lien Indentures and any Second Lien Substitute Facility.

"Priority Lien Documents" means the Priority Credit Agreement, the Priority Lien Indenture, the Priority Lien Security Documents, the other "Loan Documents" (as defined in the Priority Credit Agreement) and all other loan documents, notes, guarantees, instruments and agreements governing or evidencing, or executed or delivered in connection with, any Priority Substitute Credit Facility.

"Priority Lien Indenture" means the Indenture dated as of [●], 2016 among Comstock, the other Grantors party thereto, and American Stock Transfer & Trust Company, LLC, as trustee, regarding the Priority Lien Notes, as such Indenture may be amended, restated, modified, renewed, refunded, replaced or refinanced in compliance with the Priority Lien Intercreditor Agreement.

"Priority Lien Intercreditor Agreement" means that certain Amended and Restated Priority Lien Intercreditor Agreement dated as of [●], 2015, among the Pari Passu Collateral Agent (as defined therein) the Revolving Credit Agreement Agent (as defined therein), the Trustee (as defined therein) and Comstock, as the same may be amended, restated, modified, renewed, refunded, replaced or refinanced in compliance with the Priority Lien Intercreditor Agreement.

"Priority Lien Notes" means the Senior Secured Toggle Notes due 2020 issued on the date hereof under the Priority Lien Indenture and the additional Senior Secured Toggle Notes due 2020 issued hereafter under the Priority Lien Indenture.

"Priority Lien Note Obligations" has the meaning assigned to such term in Section 10.01(a).

"Priority Lien Obligations" means the "Pari Passu Obligations", as defined in the Priority Lien Intercreditor Agreement, as in effect on the date hereof.

"Priority Lien Secured Party" means, at any time, each "Pari Passu Secured Party", as defined in the Priority Lien Intercreditor Agreement, as in effect on the date hereof.

"Priority Lien Security Documents" means the Priority Credit Agreement (insofar as the same grants a Lien on the Collateral), each agreement listed in Part A of Exhibit B hereto, and any other security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust, control agreements, or grants or transfers for security, now existing or entered into after the date hereof, executed and delivered by Comstock or any other Grantor creating (or purporting to create) a Lien upon Collateral in favor of the Priority Lien Agent, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms (including any such agreements, assignments, mortgages, deeds of trust and other documents or instruments associated with any Priority Substitute Credit Facility).

"Priority Substitute Credit Facility" means any Credit Facility with respect to which the requirements contained in Section 4.04 of this Agreement have been satisfied and that Replaces the Priority Credit Agreement then in existence. For the avoidance of doubt, no Priority Substitute Credit Facility shall be required to be a revolving or asset-based loan facility and may be a facility evidenced or governed by a credit agreement, loan agreement or any other agreement or instrument; provided that any Priority Lien securing such Priority Substitute Credit Facility shall be subject to the terms of this Agreement for all purposes (including the lien priorities as set forth herein as of the date hereof).

"Priority Lien Trustee" means the "Trustee" as defined in the Priority Lien Intercreditor Agreement.

"Property" means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, including, without limitation, cash, securities, accounts and contract rights.

"Purchase Date" has the meaning assigned to such term in Section 10.02(a).

"Purchase Event" has the meaning assigned to such term in Section 10.01(a).

"Purchase Notice" has the meaning assigned to such term in Section 10.02(a).

"Purchasing Holders" has the meaning assigned to such term in Section 10.01(a).

"Replaces" means, (a) in respect of any agreement with reference to the Priority Credit Agreement, the Priority Lien Indenture, or the Priority Lien Obligations or any Priority Substitute Credit Facility, that such agreement refunds, refinances or replaces the Priority Credit Agreement, the Priority Lien Indenture, the Priority Lien Obligations or such Priority Substitute Credit Facility in whole (in a transaction that is in compliance with Section 4.04) and that all commitments thereunder are terminated, or, to the extent permitted by the terms of the Priority Credit Agreement, the Priority Lien Indenture, Priority Lien Obligations or such Priority Substitute Credit Facility, in part, and (b) in respect of any agreement with reference to the Second Lien Documents, the Second Lien Obligations or any Second Lien Substitute Facility, that such indebtedness refunds, refinances or replaces the Second Lien Documents, the Second Lien Obligations or such Second Lien Substitute Facility in whole (in a transaction that is in compliance with Section 4.04) and that all commitments thereunder are terminated, or, to the extent permitted by the terms of the Second Lien Documents, the Second Lien Obligations or such Second Lien Substitute Facility, in part. "Replace," "Replaced" and "Replacement" shall have correlative meanings.

"Second Lien" means a Lien granted, or purported to be granted, by Comstock or any other Grantor in favor of the Second Lien Collateral Agent, at any time, upon any property of Comstock or any other Grantor to secure Second Lien Obligations (including Liens on such Collateral under the security documents associated with any Second Lien Substitute Facility).

"Second Lien Collateral" shall mean all "Collateral" or "Mortgaged Property", as defined in any Second Lien Document, and any other assets of any Grantor now or at any time hereafter subject to Liens which secure, but only to the extent securing, any Second Lien Obligations.

"Second Lien Collateral Agent" means the Original Second Lien Collateral Agent and its replacements, successors and assigns, in its capacity as the collateral agent for all holders of Second Lien Obligations.

"Second Lien Debt" means the indebtedness under the Second Lien Indenture Notes issued on and after the date hereof and guarantees thereof that was permitted to be incurred and secured in accordance with the Secured Debt Documents, and all Indebtedness incurred under any Second Lien Substitute Facility.

"Second Lien Documents" means each Second Lien Indenture, the Second Lien Indenture Notes, the Second Lien Security Documents and all other loan documents, notes, guarantees, instruments and agreements governing or evidencing the Second Lien Obligations or any Second Lien Substitute Facility.

"Second Lien Indentures" means (i) the 2019 Second Lien Indenture, and (ii) the 2020 Second Lien Indenture, in each case as amended, restated, adjusted, waived, renewed, extended, supplemented or otherwise modified from time to time in accordance with the terms hereof unless restricted by the terms of this Agreement, and any credit agreement, loan agreement, note agreement, promissory note, indenture or any other agreement or instrument evidencing or governing the terms of any Second Lien Substitute Facility.

"Second Lien Indenture Notes" means (i) the 2019 Second Lien Indenture Notes, and (ii) the 2020 Second Lien Indenture Notes.

"Second Lien Obligations" means Second Lien Debt and all other Obligations in respect thereof. Notwithstanding any other provision hereof, the term "Second Lien Obligations" will include accrued interest, fees, costs, and other charges incurred under the Second Lien Indenture and the other Second Lien Documents, whether incurred before or after commencement of an Insolvency or Liquidation Proceeding and whether or not allowable in an Insolvency or Liquidation Proceeding.

"Second Lien Pledge Agreement" means the Second Lien Pledge Agreement and Irrevocable Proxy dated as of [●], 2016, by and among Comstock, each of the other Grantors party thereto and the Second Lien Collateral Agent, for the ratable benefit of the Second Lien Secured Parties.

"Second Lien Secured Parties" means, at any time, the Second Lien Trustee, the Second Lien Collateral Agent, the trustees, agents and other representatives of the holders of the Second Lien Indenture Notes who maintain the transfer register for such Second Lien Indenture Notes, the beneficiaries of each indemnification obligation undertaken by any Grantor under any Second Lien Document and each other holder of, or obligee in respect of, any Second Lien Indenture Notes, any holder or lender pursuant to any Second Lien Document outstanding at such time.

"Second Lien Security Agreement" means the Second Lien Security Agreement dated as of [●], 2016, by and among Comstock, each of the other Grantors party thereto and the Second Lien Collateral Agent, for the ratable benefit of the Second Lien Secured Parties.

"Second Lien Security Documents" means the Second Lien Security Agreement, Second Lien Pledge Agreement and each other agreement listed in Part B of Exhibit B hereto and any other security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust, collateral agency agreements, control agreements, or grants or transfers for security, now existing or entered into after the date hereof, executed and delivered by Comstock or any other Grantor creating (or purporting to create) a Lien upon Collateral in favor of the Second Lien Collateral Agent (including any such agreements, assignments, mortgages, deeds of trust and other documents or instruments associated with any Second Lien Substitute Facility), in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and Section 4.05.

"Second Lien Substitute Facility" means any facility with respect to which the requirements contained in Section 4.04 of this Agreement have been satisfied and that is permitted to be incurred pursuant to the Priority Lien Documents, and, in the case of a Replacement of the Second Lien Indenture Notes in part, the Second Lien Documents, the proceeds of which are used to, among other things, Replace any Second Lien Indenture. For the avoidance of doubt, no Second Lien Substitute Facility shall be required to be evidenced by notes or other instruments and may be a facility evidenced or governed by a credit agreement, loan agreement, note agreement, promissory note, indenture or any other agreement or instrument; provided that any such Second Lien Substitute Facility shall be subject to the terms of this Agreement for all purposes (including the lien priority as set forth herein as of the date hereof) as the other Liens securing the Second Lien Obligations are subject to under this Agreement.

"Second Lien Trustee" means (i) the Original 2019 Second Lien Trustee, (ii) the Original 2020 Second Lien Trustee, and (iii) in the case of any Second Lien Substitute Facility, the agent, collateral agent, trustee or other representative of the lenders or other holders of the indebtedness and other obligations evidenced thereunder or governed thereby, together with its successors in such capacity.

"Secured Debt" means the Priority Lien Debt and the Second Lien Debt.

"Secured Debt Documents" means the Priority Lien Documents and the Second Lien Documents.

"Secured Debt Representative" means the Priority Lien Agent and the Second Lien Collateral Agent.

"Secured Obligations" means the Priority Lien Obligations and the Second Lien Obligations.

"Secured Parties" means the Priority Lien Secured Parties and the Second Lien Secured Parties.

"Security Documents" means the Priority Lien Security Documents and the Second Lien Security Documents.

"Series of Second Lien Debt" means the Second Lien Debt under the 2019 Second Lien Indenture and the Second Lien Debt under the 2020 Second Lien Indenture.

"Series of Secured Debt" means the Priority Lien Debt and the Second Lien Debt.

"Standstill Period" has the meaning assigned to such term in Section 3.02.

"subsidiary" means, with respect to any specified Person:

(1) any corporation, association or other business entity (other than a partnership) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other subsidiaries of that Person (or a combination thereof); and

(2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a subsidiary of such Person or (b) the only general partners of which are that Person or one or more subsidiaries of that Person (or any combination thereof).

ARTICLE II.

LIEN PRIORITIES

Section 2.01 Relative Priorities. (a) The grant of the Priority Liens pursuant to the Priority Lien Documents and the grant of the Second Liens pursuant to the Second Lien Documents create two separate and distinct Liens on the Collateral.

(b) Notwithstanding anything contained in this Agreement, the Priority Lien Documents, the Second Lien Documents, or any other agreement or instrument or operation of law to the contrary, or any other circumstance whatsoever and irrespective of (i) how a Lien was acquired (whether by grant, possession, statute, operation of law, subrogation, or otherwise), (ii) the time, manner, order of the grant, attachment or perfection of a Lien, (iii) any conflicting provision of the New York UCC or other applicable law, (iv) any defect in, or non-perfection, setting aside, or avoidance of, a Lien or a Priority Lien Document or a Second Lien Document, (v) the modification of a Priority Lien Obligation or a Second Lien Obligation or (vi) the subordination of a Lien on Collateral securing a Priority Lien Obligation to a Lien securing another obligation of Comstock or other Person that is permitted under the Priority Lien Documents as in effect on the date hereof or securing a DIP Financing, or the subordination of a Lien on Collateral securing a Second Lien Obligation to a Lien securing another obligation of Comstock or other Person (other than a Priority Lien Obligation) that is permitted under the Second Lien Documents as in effect on the date hereof, the Second Lien Collateral Agent, on behalf of itself and the other Second Lien Secured Parties, hereby agrees that:

(i) any Priority Lien on any Collateral now or hereafter held by or for the benefit of any Priority Lien Secured Party shall be senior in right, priority, operation, effect and all other respects to any and all Second Liens on any Collateral,

(ii) any Second Lien on any Collateral now or hereafter held by or for the benefit of any Second Lien Secured Party shall be junior and subordinate in right, priority, operation, effect and all other respects to any and all Priority Liens on any Collateral, in any case, subject to the Priority Lien Cap as provided herein, and

(iii) any Second Lien on any Collateral now or hereafter held by or for the benefit of any Second Lien Secured Party shall be equal in right, priority, operation, effect and all other respects to any and all Second Liens on any Collateral.

(c) It is acknowledged that, subject to the Priority Lien Cap (as provided herein), (i) the aggregate amount of the Priority Lien Obligations may be increased from time to time pursuant to the terms of the Priority Lien Documents, (ii) a portion of the Priority Lien Obligations under the Priority Lien Credit Agreement consists or may consist of indebtedness that is revolving in nature, and the amount thereof that may be outstanding at any time or from time to time may be increased or reduced and subsequently reborrowed, and (iii) (A) the Priority Lien Documents may be replaced, restated, supplemented, restructured or otherwise amended or modified from time to time and (B) the Priority Lien Obligations may be increased, extended, renewed, replaced, restated, supplemented, restructured, repaid, refunded, refinanced or otherwise amended or modified from time to time, in the case of the foregoing (A) and (B), all without affecting the subordination of the Second Liens hereunder or the provisions of this Agreement defining the relative rights of the Priority Lien Secured Parties and the Second Lien Secured Parties. The lien priorities provided for herein shall not be altered or otherwise affected by any amendment, modification, supplement, extension, increase, renewal, restatement or Replacement of any of the Priority Lien Obligations (or any part thereof) or the Second Lien Obligations (or any part thereof), by the release of any Collateral or of any guarantees for any Priority Lien Obligations or by any action that any Secured Debt Representative or other Secured Party may take or fail to take in respect of any Collateral.

Section 2.02 Prohibition on Marshalling, Etc. Until the Discharge of Priority Lien Obligations, neither the Second Lien Collateral Agent nor any other Second Lien Secured Party will assert, and hereby waive, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or claim the benefit of any marshalling, appraisal, valuation or other similar right that may be available to a junior secured creditor with respect to the Collateral or any similar rights a junior secured creditor may have under applicable law.

Section 2.03 No New Liens. The parties hereto agree that, (a) so long as the Discharge of Priority Lien Obligations has not occurred, none of the Grantors shall, nor shall any Grantor permit any of its subsidiaries to, (i) grant or permit any additional Liens on any asset of a Grantor to secure any Second Lien Obligation, or take any action to perfect any additional Liens, unless it has granted, a Lien on such asset of such Grantor to secure the Priority Lien Obligations and has taken all actions required to perfect such Liens; or (ii) grant or permit any additional Liens on any asset of a Grantor to secure any Priority Lien Obligation, or take any action to perfect any additional Liens, unless it has granted, a Lien on such asset of such Grantor to secure the Second Lien Obligations and has taken all actions required to perfect such Liens; provided, however, the refusal or inability of the Second Lien Collateral Agent to accept such Lien will not prevent the Priority Lien Agent from taking the Lien and (b) after the Discharge of Priority Lien Obligations, none of the Grantors shall, nor shall any Grantor permit

any of its subsidiaries to grant or permit any additional Liens on any asset of a Grantor to secure any Series of Second Lien Obligation, or take any action to perfect any additional Liens, unless it has granted, or substantially concurrently therewith grants (or offers to grant), a Lien on such asset of such Grantor to secure the other Series of Second Lien Obligations; provided, however, the refusal or inability of the Second Lien Collateral Agent for such other Series of Second Lien Debt to accept such Lien will not prevent such Second Lien Collateral Agent from taking the Lien, with each such Lien as described in clauses (a) and (b) of this Section 2.03 to be subject to the provisions of this Agreement. To the extent that the provisions of the immediately preceding sentence are not complied with for any reason, without limiting any other right or remedy available to the Priority Lien Agent, the other Priority Lien Secured Parties, the Second Lien Collateral Agent or the other Second Lien Secured Parties, each of the Second Lien Collateral Agent, for itself and on behalf of the other Second Lien Secured Parties agrees that any amounts received by or distributed to any Second Lien Secured Party pursuant to or as a result of any Lien granted in contravention of this Section 2.03 shall be subject to Section 3.05(b).

Section 2.04 Similar Collateral and Agreements. The parties hereto acknowledge and agree that it is their intention that the Priority Lien Collateral and the Second Lien Collateral be identical, provided, however, notwithstanding anything herein to the contrary, in no event shall the Priority Lien Agent, any Priority Lien Secured Party (other than the Revolving Credit Agreement Agent and the Revolving Credit Agreement Secured Parties), the Second Lien Collateral Agent or any Second Lien Secured Party have a Lien on any Pari Passu Excluded Collateral. In furtherance of the foregoing, the parties hereto agree (a) to cooperate in good faith in order to determine, upon any reasonable request by the Priority Lien Agent or the Second Lien Collateral Agent, the specific assets included in the Priority Lien Collateral and the Second Lien Collateral, the steps taken to perfect the Priority Liens and the Second Liens thereon and the identity of the respective parties obligated under the Priority Lien Documents and the Second Lien Documents in respect of the Priority Lien Obligations and the Second Lien Obligations, respectively, (b) that the Second Lien Security Documents providing for the Second Liens shall be in all material respects the same forms of documents providing for the Priority Liens as the respective Priority Lien Security Documents creating Liens on the Collateral other than as to (i) the priority nature of the Liens created thereunder in such Collateral, (ii) such other modifications to such Second Lien Security Documents which are less restrictive than the corresponding Priority Lien Security Documents, (iii) provisions in the Second Lien Security Documents which relate solely to the rights and duties of the Second Lien Collateral Agent and the other Second Lien Secured Parties, and (iv) such deletions or modifications of representations, warranties and covenants as are customary with respect to security documents establishing Liens securing publicly traded debt securities, and (v) excluding any Lien upon the Pari Passu Excluded Collateral, (c) that at no time shall there be any Grantor that is an obligor in respect of the Second Lien Obligations that is not also an obligor in respect of the Priority Lien Obligations.

Section 2.05 No Duties of Agents. (a) Each Agent, for itself and on behalf of the applicable Secured Parties, acknowledges and agrees that no Agent nor any other Secured Party shall have any duties or other obligations to any Second Lien Secured Party with respect to any Collateral, other than to transfer any remaining Collateral and any proceeds of the sale or other Disposition of any such Collateral remaining in its possession in compliance with this

Agreement in each case, without representation or warranty on the part of either Agent or any other Secured Party. Each Agent, for itself and on behalf of each applicable Secured Party, hereby waives any claim any Secured Party may now or hereafter have against either Agent or any of its officers, directors, employees and agents, as the case may be, or any other Secured Party or any of its officers, directors, employees and agents, as the case may be, arising out of any actions which either Agent or any other Secured Parties take or omit to take (including actions with respect to the creation, perfection or continuation of Liens on any Collateral, actions with respect to the foreclosure upon, sale, release or depreciation of, or failure to realize upon, any Collateral, and actions with respect to the collection of any claim for all or any part of the Secured Obligations from any account debtor, guarantor or any other party) in accordance with this Agreement and the Secured Debt Documents or the valuation, use, protection or release of any security for the Secured Obligations.

(b) In furtherance of the foregoing, each Second Lien Secured Party acknowledges and agrees that until the Discharge of Priority Lien Obligations (subject to the terms of Section 3.02, including the rights of the Second Lien Secured Parties following the expiration of any applicable Standstill Period), the Priority Lien Agent shall be entitled, for the benefit of the Priority Lien Secured Parties, to sell, transfer or otherwise Dispose of or deal with the Collateral, as provided herein and in the Priority Lien Documents, without regard to any Second Lien or any rights to which the Second Lien Collateral Agent or any other Second Lien Secured Party would otherwise be entitled as a result of such Second Lien. Without limiting the foregoing, the Second Lien Collateral Agent, for itself and on behalf of each Second Lien Secured Party, agrees that neither the Priority Lien Agent nor any other Priority Lien Secured Party shall have any duty or obligation first to marshal or realize upon any type of Collateral, or to sell, Dispose of or otherwise liquidate all or any portion of such Collateral, in any manner that would maximize the return to the Second Lien Secured Parties, notwithstanding that the order and timing of any such realization, sale, Disposition or liquidation may affect the amount of proceeds actually received by the Second Lien Secured Parties, from such realization, sale, Disposition or liquidation.

(c) Without limiting the generality of the foregoing, each Agent:

(i) shall not be subject to any fiduciary or other implied duties of any kind or nature to any Person, regardless of whether an event of default under any Secured Debt Document has occurs and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Security Documents; provided that each Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose it to liability or that is contrary to any Secured Debt Document or applicable law;

(iii) shall not, except as expressly set forth herein and in the Secured Debt Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to Comstock or any of its Affiliates that is communicated to or obtained by the Person serving as an Agent or any of its Affiliates in any capacity;

(iv) shall not be liable for any action taken or not taken by it (A) with the consent or at the request of the Controlling Party (as defined in the Priority Lien Intercreditor Agreement) or (B) in the absence of its own gross negligence or willful misconduct, which may include reliance in good faith on a certificate of an authorized officer of Comstock stating that such action is permitted by the terms of this Agreement; and shall be deemed not to have knowledge of any event of default under any Series of Secured Debt unless and until written notice describing such event of default is given by Comstock to such Agent by the Authorized Representative of such Secured Debt;

(v) shall not be responsible for or have any duty to ascertain or inquire into (A) any statement, warranty or representation made in or in connection with this Agreement, any Priority Lien Document or any Second Lien Document, (B) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (C) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any event of default or other default, (D) the validity, enforceability, effectiveness or genuineness of the Agreement, any Priority Lien Document, any Second Lien Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by any Priority Lien Document or Second Lien Document, (E) the value or the sufficiency of the Collateral, (F) the satisfaction of any condition set forth in any Priority Lien Document or Second Lien Document, (G) the state of title to any property purportedly owned by Comstock or any other Person, or (H) the percentage or other measurement of Comstock's or any other Person's property which is subject to any Lien or security interests, other than to confirm receipt of items expressly required to be delivered to such Agent;

(vi) shall not have any fiduciary duties or contractual obligations of any kind or nature under any Priority Lien Document or Second Lien Document (but shall be entitled to all protection provided to such Agent herein);

(vii) with respect to any Priority Lien Document or Second Lien Document, may conclusively assume that the Grantors have complied with all of their obligations thereunder unless advised in writing by the Authorized Representative thereunder to the contrary specifically setting forth the alleged violation;

(viii) may conclusively rely on any certificate of an officer of Comstock provided pursuant to hereunder;

(ix) whenever reference is made in any Priority Lien Document or Second Lien Document to any action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by such Agent or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Priority Lien Agent, it is understood that in all cases such Agent shall be acting, giving, withholding, suffering, omitting, making or otherwise undertaking and exercising the same (or shall not be undertaking and exercising the same) solely as directed in writing in accordance with the Priority Lien Intercreditor Agreement and/or this Agreement, as applicable; this provision is intended solely for the benefit of such

Agent and its successors and permitted assigns and is not intended to and will not entitle the other parties hereto to any defense, claim or counterclaim under or in relation to any Priority Lien Document or Second Lien Document, or confer any rights or benefits on any party hereto or thereto;

(x) notwithstanding any other provision of this Agreement or any Priority Lien Document or any Second Lien Document to the contrary, shall not be liable for any indirect, incidental, consequential, punitive or special losses or damages, regardless of the form of action and whether or not any such losses or damages were foreseeable or contemplated;

(xi) shall not be required to expand or risk any of its own funds or otherwise incur any financial or other liability in the performance of any of its duties hereunder, and shall not be obligated to take any legal or other action hereunder, which might in its judgment involve or cause it to incur any expense or liability, unless it shall have been furnished with acceptable indemnification; and

(xii) may (and any of its Affiliates may) accept deposits from, lend money to ,act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Grantor or any Subsidiary or Affiliate thereof as if such Person were not an Agent and without any duty to any other Secured Party, including any duty to account therefor.

(d) The Grantors agree that they shall defend and be jointly and severally liable to reimburse and indemnify each Agent for reasonable expenses actually incurred by such Agent in connection with the execution, delivery, administration and enforcement of this Agreement and from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, actual reasonable expenses or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against such Agent, in any way relating to or arising out of this Agreement or any other document delivered in connection herewith or the transactions contemplated hereby, or the enforcement of any of the terms hereof, in each case, except to the extent caused by its gross negligence or willful misconduct. The obligations of the Grantors under this Section 2.05(d) shall survive payment of the Secured Obligations and termination of this Agreement and all of the Secured Debt Documents.

(e) Each Secured Party acknowledges that, in addition to acting as the initial Priority Lien Agent, and the initial Second Lien Collateral Agent, Bank of Montreal also serves as Revolving Credit Agreement Agent, and that Bank of Montreal or one or more of its Affiliates may have jointly arranged, syndicated, placed or otherwise participated in the facilities and indebtedness contemplated by the Revolving Credit Agreement and the Second Lien Debt, and each Secured Party hereby waives any right to make any objection or claim against Bank of Montreal, and of its Affiliates or its counsel (or any successor Priority Lien or Second Lien Collateral Agent or its counsel) based on any alleged conflict of interest or breach of duties arising from the Priority Lien Agent or Second Lien Collateral Agent, and the Bank of Montreal or its Affiliates also serving in such other capacities. Any knowledge obtained by the Revolving Credit Agreement Agent or any Affiliate of Bank of Montreal regarding the Comstock, any grantor or the nature of the transaction described herein, including a default or potential event of default shall not be imputed to the Priority Lien Agent.

ARTICLE III.

ENFORCEMENT RIGHTS

Section 3.01 Limitation on Enforcement Action. Prior to the Discharge of Priority Lien Obligations, the Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, hereby agrees that, subject to Section 3.05(b) and Section 4.07, neither the Second Lien Collateral Agent nor any other Second Lien Secured Party shall commence any judicial or nonjudicial foreclosure proceedings with respect to, seek to have a trustee, receiver, liquidator or similar official appointed for or over, attempt any action to take possession of, exercise any right, remedy or power with respect to, or otherwise take any action to enforce its interest in or realize upon, or take any other action available to it in respect of, any Collateral under any Second Lien Security Document, applicable law or otherwise (including but not limited to any right of setoff), it being agreed that only the Priority Lien Agent, acting in accordance with the applicable Priority Lien Documents, shall have the exclusive right (and whether or not any Insolvency or Liquidation Proceeding has been commenced), to take any such actions or exercise any such remedies, in each case, without any consultation with or the consent of the Second Lien Collateral Agent or any other Second Lien Secured Party. In exercising rights and remedies with respect to the Collateral, the Priority Lien Agent and the other Priority Lien Secured Parties may enforce the provisions of the Priority Lien Documents and exercise remedies thereunder, all in such order and in such manner as they may determine in their sole discretion and regardless of whether such exercise and enforcement is adverse to the interest of any Second Lien Secured Party. Such exercise and enforcement shall include the rights of an agent appointed by them to Dispose of Collateral upon foreclosure, to incur expenses in connection with any such Disposition and to exercise all the rights and remedies of a secured creditor under the Uniform Commercial Code, the Bankruptcy Code, any other Bankruptcy Law and any other applicable law. Without limiting the generality of the foregoing, the Priority Lien Agent will have the exclusive right to deal with that portion of the Collateral consisting of deposit accounts and securities accounts (collectively "Accounts") and any funds or financial assets therein, including exercising rights under control agreements with respect to such Accounts. The Second Lien Collateral Agent, for itself and on behalf of the other Second Lien Secured Parties, hereby acknowledges and agrees that no covenant, agreement or restriction contained in any Second Lien Security Document or any other Second Lien Document, shall be deemed to restrict in any way the rights and remedies of the Priority Lien Agent or the other Priority Lien Secured Parties with respect to the Collateral as set forth in this Agreement. Notwithstanding the foregoing, subject to Section 3.05, the Second Lien Collateral Agent, on behalf of the Second Lien Secured Parties, may, but will have no obligation to, take all such actions (not adverse to the Priority Liens or the rights of the Priority Lien Agent and the other Priority Lien Secured Parties) it deems necessary to perfect or continue the perfection of the Second Liens in the Collateral or to create, preserve or protect (but not enforce) the Second Liens in the Collateral. Nothing herein shall limit the right or ability of the Second Lien Secured Parties to (i) purchase (by credit bid or otherwise) all or any portion of the Collateral in connection with any enforcement of remedies by the Priority Lien Agent to the extent that, and so long as, the Priority Lien Secured Parties receive payment in full in cash of all Priority Lien Obligations (subject to the Priority Lien Cap) after giving effect thereto, or (ii) file a proof of claim with respect to the Second Lien Obligations.

Section 3.02 Standstill Period; Permitted Enforcement Action. Prior to the Discharge of Priority Lien Obligations and notwithstanding the foregoing Section 3.01, both before and during an Insolvency or Liquidation Proceeding after a period of 180 days has elapsed (which period will be tolled during any period in which the Priority Lien Agent is not entitled, on behalf of the Priority Lien Secured Parties, to enforce or exercise any rights or remedies with respect to any Collateral as a result of (A) any injunction issued by a court of competent jurisdiction or (B) the automatic stay or any other stay or other prohibition in any Insolvency or Liquidation Proceeding) since the date on which the Second Lien Collateral Agent has delivered to the Priority Lien Agent written notice of the acceleration of either Series of the Second Lien Debt (the "Accelerated Series of Second Lien Debt") (the "Standstill Period"), the Second Lien Collateral Agent and the other Second Lien Secured Parties in respect of the Accelerated Series of Second Lien Debt may enforce or exercise any rights or remedies with respect to any Collateral; provided, however that notwithstanding the expiration of the Standstill Period, in no event may the Second Lien Collateral Agent or any other Second Lien Secured Party enforce or exercise any rights or remedies with respect to any Collateral, or commence, join with any Person at any time in commencing, or petition for or vote in favor of any resolution for, any such action or proceeding, if the Priority Lien Agent on behalf of any or all of the Priority Lien Secured Parties shall have commenced, and shall be diligently pursuing (or shall have sought or requested relief from, or modification of, the automatic stay or any other stay or other prohibition in any Insolvency or Liquidation Proceeding to enable the commencement and pursuit thereof), the enforcement or exercise of any rights or remedies with respect to any material portion of the Collateral or any such action or proceeding (prompt written notice thereof to be given to the Second Lien Trustee by the Priority Lien Agent); provided, further, that, at any time after the expiration of the Standstill Period, if neither the Priority Lien Agent nor any other Priority Lien Secured Party shall have commenced and be diligently pursuing (or shall have sought or requested relief from, or modification of, the automatic stay or any other stay or other prohibition in any Insolvency or Liquidation Proceeding to enable the commencement and pursuit thereof) the enforcement or exercise of any rights or remedies with respect to all or any material portion of the Collateral or any such action or proceeding, and the Second Lien Collateral Agent shall have commenced the enforcement or exercise of any rights or remedies with respect to all or any material portion of the Collateral or any such action or proceeding, then for so long as the Second Lien Collateral Agent is diligently pursuing such rights or remedies, none of any Priority Lien Secured Party or the Priority Lien Agent, shall take any action of a similar nature with respect to such Collateral, or commence, join with any Person at any time in commencing, or petition for or vote in favor of any resolution for, any such action or proceeding.

Section 3.03 Insurance. Unless and until the Discharge of Priority Lien Obligations has occurred (subject to the terms of Section 3.02, including the rights of the Second Lien Secured Parties following expiration of any applicable Standstill Period), the Priority Lien Agent shall have the sole and exclusive right, subject to the rights of the Grantors under the Priority Lien Documents, to adjust and settle claims in respect of Collateral under any insurance policy in the event of any loss thereunder and to approve any award granted in any condemnation or similar proceeding (or any deed in lieu of condemnation) affecting the Collateral. Unless and until the Discharge of Priority Lien Obligations has occurred, and subject to the rights of the Grantors under the Priority Lien Documents, all proceeds of any such policy and any such award (or any payments with respect to a deed in lieu of condemnation) in respect of the Collateral shall be

paid to the Priority Lien Agent pursuant to the terms of the Priority Lien Documents (including for purposes of cash collateralization of commitments, letters of credit and Hedging Obligations). If the Second Lien Collateral Agent or any other Second Lien Secured Party shall, at any time, receive any proceeds of any such insurance policy or any such award or payment in contravention of the foregoing, it shall pay such proceeds over to the Priority Lien Agent in accordance with the provisions hereof. In addition, if by virtue of being named as an additional insured or loss payee of any insurance policy of any Grantor covering any of the Collateral, the Second Lien Collateral Agent or any other Second Lien Secured Party shall have the right to adjust or settle any claim under any such insurance policy, then unless and until the Discharge of Priority Lien Obligations has occurred, the Second Lien Collateral Agent and any such other Second Lien Secured Party, shall follow the instructions of the Priority Lien Agent, or of the Grantors under the Priority Lien Documents to the extent the Priority Lien Documents grant such Grantors the right to adjust or settle such claims, with respect to such adjustment or settlement (subject to the terms of Section 3.02, including the rights of the Second Lien Secured Parties following expiration of any applicable Standstill Period).

Section 3.04 Notification of Release of Collateral. Each of the Priority Lien Agent and the Second Lien Collateral Agent shall give the other Secured Debt Representatives prompt written notice of the Disposition by it of, and release by it of the Lien on, any Collateral. Such notice shall describe in reasonable detail the subject Collateral, the parties involved in such Disposition or Release, the place, time manner and method thereof, and the consideration, if any, received therefor; provided, however, that the failure to give any such notice shall not in and of itself in any way impair the effectiveness of any such Disposition or Release.

Section 3.05 No Interference; Payment Over.

(a) No Interference. The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, agrees that each Second Lien Secured Party (i) will not take or cause to be taken any action the purpose or effect of which is, or could be, to make any Second Lien pari passu with, or to give such Second Lien Secured Party any preference or priority relative to, any Priority Lien with respect to any Collateral or any part thereof, (ii) will not challenge or question in any proceeding the validity or enforceability of any Priority Lien Obligations or Priority Lien Document, or the validity, attachment, perfection or priority of any Priority Lien, or the validity or enforceability of the priorities, rights or duties established by the provisions of this Agreement, (iii) will not take or cause to be taken any action the purpose or effect of which is, or could be, to interfere, hinder or delay, in any manner, whether by judicial proceedings or otherwise, any sale, transfer or other Disposition of the Collateral by the Priority Lien Agent or any other Priority Lien Secured Party, (iv) shall have no right to (A) direct the Priority Lien Agent or any other Priority Lien Secured Party to exercise any right, remedy or power with respect to any Collateral or (B) consent to the exercise by the Priority Lien Agent or any other Priority Lien Secured Party of any right, remedy or power with respect to any Collateral, (v) will not institute any suit or assert in any suit or Insolvency or Liquidation Proceeding any claim against the Priority Lien Agent or other Priority Lien Secured Party seeking damages from or other relief by way of specific performance, instructions or otherwise with respect to, and neither the Priority Lien Agent nor any other Priority Lien Secured Party shall be liable for, any action taken or omitted to be taken by the Priority Lien Agent or other Priority Lien Secured Party with respect to any Priority Lien Collateral, (vi) prior to the

Discharge of Priority Lien Obligations, will not seek, and hereby waives any right, to have any Collateral or any part thereof marshaled upon any foreclosure or other Disposition of such Collateral, (vii) prior to the Discharge of Priority Lien Obligations, will not attempt, directly or indirectly, whether by judicial proceedings or otherwise, to challenge the enforceability of any provision of this Agreement, (viii) will not object to forbearance by the Priority Lien Agent or any other Priority Lien Secured Party, and (ix) prior to the Discharge of Priority Lien Obligations, will not assert, and hereby waives, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or claim the benefit of any marshalling, appraisal, valuation or other similar right that may be available under applicable law to a junior secured creditor with respect to the Collateral or any similar rights a junior secured creditor may have under applicable law; and

(b) Payment Over. (i) The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, hereby agrees that if any Second Lien Secured Party shall obtain possession of any Collateral or shall realize any proceeds or payment in respect of any Collateral, pursuant to the exercise of any rights or remedies with respect to the Collateral under any Second Lien Security Document, or by the exercise of any rights available to it under applicable law or in any Insolvency or Liquidation Proceeding, to the extent permitted hereunder, at any time prior to the Discharge of Priority Lien Obligations secured, or intended to be secured, by such Collateral, then it shall hold such Collateral, proceeds or payment in trust for the Priority Lien Agent and the other Priority Lien Secured Parties and transfer such Collateral, proceeds or payment, as the case may be, to the Priority Lien Agent as promptly as practicable. Furthermore, the Second Lien Collateral Agent shall, at the Grantors' expense, promptly send written notice to the Priority Lien Agent upon receipt of such Collateral by any Second Lien Secured Party, proceeds or payment and if directed by the Priority Lien Agent within five (5) days after receipt by the Priority Lien Agent of such written notice, shall deliver such Collateral, proceeds or payment to the Priority Lien Agent in the same form as received, with any necessary endorsements, or as court of competent jurisdiction may otherwise direct. The Priority Lien Agent is hereby authorized to make any such endorsements as agent for the Second Lien Collateral Agent or any other Second Lien Secured Party. The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party agrees that if, at any time, it obtains written notice that all or part of any payment with respect to any Priority Lien Obligations previously made shall be rescinded for any reason whatsoever, it will promptly pay over to the Priority Lien Agent any payment received by it and then in its possession or under its direct control in respect of any such Priority Lien Collateral and shall promptly turn any such Collateral then held by it over to the Priority Lien Agent, and the provisions set forth in this Agreement will be reinstated as if such payment had not been made, until the Discharge of Priority Lien Obligations. All Second Liens will remain attached to and enforceable against all proceeds so held or remitted, subject to the priorities set forth in this Agreement. Anything contained herein to the contrary notwithstanding, this Section 3.05(b) shall not apply to any proceeds of Collateral realized in a transaction not prohibited by the Priority Lien Documents and as to which the possession or receipt thereof by the Second Lien Collateral Agent or any other Second Lien Secured Party is otherwise not prohibited by the Priority Lien Documents.

ARTICLE IV.

OTHER AGREEMENTS

Section 4.01 Release of Liens; Automatic Release of Second Liens. (a) Prior to the Discharge of Priority Lien Obligations, the Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, agrees that, in the event the Priority Lien Agent or the requisite Priority Lien Secured Parties under the Priority Lien Documents release the Priority Lien on any Collateral, each Second Lien on such Collateral shall terminate and be released automatically and without further action if (i) such release is permitted under the Second Lien Documents (it being agreed that the Priority Lien Agent may conclusively rely upon a written request of Comstock stating that the release of such Lien is permitted under the Second Lien Documents), (ii) such release is effected in connection with the Priority Lien Agent's foreclosure upon, or other exercise of rights or remedies with respect to, such Collateral, or (iii) such release is effected in connection with a sale or other Disposition of any Collateral (or any portion thereof) under Section 363 of the Bankruptcy Code or any other provision of the Bankruptcy Code if the Priority Lien Agent or the requisite Priority Lien Secured Parties under the Priority Lien Documents shall have consented to such sale or Disposition of such Collateral; provided that, in the case of each of clauses (i), (ii) and (iii), (A) the net proceeds of such Collateral are applied pursuant to Section 6.01 and (B) the Second Liens on such Collateral shall attach to (and shall remain subject and subordinate to all Priority Liens securing Priority Lien Obligations, subject to the Priority Lien Cap) any proceeds of a sale, transfer or other Disposition of Collateral not paid to the Priority Lien Secured Parties or that remain after the Discharge of Priority Lien Obligations.

(b) The Second Lien Collateral Agent agrees to execute and deliver (at the sole cost and expense of the Grantors) all such releases and other instruments as shall reasonably be requested by the Priority Lien Agent, to evidence and confirm any release of Collateral provided for in this Section 4.01.

Section 4.02 Certain Agreements With Respect to Insolvency or Liquidation Proceedings. (a) The parties hereto acknowledge that this Agreement is a "subordination agreement" under Section 510(a) of the Bankruptcy Code and shall continue in full force and effect, notwithstanding the commencement of any Insolvency or Liquidation Proceeding by or against Comstock or any subsidiary of Comstock. All references in this Agreement to Comstock or any subsidiary of Comstock or any other Grantor will include such Person or Persons as a debtor-in-possession and any receiver or trustee for such Person or Persons in an Insolvency or Liquidation Proceeding.

(b) If Comstock or any of its subsidiaries shall become subject to any Insolvency or Liquidation Proceeding and shall, as debtor(s)-in-possession, or if any receiver or trustee for such Person or Persons shall, move for approval of financing ("DIP Financing") to be provided by one or more lenders (the "DIP Lenders") under Section 364 of the Bankruptcy Code or the use of cash collateral under Section 363 of the Bankruptcy Code, the Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, agrees that neither it nor any other Second Lien Secured Party will raise any objection, contest or oppose (or join or support any third party in objecting, contesting or opposing), and each Second Lien

Secured Party shall be deemed to have consented to and will waive any claim such Person may now or hereafter have, to any such financing or to the Liens on the Collateral securing the same ("DIP Financing Liens"), or to any use, sale or lease of cash collateral that constitutes Collateral or to any grant of administrative expense priority or any super-administrative priority under Section 364 of the Bankruptcy Code, unless (A) the Priority Lien Agent opposes or objects to such DIP Financing or such DIP Financing Liens or such use of cash collateral, or (B) the terms of such DIP Financing provide for the sale of a substantial part of the Collateral (other than a sale or disposition pursuant to Section 363 of the Bankruptcy Code and with respect to which the Second Lien Secured Parties are deemed to have consented pursuant to Section 4.02(d)) or require the confirmation of a plan of reorganization containing specific terms or provisions (other than repayment in cash of such DIP Financing on the effective date thereof). To the extent such DIP Financing Liens are senior to, or rank pari passu with, the Priority Liens, the Second Lien Collateral Agent will, for itself and on behalf of the other Second Lien Secured Parties, subordinate the Second Liens on the Collateral to the Priority Liens and to such DIP Financing Liens, so long as the Second Lien Collateral Agent, on behalf of the Second Lien Secured Parties, retains Liens on all the Collateral, including proceeds thereof arising after the commencement of any Insolvency or Liquidation Proceeding, with the same priority relative to the Priority Liens as existed prior to the commencement of the case under the Bankruptcy Code.

(c) Prior to the Discharge of Priority Lien Obligations, without the written consent of the Priority Lien Agent, in its sole discretion, the Second Lien Collateral Agent, for itself and on behalf of each Second Lien Secured Party, agrees not to propose, support or enter into any DIP Financing.

(d) The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, agrees that it shall be deemed to have consented to, and shall not object to, oppose or contest (or join with or support any third party objecting to, opposing or contesting), a sale or other Disposition, a motion to sell or Dispose or the bidding procedures for such sale or Disposition of any Collateral (or any portion thereof) under Section 363 of the Bankruptcy Code or any other provision of the Bankruptcy Code if (1) the Priority Lien Agent or the requisite Priority Lien Secured Parties under the Priority Lien Documents shall have consented to such sale or Disposition, such motion to sell or Dispose or such bidding procedures for such sale or Disposition of such Collateral, (2) all Priority Liens, Second Liens will attach to the proceeds of the sale or Disposition in the same respective priorities as set forth in this Agreement, (3) Section 6.01 is complied with in connection with such Disposition or credit bid and (4) the Second Lien Collateral Agent and the holders of Second Lien Obligations, shall have the right to credit bid all or any portion of the Collateral so long as the Priority Lien Agent and the holders of the Priority Lien Obligations receive payment in full in cash of all Priority Lien Obligations after giving effect thereto.

(e) The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, waives any claim that it may now or hereafter have against the Priority Lien Agent or any other Priority Lien Secured Party arising out of any DIP Financing Liens (that is granted in a manner that is consistent with this Agreement) or administrative expense priority or super-administrative priority under Section 364 of the Bankruptcy Code.

(f) The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, agrees that neither the Second Lien Collateral Agent, nor any other Second Lien Secured Party, will file or prosecute in any Insolvency or Liquidation Proceeding any motion for adequate protection (or any comparable request for relief) based upon their interest in the Collateral, nor object to, oppose or contest (or join with or support any third party objecting to, opposing or contesting) (i) any request by the Priority Lien Agent or any other Priority Lien Secured Party for adequate protection or (ii) any objection by the Priority Lien Agent or any other Priority Lien Secured Party to any motion, relief, action or proceeding based on the Priority Lien Agent or Priority Lien Secured Parties claiming a lack of adequate protection, except that the Second Lien Secured Parties may:

(i) freely seek and obtain relief granting adequate protection only in the form of a replacement lien co-extensive in all respects with, but subordinated (as set forth in Section 2.01) to, and with the same relative priority to the Priority Liens as existed prior to the commencement of the Insolvency or Liquidation Proceeding, all Liens granted in the Insolvency or Liquidation Proceeding to, or for the benefit of, the Priority Lien Secured Parties; and

(ii) freely seek and obtain any relief upon a motion for adequate protection (or any comparable relief), without any condition or restriction whatsoever, at any time after the Discharge of Priority Lien Obligations.

(g) The Second Lien Collateral Agent, for itself and on behalf of each of the other of the Second Lien Secured Parties, waives any claim it or any such other Second Lien Secured Party, may now or hereafter have against the Priority Lien Agent or any other Priority Lien Secured Party (or their representatives) arising out of any election by the Priority Lien Agent or any Priority Lien Secured Parties, in any proceeding instituted under the Bankruptcy Code, of the application of Section 1111(b) of the Bankruptcy Code.

(h) The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, agrees that in any Insolvency or Liquidation Proceeding, neither it nor any other Second Lien Secured Party shall support or vote to accept any plan of reorganization or disclosure statement of Comstock or any other Grantor unless such plan is either accepted by the Class of Priority Lien Secured Parties in accordance with Section 1126(c) of the Bankruptcy Code or provides for the payment in full in cash of all Priority Lien Obligations (including all post-petition interest approved by the bankruptcy court, fees and expenses, and cash collateral of all letters of credit) not constituting Excess Priority Lien Obligations on the effective date of such plan of reorganization. Except as otherwise provided in this clause (h), each of the Second Lien Secured Parties shall remain entitled to vote their claims in any such Insolvency or Liquidation Proceeding.

(i) The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, agrees that neither it nor any other Second Lien Secured Party, shall seek relief, pursuant to Section 362(d) of the Bankruptcy Code or otherwise, from the automatic stay of Section 362(a) of the Bankruptcy Code or from any other stay in any Insolvency or Liquidation Proceeding in respect of the Collateral if the Priority Lien Agent has not received relief from the automatic stay (or it has not been lifted for the Priority Lien Agent’s benefit) without the prior written consent of the Priority Lien Agent.

(j) The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, agrees that neither it nor any other Second Lien Secured Party, shall oppose or seek to challenge (or join or support any third party in opposing or seeking to challenge) any claim by the Priority Lien Agent or any other Priority Lien Secured Party for allowance (but not payment until the Discharge of the Priority Lien Obligations has occurred) in any Insolvency or Liquidation Proceeding of Priority Lien Obligations consisting of post-petition interest, fees or expenses or cash collateralization of all letters of credit to the extent of the value of the Priority Liens (it being understood that such value will be determined without regard to the existence of the Second Liens on the Collateral) subject to the Priority Lien Cap. Neither Priority Lien Agent nor any other Priority Lien Secured Party shall oppose or seek to challenge any claim by the Second Lien Collateral Agent, or any other Second Lien Secured Party, for allowance (but not payment until the Discharge of the Priority Lien Obligations has occurred) in any Insolvency or Liquidation Proceeding of Second Lien Obligations consisting of post-petition interest, fees or expenses to the extent of the value of the Second Liens, on the Collateral; provided that if the Priority Lien Agent or any other Priority Lien Secured Party shall have made any such claim, such claim (i) shall have been approved or (ii) will be approved contemporaneously with the approval of any such claim by the Second Lien Collateral Agent or any other Second Lien Secured Party.

(k) Without the express written consent of the Priority Lien Agent, neither the Second Lien Collateral Agent, nor any other Second Lien Secured Party shall (or shall join with or support any third party in opposing, objecting to or contesting, as the case may be), in any Insolvency or Liquidation Proceeding involving any Grantor, (i) oppose, object to or contest the determination of the extent of any Liens held by any of Priority Lien Secured Party or the value of any claims of any such holder under Section 506(a) of the Bankruptcy Code or (ii) oppose, object to or contest the payment to the Priority Lien Secured Party of interest, fees or expenses, or to the cash collateralization of letters of credit, under Section 506(b) of the Bankruptcy Code subject to the Priority Lien Cap.

(l) Notwithstanding anything to the contrary contained herein, if in any Insolvency or Liquidation Proceeding a determination is made that any Lien encumbering any Collateral is not enforceable for any reason, then the Second Lien Collateral Agent for itself and on behalf of each other Second Lien Secured Party, agrees that, any distribution or recovery they may receive in respect of any such Collateral shall be segregated and held in trust and forthwith paid over to the Priority Lien Agent for the benefit of the Priority Lien Secured Parties in the same form as received without recourse, representation or warranty (other than a representation of the Second Lien Collateral Agent, that it has not otherwise sold, assigned, transferred or pledged any right, title or interest in and to such distribution or recovery) but with any necessary endorsements or as a court of competent jurisdiction may otherwise direct. The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party hereby appoints the Priority Lien Agent, and any officer or agent of the Priority Lien Agent, with full power of substitution, the attorney-in-fact of each Second Lien Secured Party for the limited purpose of carrying out the provisions of this Section 4.02(l) and taking any action and executing any instrument that the Priority Lien Agent may deem necessary or advisable to accomplish the purposes of this Section 4.02(l), which appointment is irrevocable and coupled with an interest.

(m) The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, hereby agrees that the Priority Lien Agent shall have the exclusive right to credit bid the Priority Lien Obligations subject to the Priority Lien Cap and further that neither of the Second Lien Collateral Agent nor any other Second Lien Secured Party shall (or shall join with or support any third party in opposing, objecting to or contesting, as the case may be) oppose, object to or contest such credit bid by the Priority Lien Agent; provided that (A) Section 6.01 is complied with in connection with such credit bid and (B) each of the Second Lien Collateral Agent and the holders of Second Lien Obligations shall have the right to credit bid all or any portion of the Collateral so long as the Priority Lien Agent and the holders of the Priority Lien Obligations receive payment in full in cash of all Priority Lien Obligations after giving effect thereto.

(n) Until the expiry of the Standstill Period, in the case of the Second Lien Collateral Agent and the holders of Second Lien Obligations, without the written consent of the Priority Lien Agent in its sole discretion, the Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, agrees that it will not file an involuntary bankruptcy claim or seek the appointment of an examiner or a trustee for Comstock or any of its subsidiaries.

(o) Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, waives any right to assert or enforce any claim under Section 506(c) or 552 of the Bankruptcy Code as against any Priority Lien Secured Party or any of the Collateral, except as expressly permitted by this Agreement.

Section 4.03 Reinstatement. If any Priority Lien Secured Party is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of any Grantor any amount (a "Recovery") for any reason whatsoever, then the Priority Lien Obligations shall be reinstated to the extent of such Recovery and the Priority Lien Secured Parties shall be entitled to a reinstatement of Priority Lien Obligations with respect to all such recovered amounts. The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, agrees that if, at any time, a Second Lien Secured Party, receives notice of any Recovery, and any Priority Lien Obligations (including any reinstated Priority Lien Obligations) not constituting Excess Priority Lien Obligations are outstanding, then the Second Lien Collateral Agent and any other Second Lien Secured Party, shall promptly pay over to the Priority Lien Agent any payment received by it and then in its possession or under its control in respect of any Collateral subject to any Priority Lien securing such Priority Lien Obligations and shall promptly turn any Collateral subject to any such Priority Lien then held by it over to the Priority Lien Agent, and the provisions set forth in this Agreement shall be reinstated as if such payment had not been made. If this Agreement shall have been terminated prior to any such Recovery, this Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement. Any amounts received by the Second Lien Collateral Agent or any other Second Lien Secured Party, and then in its possession or under its control on account of the Second Lien Obligations or after the termination of this Agreement shall, in the event of a reinstatement of this Agreement pursuant to this Section 4.03, be held in trust for and paid over to the Priority Lien Agent for the benefit of the Priority Lien Secured Parties for application to the reinstated Priority Lien Obligations

(other than reinstated Priority Lien Obligations constituting Excess Priority Lien Obligations) until the discharge thereof. If any Second Lien Secured Party is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of any Grantor any amount (a "Second Lien Recovery") for any reason whatsoever, then the Second Lien Obligations shall be reinstated to the extent of such Recovery and the Second Lien Secured Parties shall be entitled to a reinstatement of Second Lien Obligations with respect to all such recovered amounts. After the Discharge of Priority Lien Obligations, the Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, agrees that if, at any time, a Second Lien Secured Party receives notice of any Second Recovery, and any Second Lien Obligations (including any reinstated Second Lien Obligations) are outstanding, then the Second Lien Collateral Agent or any other Second Lien Secured Party, as applicable, shall promptly pay over to the Second Lien Collateral Agent any payment received by it and then in its possession or under its control in respect of any Collateral subject to any Second Lien securing such Second Lien Obligations and shall promptly turn any Collateral subject to any such Second Lien then held by it over to the Second Lien Collateral Agent, and the provisions set forth in this Agreement shall be reinstated as if such payment had not been made. If this Agreement shall have been terminated prior to any such Second Lien Recovery, this Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement. Any amounts received by the Second Lien Collateral Agent or any other Second Lien Secured Party and then in its possession or under its control on account of the Second Lien Obligations after the termination of this Agreement shall, in the event of a reinstatement of this Agreement pursuant to this Section 4.03, be held in trust for and paid over to the Second Lien Collateral Agent for the benefit of the Second Lien Secured Parties for application to the reinstated Second Lien Obligations until the discharge thereof. This Section 4.03 shall survive termination of this Agreement.

Section 4.04 Refinancings. The Priority Lien Obligations and the Second Lien Obligations may be Replaced, by any Priority Substitute Credit Facility or Second Lien Substitute Facility, as the case may be, in each case, without notice to, or the consent of any Secured Party, all without affecting the Lien priorities provided for herein or the other provisions hereof; provided, that (i) the Priority Lien Agent, and the Second Lien Collateral Agent shall receive on or prior to incurrence of a Priority Substitute Credit Facility or Second Lien Substitute Facility (A) an Officer's Certificate from Comstock stating that (I) the incurrence thereof is permitted by each applicable Secured Debt Document to be incurred and (II) the requirements of Section 4.06 have been satisfied, and (B) a Priority Confirmation Joinder from the holders or lenders of any indebtedness that Replaces the Priority Lien Obligations or the Second Lien Obligations (or an authorized agent, trustee or other representative on their behalf), (ii) the aggregate outstanding principal amount of the Priority Lien Obligations under the Priority Credit Agreement, after giving effect to such Priority Substitute Credit Facility, shall not exceed the Priority Lien Cap and (iii) on or before the date of such incurrence, such Priority Substitute Credit Facility or Second Lien Substitute Facility is designated by Comstock, in an Officer's Certificate delivered to the Priority Lien Agent and the Second Lien Collateral Agent, as "Priority Lien Debt" or "Second Lien Debt", as applicable, for the purposes of the Secured Debt Documents and this Agreement; provided that no Series of Secured Debt may be designated as more than one of Priority Lien Debt or Second Lien Debt.

Each of the then-exiting Priority Lien Agent and the Second Lien Collateral Agent shall be authorized to execute and deliver such documents and agreements (including amendments or supplements to this Agreement) as such holders, lenders, agent, trustee or other representative may reasonably request to give effect to any such Replacement, it being understood that the Priority Lien Agent and the Second Lien Collateral Agent or (if permitted by the terms of the applicable Secured Debt Documents) the Grantors, without the consent of any other Secured Party or (in the case of the Grantors) one or more Secured Debt Representatives, may amend, supplement, modify or restate this Agreement to the extent necessary or appropriate to facilitate such amendments or supplements to effect such Replacement or incurrence all at the expense of the Grantors. Upon the consummation of such Replacement or incurrence and the execution and delivery of the documents and agreements contemplated in the preceding sentence, the holders or lenders of such indebtedness and any authorized agent, trustee or other representative thereof shall be entitled to the benefits of this Agreement.

Section 4.05 Amendments to Second Lien Documents.

(a) Prior to the Discharge of Priority Lien Obligations, without the prior written consent of the Priority Lien Agent, no Second Lien Document may be amended, supplemented, restated or otherwise modified and/or refinanced or entered into to the extent such amendment, supplement, restatement or modification and/or refinancing, or the terms of any new Second Lien Document, would (i) adversely affect the lien priority rights of the Priority Lien Secured Parties or the rights of the Priority Lien Secured Parties to receive payments owing pursuant to the Priority Lien Documents, (ii) except as otherwise provided for in this Agreement, add any Liens securing the Collateral granted under the Second Lien Security Documents, (iii) confer any additional rights on the Second Lien Collateral Agent or any other Second Lien Secured Party in a manner adverse to the Priority Lien Secured Parties, (iv) contravene the provisions of this Agreement or the Priority Lien Documents or (v) modify any Second Lien Document in any manner that would not have been permitted under the Priority Lien Documents to have been included in such Second Lien Document if such Second Lien Document was entered into as of the date of such amendment, supplement, restatement or modification and

Section 4.06 Legends. Each of

(a) the Priority Lien Agent acknowledges with respect to the Priority Credit Agreement and the Priority Lien Security Documents, and

(b) the Second Lien Collateral Agent acknowledges with respect to each Second Lien Indenture and the Second Lien Security Documents, that each Second Lien Indenture, the Second Lien Documents (other than control agreements to which both the Priority Lien Agent and the Second Lien Collateral Agent are parties), and each associated Security Document (other than control agreements to which both the Priority Lien Agent and the Second Lien Collateral Agent are parties) granting any security interest in the Collateral will contain the appropriate legend set forth on Annex I.

Section 4.07 Second Lien Secured Parties as Unsecured Creditors; Judgment Lien Creditor. Both before and during an Insolvency or Liquidation Proceeding, any of the Second Lien Secured Parties may take any actions and exercise any and all rights that would be

available to a holder of unsecured claims; provided, however, that the Second Lien Secured Parties may not take any of the actions prohibited by Section 3.05(a) or clauses (b) through (f) of Section 4.02 or any other provisions in this Agreement; provided, further, that in the event that any of the Second Lien Secured Parties becomes a judgment lien creditor in respect of any Collateral as a result of its enforcement of its rights as an unsecured creditor with respect to the Second Lien Obligations, such judgment lien shall be subject to the terms of this Agreement for all purposes (including in relation to the Priority Lien Obligations) as the Second Liens, are subject to this Agreement.

Section 4.08 Postponement of Subrogation. The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, hereby agrees that no payment or distribution to any Priority Lien Secured Party pursuant to the provisions of this Agreement shall entitle any Second Lien Secured Party to exercise any rights of subrogation in respect thereof until, in the case of the Second Lien Secured Parties, the Discharge of Priority Lien Obligations. Following the Discharge of Priority Lien Obligations, but subject to the reinstatement as provided in Section 4.03, each Priority Lien Secured Party will execute such documents, agreements, and instruments as any Second Lien Secured Party may reasonably request to evidence the transfer by subrogation to any such Person of an interest in the Priority Lien Obligations resulting from payments or distributions to such Priority Lien Secured Party by such Person, so long as all costs and expenses (including all reasonable legal fees and disbursements) incurred in connection therewith by such Priority Lien Secured Party are paid by such Person upon request for payment thereof.

Section 4.09 Acknowledgment by the Secured Debt Representatives. The Priority Lien Agent, for itself and on behalf of the other Priority Lien Secured Parties and the Second Lien Collateral Agent, for itself and on behalf of the other Second Lien Secured Parties, hereby acknowledges that this Agreement is a material inducement to enter into a business relationship, that each has relied on this Agreement to enter into the Priority Credit Agreement, each Second Lien Indenture, as applicable, and all documentation related thereto, and that each will continue to rely on this Agreement in their related future dealings.

ARTICLE V.

GRATUITOUS BAILMENT FOR PERFECTION OF CERTAIN SECURITY INTERESTS

Section 5.01 General. Prior to the Discharge of Priority Lien Obligations, the Priority Lien Agent agrees that if it shall at any time hold a Priority Lien on any Collateral that can be perfected by the possession or control of such Collateral or of any Account in which such Collateral is held, and if such Collateral or any such Account is in fact in the possession or under the control of the Priority Lien Agent, the Priority Lien Agent will serve as gratuitous bailee or agent for the Second Lien Collateral Agent for the sole purpose of perfecting the Second Lien of the Second Lien Collateral Agent on such Collateral. It is agreed that the obligations of the Priority Lien Agent and the rights of the Second Lien Collateral Agent and the other Second Lien Secured Parties in connection with any such bailment or agency arrangement will be in all respects subject to the provisions of Article II. Notwithstanding anything to the contrary herein, the Priority Lien Agent will be deemed to make no

representation as to the adequacy of the steps taken by it to perfect the Second Lien on any such Collateral and shall have no responsibility, duty, obligation or liability to the Second Lien Collateral Agent or any other Second Lien Secured Party, or any other Person for such perfection or failure to perfect, it being understood that the sole purpose of this Article is to enable the Second Lien Secured Parties to obtain a perfected Second Lien to the extent, if any, that such perfection results from the possession or control of such Collateral or any such Account by the Priority Lien Agent. The Priority Lien Agent acting pursuant to this Section 5.01 shall not have by reason of the Priority Lien Security Documents, the Second Lien Security Documents, this Agreement or any other document or theory, a fiduciary relationship in respect of any Priority Lien Secured Party, the Second Lien Collateral Agent or any Second Lien Secured Party. Subject to Section 4.03, from and after the Discharge of Priority Lien Obligations, the Priority Lien Agent shall take all such actions in its power as shall reasonably be requested by the Second Lien Collateral Agent (at the sole cost and expense of the Grantors) to transfer possession or control of such Collateral or any such Account (in each case to the extent the Second Lien Collateral Agent has a Lien on such Collateral or Account after giving effect to any prior or concurrent releases of Liens) to the Second Lien Collateral Agent for the benefit of all Second Lien Secured Parties.

Section 5.02 Deposit Accounts. Prior to the Discharge of Priority Lien Obligations, to the extent that any Account is under the control of the Priority Lien Agent at any time, the Priority Lien Agent will act as gratuitous bailee or agent for the Second Lien Collateral Agent for the purpose of perfecting the Liens of the Second Lien Secured Parties in such Accounts and the cash and other assets therein as provided in Section 3.01 (but will have no duty, responsibility or obligation to the Second Lien Secured Parties (including, without limitation, any duty, responsibility or obligation as to the maintenance of such control, the effect of such arrangement or the establishment of such perfection) except as set forth in the last sentence of this Section 5.02(a)). Unless the Second Liens on such Collateral shall have been or concurrently are released, after the occurrence of Discharge of Priority Lien Obligations, the Priority Lien Agent shall, at the request of the Second Lien Collateral Agent, cooperate with the Grantors and the Second Lien Collateral Agent (at the expense of the Grantors) in permitting control of any other Accounts to be transferred to the Second Lien Collateral Agent (or for other arrangements with respect to each such Accounts satisfactory to the Second Lien Collateral Agent to be made).

ARTICLE VI.

APPLICATION OF PROCEEDS; DETERMINATION OF AMOUNTS

Section 6.01 Application of Proceeds. Regardless of whether an Insolvency or Liquidation Proceeding has been commenced, Collateral or Proceeds received in connection with the enforcement or exercise of any rights or remedies with respect to any portion of the Collateral will be applied:

(i) first, to the payment in full in cash of all Priority Lien Obligations that are not Excess Priority Lien Obligations in accordance with the Priority Lien Intercreditor Agreement,

(ii) second, to the payment in full in cash of all Second Lien Obligations, as follows:

(x) first, to the payment in full in cash of all unpaid fees, expenses, reimbursements and indemnification amounts incurred by the Second Lien Collateral Agent and all fees owed to it in connection with such collection or sale or otherwise in connection with this Agreement or of the Second Lien Documents; and

(y) second, to the payment in full in cash of the Second Lien Obligations, including any interest, fees, costs, expenses, charges or other amounts, pro rata in accordance with the relative amounts thereof on the date of any payment or distribution;

(iii) third, to the payment in full in cash of all Excess Priority Lien Obligations in accordance with the Priority Lien Intercreditor Agreement, and

(iv) fourth, to Comstock or as otherwise required by applicable law.

Section 6.02 Determination of Amounts. Whenever a Secured Debt Representative shall be required, in connection with the exercise of its rights or the performance of its obligations hereunder, to determine the existence or amount of any Priority Lien Obligations (or the existence of any commitment to extend credit that would constitute Priority Lien Obligations) or Second Lien Obligations, or the existence of any Lien securing any such obligations, or the Collateral subject to any such Lien, it may request that such information be furnished to it in writing by the other Secured Debt Representatives and shall be entitled to make such determination on the basis of the information so furnished; provided, however, that if a Secured Debt Representative shall fail or refuse reasonably promptly to provide the requested information, the requesting Secured Debt Representative shall be entitled to make any such determination by such method as it may, in the exercise of its good faith judgment, determine, including by reliance upon a certificate of Comstock. Each Secured Debt Representative may rely conclusively, and shall be fully protected in so relying, on any determination made by it in accordance with the provisions of the preceding sentence (or as otherwise directed by a court of competent jurisdiction) and shall have no liability to Comstock or any of its subsidiaries, any Secured Party or any other Person as a result of such determination.

ARTICLE VII.

NO RELIANCE; NO LIABILITY; OBLIGATIONS ABSOLUTE; CONSENT OF GRANTORS; ETC.

Section 7.01 No Reliance; Information. The Priority Lien Secured Parties and the Second Lien Secured Parties shall have no duty to disclose to any Second Lien Secured Party or to any Priority Lien Secured Party, as the case may be, any information relating to Comstock or any of the other Grantors, or any other circumstance bearing upon the risk of non-payment of any of the Priority Lien Obligations or the Second Lien Obligations, as the case may be, that is known or becomes known to any of them or any of their Affiliates. In the event any Priority Lien Secured Party, or any Second Lien Secured Party, in its sole discretion, undertakes at any time or from time to time to provide any such information to, any Second Lien Secured Party or

any Priority Lien Secured Party, as the case may be, it shall be under no obligation (a) to make, and shall not make or be deemed to have made, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of the information so provided, (b) to provide any additional information or to provide any such information on any subsequent occasion or (c) to undertake any investigation.

Section 7.02 No Warranties or Liability.

(a) The Priority Lien Agent, for itself and on behalf of the other Priority Lien Secured Parties, acknowledges and agrees that, except for the representations and warranties set forth in Article VIII, neither the Second Lien Collateral Agent, nor any other Second Lien Secured Party has made any express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectability or enforceability of any of the Second Lien Documents, the ownership of any Collateral or the perfection or priority of any Liens thereon.

(b) The Second Lien Collateral Agent, for itself and on behalf of the other Second Lien Secured Parties, acknowledges and agrees that, except for the representations and warranties set forth in Article VIII, neither the Priority Lien Agent nor any other Priority Lien Secured Party has made any express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectability or enforceability of any of the Priority Lien Documents, the ownership of any Collateral or the perfection or priority of any Liens thereon.

(c) The Priority Lien Agent and the other Priority Lien Secured Parties shall have no express or implied duty to the Second Lien Collateral Agent, or any other Second Lien Secured Party, the Second Lien Collateral Agent, and the other Second Lien Secured Parties shall have no express or implied duty to the Priority Lien Agent or any other Priority Lien Secured Party, to act or refrain from acting in a manner which allows, or results in, the occurrence or continuance of a default or an event of default under any Priority Lien Document and any Second Lien Document (other than, in each case, this Agreement), regardless of any knowledge thereof which they may have or be charged with.

(d) The Second Lien Collateral Agent, for itself and on behalf of each other Second Lien Secured Party, hereby waives any claim that may be had against the Priority Lien Agent or any other Priority Lien Secured Party arising out of any actions which the Priority Lien Agent or such Priority Lien Secured Party takes or omits to take (including actions with respect to the creation, perfection or continuation of Liens on any Collateral, actions with respect to the foreclosure upon, sale, release or depreciation of, or failure to realize upon, any Collateral, and actions with respect to the collection of any claim for all or only part of the Priority Lien Obligations from any account debtor, guarantor or any other party) in accordance with this Agreement and the Priority Lien Documents or the valuation, use, protection or release of any security for such Priority Lien Obligations.

Section 7.03 Obligations Absolute. The Lien priorities provided for herein and the respective rights, interests, agreements and obligations hereunder of the Priority Lien Agent and the other Priority Lien Secured Parties and the Second Lien Collateral Agent, and the other Second Lien Secured Parties shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any Secured Debt Document;

(b) any change in the time, place or manner of payment of, or in any other term of (including the Replacing of), all or any portion of the Priority Lien Obligations, it being specifically acknowledged that a portion of the Priority Lien Obligations consists or may consist of Indebtedness that is revolving in nature, and the amount thereof that may be outstanding at any time or from time to time may be increased or reduced and subsequently reborrowed;

(c) any amendment, waiver or other modification, whether by course of conduct or otherwise, of any Secured Debt Document;

(d) the securing of any Priority Lien Obligations or Second Lien Obligations with any additional collateral or guarantees, or any exchange, release, voiding, avoidance or non-perfection of any security interest in any Collateral or any other collateral or any release of any guarantee securing any Priority Lien Obligations or Second Lien Obligations;

(e) the commencement of any Insolvency or Liquidation Proceeding in respect of Comstock or any other Grantor; or

(f) any other circumstances that otherwise might constitute a defense available to, or a discharge of, Comstock or any other Grantor in respect of the Priority Lien Obligations or the Second Lien Obligations.

Section 7.04 Grantors Consent. Each Grantor hereby consents to the provisions of this Agreement and the intercreditor arrangements provided for herein and agrees that the obligations of the Grantors under the Secured Debt Documents will in no way be diminished or otherwise affected by such provisions or arrangements (except as expressly provided herein).

ARTICLE VIII.

REPRESENTATIONS AND WARRANTIES

Section 8.01 Representations and Warranties of Each Party. Each party hereto represents and warrants to the other parties hereto as follows:

(a) Such party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all requisite power and authority to enter into and perform its obligations under this Agreement.

(b) This Agreement has been duly executed and delivered by such party.

(c) The execution, delivery and performance by such party of this Agreement (i) do not require any consent or approval of, registration or filing with or any other action by any Governmental Authority of which the failure to obtain could reasonably be expected to have a Material Adverse Effect (as defined in the Priority Credit Agreement), (ii) will not violate any

applicable law or regulation or any order of any Governmental Authority or any indenture, agreement or other instrument binding upon such party which could reasonably be expected to have a Material Adverse Effect and (iii) will not violate the charter, by-laws or other organizational documents of such party.

Section 8.02 Representations and Warranties of Each Representative. Each of the Priority Lien Agent and the Second Lien Collateral Agent represents and warrants to the other parties hereto that it has been directed under the Priority Credit Agreement and the Second Lien Indentures, as the case may be, to enter into this Agreement.

ARTICLE IX.

MISCELLANEOUS

Section 9.01 Notices. All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(a) if to the Original Priority Lien Agent, to it at:

Bank of Montreal
700 Louisiana, Suite 2100
Houston, Texas 77002
Facsimile: 713-223-4007
Attention: James V. Ducote

(b) if to the Original Second Lien Collateral Agent, to it at:

Bank of Montreal
700 Louisiana, Suite 2100
Houston, Texas 77002
Facsimile: 713-223-4007
Attention: James V. Ducote

(c) if to any other Secured Debt Representative, to such address as specified in the Priority Confirmation Joinder.

Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt (if a business day) and on the next business day thereafter (in all other cases) if delivered by hand or overnight courier service or sent by telecopy or on the date five business days after dispatch by certified or registered mail if mailed, in each case delivered, sent or mailed (properly addressed) to such party as provided in this Section 9.01 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 9.01. As agreed to in writing among Comstock, the other Grantors the Priority Lien Agent and the Second Lien Collateral Agent from time to time, notices and other communications may also be delivered by e-mail to the e-mail address of a representative of the applicable person provided from time to time by such person.

Section 9.02 Waivers; Amendment. (a) No failure or delay on the part of any party hereto in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the parties hereto are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 9.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any party hereto in any case shall entitle such party to any other or further notice or demand in similar or other circumstances.

(b) Neither this Agreement nor any provision hereof may be terminated, waived, amended or modified except pursuant to an agreement or agreements in writing entered into by each Secured Debt Representative; provided, however, that this Agreement may be amended from time to time as provided in Section 4.04. Any amendment of this Agreement that is proposed to be effected without the consent of a Secured Debt Representative as permitted by the proviso to the preceding sentence shall be submitted to such Secured Debt Representative for its review at least 5 business days prior to the proposed effectiveness of such amendment.

Section 9.03 Actions Upon Breach; Specific Performance. (a) Prior to the Discharge of Priority Lien Obligations, if any Second Lien Secured Party, contrary to this Agreement, commences or participates in any action or proceeding against any Grantor or the Collateral, such Grantor, with the prior written consent of the Priority Lien Agent, may interpose as a defense or dilatory plea the making of this Agreement, and any Priority Lien Secured Party may intervene and interpose such defense or plea in its or their name or in the name of such Grantor.

(b) Prior to the Discharge of Priority Lien Obligations, should any Second Lien Secured Party, contrary to this Agreement, in any way take, attempt to or threaten to take any action with respect to the Collateral (including any attempt to realize upon or enforce any remedy with respect to this Agreement), or take any other action in violation of this Agreement or fail to take any action required by this Agreement, the Priority Lien Agent or any other Priority Lien Secured Party (in its own name or in the name of the relevant Grantor) or the relevant Grantor, with the prior written consent of the Priority Lien Agent, (A) may obtain relief against such Second Lien Secured Party, by injunction, specific performance and/or other appropriate equitable relief, it being understood and agreed by each of the Second Lien Collateral Agent on behalf of each Second Lien Secured Party that (I) the Priority Lien Secured Parties' damages from its actions may at that time be difficult to ascertain and may be irreparable, and (II) each Second Lien Secured Party waives any defense that the Grantors and/or the Priority Lien Secured Parties cannot demonstrate damage and/or be made whole by the awarding of damages, and (B) shall be entitled to damages, as well as reimbursement for all reasonable and documented costs and expenses incurred in connection with any action to enforce the provisions of this Agreement.

Section 9.04 Parties in Interest. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, as well as the other Secured Parties, all of whom are intended to be bound by, and to be third party beneficiaries of, this Agreement.

Section 9.05 Survival of Agreement. All covenants, agreements, representations and warranties made by any party in this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement.

Section 9.06 Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original but all of which when taken together shall constitute a single contract. Delivery of an executed signature page to this Agreement by facsimile transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

Section 9.07 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 9.08 Governing Law; Jurisdiction; Consent to Service of Process. (a) THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAW PRINCIPLES (BUT GIVING EFFECT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATION LAW).

(b) Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any party hereto may otherwise have to bring any action or proceeding relating to this Agreement in the courts of any jurisdiction.

(c) Each party hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in paragraph (b) of this Section 9.08. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner `provided for notices in Section 9.01. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

Section 9.09 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 9.10 Headings. Article, Section and Annex headings used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Section 9.11 Conflicts. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of any Secured Debt Documents, the provisions of this Agreement shall control.

Section 9.12 Provisions Solely to Define Relative Rights. The provisions of this Agreement are and are intended solely for the purpose of defining the distinct and separate relative rights of the Priority Lien Secured Parties and the Second Lien Secured Parties. None of Comstock, any other Grantor or any other creditor thereof shall have any rights or obligations hereunder, except as expressly provided in this Agreement (provided that nothing in this Agreement is intended to or will amend, waive or otherwise modify the provisions of the Priority Lien Documents and the Second Lien Documents, as applicable), and except as expressly provided in this Agreement neither Comstock nor any other Grantor may rely on the terms hereof. Nothing in this Agreement is intended to or shall impair the obligations of Comstock or any other Grantor, which are absolute and unconditional, to pay the Obligations under the Secured Debt Documents as and when the same shall become due and payable in accordance with their terms. Notwithstanding anything to the contrary herein or in any Secured Debt Document, the Grantors shall not be required to act or refrain from acting pursuant to this Agreement, any Priority Lien Document or any Second Lien Document with respect to any Collateral in any manner that would cause a default under any Priority Lien Document.

Section 9.13 Certain Terms Concerning the Second Lien Collateral Agent. The Second Lien Collateral Agent is executing and delivering this Agreement solely in its capacity as such and pursuant to direction set forth in each Second Lien Indenture; and in so doing, the Second Lien Collateral Agent shall not be responsible for the terms or sufficiency of this Agreement for any purpose. The Second Lien Collateral Agent shall have no duties or obligations under or pursuant to this Agreement other than such duties and obligations as may be expressly set forth in this Agreement as duties and obligations on its part to be performed or observed. In entering

into this Agreement, or in taking (or forbearing from) any action under or pursuant to the Agreement, the Second Lien Collateral Agent shall have and be protected by all of the rights, immunities, indemnities and other protections granted to it under any Second Lien Indenture and the other Second Lien Documents.

Section 9.14 Certain Terms Concerning the Priority Lien Agent and Second Lien Collateral Agent. None of the Priority Lien Agent or the Second Lien Collateral Agent shall have any liability or responsibility for the actions or omissions of any other Secured Party, or for any other Secured Party's compliance with (or failure to comply with) the terms of this Agreement. None of the Priority Lien Agent or the Second Lien Collateral Agent shall have individual liability to any Person if it shall mistakenly pay over or distribute to any Secured Party (or Comstock or any other Grantor) any amounts in violation of the terms of this Agreement, so long as the Priority Lien Agent or the Second Lien Collateral Agent, as the case may be, is acting in good faith. Each party hereto hereby acknowledges and agrees that each of the Priority Lien Agent and the Second Lien Collateral Agent is entering into this Agreement solely in its capacity under the Priority Lien Documents and the Second Lien Documents, respectively, and not in its individual capacity. The Priority Lien Agent shall not be deemed to owe any fiduciary duty to the Second Lien Collateral Agent or any other Second Lien Secured Party and the Second Lien Collateral Agent shall not be deemed to owe any fiduciary duty to the Priority Lien Agent or any other Priority Lien Secured Party.

Section 9.15 Authorization of Secured Agents. By accepting the benefits of this Agreement and the other Priority Lien Security Documents, each Priority Lien Secured Party authorizes the Priority Lien Agent to enter into this Agreement and to act on its behalf as collateral agent hereunder and in connection herewith. By accepting the benefits of this Agreement and the other Second Lien Security Documents, each Second Lien Secured Party authorizes the Second Lien Collateral Agent to enter into this Agreement and to act on its behalf as collateral agent hereunder and in connection herewith.

Section 9.16 Further Assurances. The Priority Lien Agent, for itself and on behalf of the other Priority Lien Secured Party and the Second Lien Collateral Agent, for itself and on behalf of the other Second Lien Secured Parties, and each Grantor party hereto, for itself and on behalf of its subsidiaries, agrees that it will execute, or will cause to be executed, any and all further documents, agreements and instruments, and take all such further actions, as may be required under any applicable law, or which the Priority Lien Agent or the Second Lien Collateral Agent may reasonably request, to effectuate the terms of this Agreement, including the relative Lien priorities provided for herein.

Section 9.17 Relationship of Secured Parties. Nothing set forth herein shall create or evidence a joint venture, partnership or an agency or fiduciary relationship among the Secured Parties. None of the Secured Parties nor any of their respective directors, officers, agents or employees shall be responsible to any other Secured Party or to any other Person for any Grantor's solvency, financial condition or ability to repay the Priority Lien Obligations or the Second Lien Obligations, or for statements of any Grantor, oral or written, or for the validity, sufficiency or enforceability of the Priority Lien Documents or the Second Lien Documents, or any security interests granted by any Grantor to any Secured Party in connection therewith. Each Secured Party has entered into its respective financing agreements with the Grantors based

upon its own independent investigation, and none of the Priority Lien Agent or the Second Lien Collateral Agent makes any warranty or representation to the other Secured Debt Representatives or the Secured Parties for which it acts as agent nor does it rely upon any representation of the other agents or the Secured Parties for which it acts as agent with respect to matters identified or referred to in this Agreement.

Section 9.18 Resignation of Agent. Any Agent may at any time give written notice of its resignation as Agent under this Agreement and the other Security Documents to each Authorized Representative and Comstock. Upon receipt of any such notice of resignation, the applicable Authorized Representative shall have the right (subject, unless an event of default under any Secured Debt Document relating to the commencement of an Insolvency or Liquidation Proceeding has occurred and is continuing, to the consent of Comstock (not to be unreasonably withheld or delayed) in consultation with Comstock to appoint a successor, which shall be a bank or trust company with an office in the United States, or an Affiliate of any such bank or trust company with an office in the United States. If no such successor shall have been so appointed by the applicable Authorized Representative and shall have accepted such appointment within 30 days after the retiring Agent give notice of its resignation, then the retiring Agent may, appoint a successor Agent meeting the qualifications set forth above (but without the consent of any other Secured Party or Comstock); *provided* that if the Agent shall notify Comstock and each Authorized Representative that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Security Documents (except that in the case of any collateral security held by the Agent of behalf of the Secured Parties, the retiring Agent shall continue to hold such collateral security solely for purposes of maintaining the perfection of the security interests of the Secured Parties therein until such time as a successor Agent is appointed but with no obligation to take any further action at the request of any other Secured Parties or any Grantor) and (b) all payments, communications and determinations provided to be made by, to or through the Agent shall instead by made by or to each Authorized Representative directly, until such time as the applicable Authorized Agent appoints a successor Agent as provided for above in this Section. Upon the acceptance of a successor's appoint as Priority Lien Agent or Second Lien Agent, as the case may be, hereunder and under the Security Documents, such successor shall succeed to become vested with all of the rights, powers, privileged and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the Security Documents (if not already discharges therefrom as provided above in this Section). After the retiring Agent's resignation hereunder and under the other Collateral Agreements, the provisions of this Article, Sections 9.7, 10.4, 10.5 and 10.6 of the Revolving Credit Agreement, and 11.09 of the Priority Lien Indenture and each Second Lien Indenture, as applicable, shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Affiliates in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as Agent. Upon any notice of resignation of the Agent hereunder and under the other Security Documents, the Grantors agree to use commercially reasonable efforts to transfer (and maintain the validity and priority of) Liens in favor of the retiring Agent under the Security Documents to the successor Agent as promptly as practicable.

ARTICLE X.
SECOND LIEN RIGHT TO PURCHASE

Section 10.01 Purchase Right. Upon the occurrence and continuation of an Event of Default, as defined in and under the Priority Lien Indenture (a "Purchase Event"), the holders of a majority of the principal amount of the Second Lien Indenture Notes (such holders, the "Purchasing Holders") may purchase all, but not less than all, of the Priority Lien Obligations in respect of the Priority Lien Notes ("Priority Lien Note Obligations"). Such purchase will (a) include all principal of, and all accrued and unpaid interest, fees, and expenses in respect of, all Priority Lien Note Obligations outstanding at the time of purchase, (b) be made pursuant to a master assignment agreement, whereby the Purchasing Holders will assume all Priority Lien Note Obligations, and (c) otherwise be subject to the terms and conditions of this Article X. Each Priority Lien Secured Party will retain all rights to indemnification provided in the relevant Priority Lien Documents for all claims and other amounts relating to periods prior to the purchase of the Priority Lien Note Obligations pursuant to this Article X.

Section 10.02 Purchase Notice.

(a) The Purchasing Holders will deliver a purchase notice (the "Purchase Notice") to the Priority Lien Agent no later than twenty (20) Business Days after the Purchase Event, that (1) is signed by the Purchasing Holders, (2) states that it is a Purchase Notice under this Article X, (3) states that each Purchasing Holder is irrevocably electing to purchase, in accordance with this Article X, the percentage of all of the Priority Lien Note Obligations stated in the Purchase Notice for that Purchasing Holder, which percentages must aggregate exactly 100% for all Purchasing Holders, (4) represents and warrants that the Purchase Notice is in conformity with the Second Lien Documents and any other binding agreement among the Second Lien Secured Parties, and (5) designates a date (the "Purchase Date") on which the purchase will occur, that is at least five (5) Business Days but not more than twenty (20) Business Days after the Priority Lien Agent's receipt of the Purchase Notice. A Purchase Notice will be ineffective if it is received by the Priority Lien Agent after the occurrence giving rise to the Purchase Event is waived, cured, or otherwise ceases to exist.

(b) Upon the Priority Lien Agent's receipt of an effective Purchase Notice conforming to this Section 10.02, the Purchasing Holders will be irrevocably obligated to purchase, and the Priority Lien Secured Parties will be irrevocably obligated to sell, the Priority Lien Note Obligations in accordance with and subject to this Article X.

Section 10.03 Purchase Price. The Purchase Price for the Priority Lien Note Obligations will equal the sum of:

(a) the principal amount of all Priority Lien Notes included in the Priority Lien Note Obligations, and all accrued and unpaid interest thereon through the Purchase Date, and

(b) all accrued and unpaid fees, expenses, and other amounts (including any make-whole or prepayment premium) owed to the Priority Lien Secured Parties in respect of the Priority Lien Note Obligations under the Priority Lien Documents on the Purchase Date.

Section 10.04 Purchase Closing. On the Purchase Date,

(a) the Purchasing Holders and the Priority Lien Agent will execute and deliver the master assignment agreement,

(b) the Purchasing Holders will pay the Purchase Price to the Priority Lien Agent by wire transfer of immediately available funds,

(c) the Second Lien Collateral Agent will execute and deliver to the Priority Lien Agent a waiver of all claims arising out of this Agreement and the transactions contemplated hereby as a result of exercising the purchase option contemplated by this Article X; and

(d) the Purchasing Holders will deliver to the Priority Lien Agent any and all further documents, agreements and instruments, and take all such further actions, as may be required under any applicable law, or which the Priority Lien Agent may reasonably request, to confirm that the Purchasing Holders will be bound by, and will take no actions contrary to, the provisions of the Priority Lien Intercreditor Agreement.

Section 10.05 Actions After Purchase Closing. Promptly after the closing of the purchase of all Priority Lien Note Obligations, the Priority Lien Agent will distribute the Purchase Price to the Priority Lien Trustee, which will promptly distribute the Purchase Price to the Priority Lien Secured Parties in accordance with the terms of the Priority Lien Indenture.

Section 10.06 No Recourse or Warranties; Defaulting Priority Lien Secured Parties.

(a) The Priority Lien Secured Parties will be entitled to rely on the statements, representations, and warranties in the Purchase Notice without investigation, even if the Priority Lien Secured Parties are notified that any such statement, representation, or warranty is not or may not be true.

(b) The purchase and sale of the Priority Lien Note Obligations under this Article X will be without recourse and without representation or warranty whatsoever by the Priority Lien Secured Parties, except that the Priority Lien Secured Parties represent and warrant that on the Purchase Date, immediately before giving effect to the purchase, the Priority Lien Secured Parties have the right to convey whatever claims and interests they may have in respect of the Priority Lien Note Obligations.

(c) The obligations of the Priority Lien Secured Parties to sell their respective Priority Lien Note Obligations under Section 10.02(b) are several and not joint and several. If a Priority Lien Secured Party (a "Defaulting Priority Lien Secured Party") breaches its obligation to sell its Priority Lien Note Obligations under this Section 10.02(b), no other Priority Lien Secured Party will be obligated to purchase the Defaulting Priority Lien Secured Party's Priority Lien Obligations for resale to the holders of Second Lien Obligations. A Priority Lien Secured Party that complies with this Article X will not be in default of this Agreement or otherwise be deemed liable for any action or inaction of any Defaulting Priority Lien Secured Party, provided that nothing in this subsection (c) will require the Purchasing Holders to purchase less than all of the Priority Lien Note Obligations.

(d) The Grantors irrevocably consent to any assignment effected to one or more Purchasing Holders pursuant to this Article X.

[SIGNATURES BEGIN NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

BANK OF MONTREAL, as Priority Lien Agent

By: _____

Name: _____

Title: _____

BANK OF MONTREAL, as Second Lien Collateral Agent

By: _____

Name: _____

Title: _____

ACKNOWLEDGED AND AGREED AS OF THE DATE FIRST ABOVE WRITTEN:

COMSTOCK RESOURCES, INC.

By: _____

Name: _____

Title: _____

COMSTOCK OIL & GAS GP, LLC,

By: Comstock Resources, Inc., its sole member

By: _____
Name: _____
Title: _____

COMSTOCK OIL & GAS INVESTMENTS, LLC

By: _____
Name: _____
Title: _____

COMSTOCK OIL & GAS, LP,

By: Comstock Oil & Gas GP, LLC, its general partner

By: Comstock Resources, Inc., its sole member

By: _____
Name: _____
Title: _____

COMSTOCK OIL & GAS HOLDINGS, INC.

By: _____
Name: _____
Title: _____

COMSTOCK OIL & GAS – LOUISIANA, LLC

By: _____
Name: _____
Title: _____

Address for each Grantor:

5300 Town and Country Blvd., Suite 500
Frisco, Texas 75034
Attn: Roland O. Burns

ANNEX I

Provision for the Second Lien Indenture and the Second Lien Documents

Reference is made to the Junior Lien Intercreditor Agreement, dated as of [●], 2016, between BANK OF MONTREAL, as Priority Lien Agent (as defined therein), and BANK OF MONTREAL, as Second Lien Collateral Agent (as defined therein) (the "Intercreditor Agreement"). Each holder of Second Lien Obligations, by its acceptance of such Second Lien Obligations i) consents to the subordination of Liens provided for in the Intercreditor Agreement, ii) agrees that it will be bound by, and will take no actions contrary to, the provisions of the Intercreditor Agreement and iii) authorizes and instructs the Second Lien Collateral Agent on behalf of each Second Lien Secured Party (as defined therein) to enter into the Intercreditor Agreement as Second Lien Collateral Agent on behalf of such Second Lien Secured Parties. The foregoing provisions are intended as an inducement to the lenders under the Priority Credit Agreement to extend credit to Comstock Resources, Inc. and such lenders are intended third party beneficiaries of such provisions and the provisions of the Intercreditor Agreement.

Provision for all Priority Lien Security Documents and Second Lien Security Documents

Reference is made to the Junior Lien Intercreditor Agreement, dated as of [●], 2016, between BANK OF MONTREAL, as Priority Lien Agent (as defined therein), and BANK OF MONTREAL, as Second Lien Collateral Agent (as defined therein) (the "Intercreditor Agreement"). Each Person that is secured hereunder, by accepting the benefits of the security provided hereby, [(i) consents (or is deemed to consent), to the subordination of Liens provided for in the Intercreditor Agreement,][1] [(i)][(ii)] agrees (or is deemed to agree) that it will be bound by, and will take no actions contrary to, the provisions of the Intercreditor Agreement, [(ii)][(iii)] authorizes (or is deemed to authorize) the [Priority Lien Agent] [Second Lien Collateral Agent] on behalf of such Person to enter into, and perform under, the Intercreditor Agreement and [(iii)][(iv)] acknowledges (or is deemed to acknowledge) that a copy of the Intercreditor Agreement was delivered, or made available, to such Person.

Notwithstanding any other provision contained herein, this Agreement, the Liens created hereby and the rights, remedies, duties and obligations provided for herein are subject in all respects to the provisions of the Intercreditor Agreement and, to the extent provided therein, the applicable Security Documents (as defined in the Intercreditor Agreement). In the event of any conflict or inconsistency between the provisions of this Agreement and the Intercreditor Agreement, the provisions of the Intercreditor Agreement shall control.

1 This bracketed language would not apply to the Priority Lien Security Documents.

EXHIBIT A
to Junior Lien Intercreditor Agreement

[FORM OF]
PRIORITY CONFIRMATION JOINDER

Reference is made to the Junior Lien Intercreditor Agreement, dated as of , 2016 (as amended, supplemented, amended and restated or otherwise modified and in effect from time to time, the "Intercreditor Agreement") between BANK OF MONTREAL, as Priority Lien Agent for the Priority Lien Secured Parties (as defined therein), and BANK OF MONTREAL, as Second Lien Collateral Agent for the Second Lien Secured Parties (as defined therein).

Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Intercreditor Agreement.

1. Joinder. The undersigned, [ ], a [ ], (the "New Representative") as [trustee] [collateral trustee] [administrative agent] [collateral agent] under that certain [*describe applicable indenture, credit agreement or other document governing the Additional Second Lien Obligations*] hereby:

(a) represents that the New Representative has been authorized to become a party to the Intercreditor Agreement on behalf of the [Priority Lien Secured Parties under a Priority Substitute Credit Facility] [Second Lien Secured Parties under the Second Lien Substitute Facility] as [a Priority Lien Agent under a Priority Substitute Credit Facility] [a Second Lien Collateral Agent under a Second Lien Substitute Facility] [Secured Debt Representative] under the Intercreditor Agreement for all purposes thereof on the terms set forth therein, and to be bound by the terms of the Intercreditor Agreement as fully as if the undersigned had executed and delivered the Intercreditor Agreement as of the date thereof; and

(b) agrees that its address for receiving notices pursuant to the Intercreditor Agreement shall be as follows:

[Address];

2. Priority Confirmation.

[*Option A: to be used if additional debt constitutes Priority Debt*] The undersigned New Representative, on behalf of itself and each Priority Lien Secured Party for which the undersigned is acting as [Administrative Agent] hereby agrees, for the benefit of all Secured Parties and each future Secured Debt Representative, and as a condition to being treated as Priority Lien Obligations under the Intercreditor Agreement, that the New Representative is bound by the provisions of the Intercreditor Agreement, including the provisions relating to the ranking of Priority Liens. [or]

[*Option B: to be used if additional debt constitutes Second Lien Debt*] The undersigned New Representative, on behalf of itself and each holder of Obligations in respect of the Second Lien Debt that constitutes Second Lien Substitute Facility for which the undersigned is acting as

Second Lien Collateral Agent hereby agrees, for the benefit of all Secured Parties and each future Secured Debt Representative, and as a condition to being treated as Secured Debt under the Intercreditor Agreement, that:

(a) all Second Lien Obligations will be and are secured equally and ratably by all Second Liens at any time granted by Comstock or any other Grantor to secure any Obligations in respect of the Second Lien Debt, whether or not upon property otherwise constituting Collateral for the Second Lien Debt, and that all such Second Liens will be enforceable by the Second Lien Collateral Agent with respect to the Second Lien Debt for the benefit of all Second Lien Secured Parties equally and ratably;

(b) the New Representative and each holder of Obligations in respect of the Second Lien Debt for which the undersigned is acting are bound by the provisions of the Intercreditor Agreement, including the provisions relating to the ranking of Priority Liens and Second Liens and the order of application of proceeds from enforcement of Priority Liens and Second Liens; and

(c) the New Representative and each holder of Obligations in respect of the Second Lien Debt for which the undersigned is acting appoints the Second Lien Collateral Agent and consents to the terms of the Intercreditor Agreement and the performance by the Second Lien Collateral Agent of, and directs the Second Lien Collateral Agent to perform, its obligations under the Intercreditor Agreement, the Second Lien Security Agreement and the Second Lien Pledge Agreement, together with all such powers as are reasonably incidental thereto.

3. Full Force and Effect of Intercreditor Agreement. Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

4. Governing Law and Miscellaneous Provisions. The provisions of Article IX of the Intercreditor Agreement will apply with like effect to this Priority Confirmation Joinder.

5. Expenses. Comstock agree to reimburse each Secured Debt Representative for its reasonable out of pocket expenses in connection with this Priority Confirmation Joinder, including the reasonable fees, other charges and disbursements of counsel.

IN WITNESS WHEREOF, the parties hereto have caused this Priority Confirmation Joinder to be executed by their respective officers or representatives as of [, 20].

[insert name of New Representative]

By: _____
Name: _____
Title: _____

The Priority Lien Agent hereby acknowledges receipt of this Priority Confirmation Joinder [and agrees to act as Priority Lien Agent for the New Representative and the holders of the Obligations represented thereby]:

_____
as Priority Lien Agent

By: _____
Name: _____
Title: _____

The Second Lien Collateral Agent hereby acknowledges receipt of this Priority Confirmation Joinder [and agrees to act as Second Lien Collateral Agent for the New Representative and the holders of the Obligations represented thereby]:

_____
as Second Lien Collateral Agent

By: _____
Name: _____
Title: _____

Acknowledged and Agreed to by:

COMSTOCK RESOURCES, INC.

By: _____
Name: _____
Title: _____

EXHIBIT B
to Junior Lien Intercreditor Agreement

SECURITY DOCUMENTS

PART A.

List of Priority Lien Security Documents

1. Security Agreement dated as of March 4, 2015 among Comstock, each of the other Grantors party thereto, and the Priority Lien Agent as collateral agent for the Priority Lien Secured Parties, as amended, modified or restated from time to time in compliance with the Priority Lien Documents.

2. Pledge Agreement and Irrevocable Proxy dated as of March 4, 2015 among Comstock, each of the other Grantors party thereto, and the Priority Lien Agent as collateral agent for the Priority Lien Secured Parties, as amended, modified or restated from time to time in compliance with the Priority Lien Documents.

3. Each mortgage and deed of trust entered into pursuant to the Priority Lien Documents, executed and delivered by Comstock or any other Grantor creating (or purporting to create) a Lien upon Collateral in favor of the Priority Lien Agent, to secure the Priority Lien Obligations, as amended, modified or restated from time to time in compliance with the Priority Lien Documents, except to the extent released by the Priority Lien Agent in accordance with this Agreement and the Priority Lien Security Documents.

4. Each UCC Financing Statement filed in connection with the documents listed in items 1, 2 and 3 of this Part A.

5. Each deposit account control agreement and securities account control agreement entered into pursuant to the Priority Lien Documents among Comstock or any other Grantor, the Priority Lien Agent, the Second Lien Collateral Agent and the applicable depositary bank or securities intermediary, as amended, modified or restated from time to time in compliance with the Priority Lien Documents.

PART B.

List of Second Lien Security Documents

1. Second Lien Security Agreement dated as of **[●]**, 2016 among Comstock, each of the other Grantors party thereto, and the Second Lien Collateral Agent as collateral agent for the Second Lien Secured Parties, as amended, modified or restated from time to time in compliance with the Second Lien Documents.

2. Second Lien Pledge Agreement and Irrevocable Proxy dated as of **[●]**, 2016 among Comstock, each of the other Grantors party thereto, and the Second Lien Collateral Agent as collateral agent for the Second Lien Secured Parties, as amended, modified or restated from time to time in compliance with the Second Lien Documents.

3. Each mortgage and deed of trust entered into on or after the date hereof, executed and delivered by Comstock or any other Grantor creating (or purporting to create) a Lien upon Collateral in favor of the Second Lien Collateral Agent, to secure the Second Lien Obligations, as amended, modified or restated from time to time in compliance with the Intercreditor Agreement, except to the extent released by the Second Lien Collateral Agent in accordance with this Agreement and the Second Lien Security Documents.

4. Each UCC Financing Statement filed in connection with the documents listed in items 1, 2 and 3 of this Part B.

5. Each deposit account control agreement and securities account control agreement entered into after the date hereof among Comstock or any other Grantor, the Priority Lien Agent, the Second Lien Collateral Agent and the applicable depositary bank or securities intermediary, as amended, modified or restated from time to time in compliance with the Intercreditor Agreement.

Exhibit 5.1

2200 Ross Avenue, Suite 2800
Dallas, TX 75201
Telephone: 214-740-8000
Fax: 214-740-8800
www.lockelord.com

August 30, 2016

Comstock Resources, Inc.
5300 Town and Country Blvd., Suite 500
Frisco, TX 75034

Ladies and Gentlemen:

We have acted as counsel to Comstock Resources, Inc., a Nevada corporation (the "Company"), and its subsidiary guarantor co-registrants (the "Co-Registrants", and together with the Company, the "Registrants"), in connection with the preparation of the Registration Statement on Form S-4 (the "Registration Statement") to be filed on the date hereof by the Registrants with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"). The Registration Statement relates to the registration by the Company of (i) $791,875,000 in aggregate principal amount of Senior Secured Toggle Notes due 2020 (the "New Senior Secured Notes"); (ii) $288,516,000 in aggregate principal amount of 7 ¾% Convertible Secured PIK Notes due 2019 (the "New 2019 Convertible Notes"); (iii) $174,607,000 in aggregate principal amount of 9 ½% Convertible Secured PIK Notes due 2020 (the "New 2020 Convertible Notes", and together with the New Senior Secured Notes and the New 2019 Convertible Notes, the "Debt Securities"); (iv) warrants to purchase common stock of the Company ("Warrants"); (v) shares of common stock of the Company (the "Common Stock") issuable upon exercise of the Warrants (the "Underlying Shares"); (vi) shares of Common Stock issuable upon the conversion of the New 2019 Convertible Notes and the New 2020 Convertible Notes (the "Conversion Shares"); and (vii) guarantees of the Company's Debt Securities by the Co-Registrants (the "Guarantees") (items (i) through (vii) above are collectively referred to herein as the "Securities"). The Securities are to be offered and exchanged in the manner described in the Registration Statement (the "Exchange Offer").

Each of the Debt Securities and the corresponding Guarantees will be issued pursuant to indentures to be entered into by the Company, each of the Co-Registrants, as guarantors, and American Stock Transfer & Trust Company, LLC, as trustee (the "Trustee"), in the forms filed as Exhibits 4.11-4.13 to the Registration Statement (each an "Indenture," and collectively, the "Indentures"). The Warrants will be issued pursuant to a warrant agreement in a form filed as Exhibit 4.10 to the Registration Statement (the "Warrant Agreement").

In connection with this opinion, we have examined originals or copies, certified, or otherwise identified to our satisfaction, of: (i) the Registration Statement and the exhibits thereto; (iii) the prospectus contained in the Registration Statement (the "Prospectus"); and (iii) the Statements of Eligibility of the Trustee on Form T-1 under the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), that

are filed as Exhibits 25.1-25.3 to the Registration Statement. We have also reviewed such other documents and records of the Company and each Co-Registrant and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company and each Co-Registrant and others, and such other documents as we have deemed necessary or appropriate as a basis for the opinions set forth herein.

We have relied as to certain matters on information obtained from public officials, officers of the Company and other sources believed by us to be responsible. In addition, we have relied upon the opinion of Woodburn and Wedge with respect to certain matters relating to the due incorporation and valid existence of the Registrants and the corporate power and authority of the Registrants to execute, deliver and perform the Indentures, the Debt Securities, the Warrant Agreement, and the Warrants.

In rendering the opinions contained herein, we have, with your permission, made the following assumptions: (i) all documents submitted to or reviewed by us, including all amendments and supplements thereto, are accurate and complete and, if not originals, are true, correct, and complete copies of the originals; (ii) the signatures on each of such documents by the parties thereto are genuine; (iii) each individual who signed such documents had the legal capacity to do so; and (iv) all persons who signed such documents on behalf of a business entity (other than the Registrants) were duly authorized to do so. We have assumed that there are no amendments, modifications, or supplements to such documents other than those amendments, modifications, and supplements that are known to us.

In rendering the opinions expressed in paragraphs 1 through 3 below with respect to the Securities referred to therein, we have additionally assumed that: (i) the Trustee will have all requisite power and authority to execute, deliver, and perform its obligations under the Indentures; (ii) at the time of execution of the Indentures, the execution and delivery thereof and the performance of such obligations will have been duly authorized by all necessary action on the Trustee’s part, and the Indentures will have been duly delivered by it; (iii) at the time of execution of the Indentures, each of the Indentures will be enforceable against the Trustee in accordance with the terms thereof; (iv) the Indentures will be duly qualified under the Trust Indenture Act of 1939, as amended; (v) any supplemental indenture to the Indentures, pursuant to which any Debt Securities and Guarantees are issued, will comply with the Indentures as theretofore supplemented, and the form and terms of such Debt Securities and Guarantees will comply with the Indentures as then supplemented; (vi) each of the Company and the Co-Registrants is and at all times material hereto will be a corporation, limited partnership, or limited liability company (as applicable) duly organized and validly existing under the laws of the jurisdiction under which it is currently organized; and (vii) the Indentures actually entered into by the Company, the Co-Registrants, and Trustee will not deviate in any material or substantial respect from the Indentures, such that any deviation would alter our opinions contained herein.

We have also assumed that:

i. the Registration Statement will be effective and will comply with all applicable laws at the time the Securities are issued as contemplated by the Registration Statement;

ii. the existing 10% Senior Secured Notes due 2020, 7 ¾% Senior Notes due 2019, and 9 ½% Senior Notes due 2020 of the Company (together, the "Existing Notes") will have been exchanged in the manner described in the prospectus forming a part of the Registration Statement;

iii. the Registrants will have obtained any legally required consents, approvals, authorizations and other orders of the Commission and any other federal regulatory agencies necessary for the Securities to be exchanged, offered and sold in the manner stated in the Registration Statement and any applicable appropriate prospectus supplement;

iv. all Securities will be issued and sold in compliance with applicable federal and state securities laws and in the manner stated in the Registration Statement and any applicable appropriate prospectus supplement; and

v. the Securities will be issued and sold in the forms and containing the terms set forth in the Registration Statement and any applicable appropriate prospectus supplement.

Our opinions set forth below are subject to (a) bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or other similar laws now or hereafter in effect relating to creditors' rights generally, (b) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity), (c) public policy considerations which may limit the rights of parties to obtain remedies, (d) the waivers of any usury defense contained in the Indentures which may be unenforceable, (e) requirements that a claim with respect to any Debt Securities denominated in a currency, currency unit, or composite currency other than United States dollars (or a judgment denominated other than United States dollars in respect of such claim) be converted into United States dollars at a rate of exchange prevailing on a date determined pursuant to applicable law, and (f) governmental authority to limit, delay, or prohibit the making of payments outside the United States or in foreign currencies, currency units, or composite currencies (collectively, these qualifications and limitations are referred to herein as the "Enforceability Qualifications").

Based upon and subject to the foregoing, and subject also to the limitations, qualifications, exceptions and assumptions set forth herein, we are of the opinion that:

1) When New Senior Secured Notes have been duly authorized by all necessary corporate action of the Company, and when the New Senior Secured Notes have been duly executed, authenticated and delivered in accordance with the Indenture governing the New Senior

Secured Notes against receipt of the 10% Senior Secured Notes due 2020 surrendered in the exchange therefor in accordance with the terms of the Exchange Offer, the New Senior Secured Notes will constitute binding obligations of the Company and the Guarantees thereof will be binding obligations of the Co-Registrants.

2) When New 2019 Convertible Notes have been duly authorized by all necessary corporate action of the Company, and when the New 2019 Convertible Notes have been duly executed, authenticated and delivered in accordance with the Indenture governing the New 2019 Convertible Notes against receipt of the 7 ¾% Senior Notes due 2019 surrendered in the exchange therefor in accordance with the terms of the Exchange Offer, the New 2019 Convertible Notes will constitute binding obligations of the Company and the Guarantees thereof will be binding obligations of the Co-Registrants.

3) When New 2020 Convertible Notes have been duly authorized by all necessary corporate action of the Company, and when the New 2020 Convertible Notes have been duly executed, authenticated and delivered in accordance with the Indenture governing the New 2020 Convertible Notes against receipt of the 9 ½% Senior Notes due 2020 surrendered in the exchange therefor in accordance with the terms of the Exchange Offer, the New 2020 Convertible Notes will constitute binding obligations of the Company and the Guarantees thereof will be binding obligations of the Co-Registrants.

4) When the Warrant Agreement has been duly authorized by all necessary corporate action of the Company, and the Warrants issued upon receipt of the 10% Senior Secured Notes due 2020 surrendered in the exchange therefor in accordance with the terms of the Exchange Offer, the Warrants will be binding obligations of the Company.

5) When the Underlying Shares have been duly authorized by all necessary corporate action of the Company and issued upon the exercise of the Warrants, the Underlying Shares will be validly issued, fully paid and non-assessable.

6) When the Conversion Shares have been duly authorized by all necessary corporate action of the Company and issued upon conversion of the New 2019 Convertible Notes or New 2020 Convertible Notes, as the case may be, the Conversion Shares will be validly issued, fully paid and non-assessable.

With respect to any agreement or instrument reviewed by us, that by its terms or otherwise is governed by the law of any jurisdiction other than the laws of the State of Texas or New York, our opinion herein is based solely on our understanding of the plain language of such agreement or instrument and we do not express our opinion with respect to the interpretation, validity, binding nature, or enforceability of any such agreement or instrument, and we do not assume any responsibility with respect to the effect on the opinions or statements set forth herein of any interpretation thereof inconsistent with such understanding.

We do not express any opinion herein with respect to the law of any jurisdiction other than the States of Texas and New York, applicable federal law, and, based solely on the opinion of Woodburn and Wedge filed concurrently with our opinion as part of the Registration Statement, the General Corporation Law, Limited Partnership Act and Limited Liability Company Act, in each case of the State of Nevada.

This opinion is intended solely for your benefit. It is not to be quoted, in whole or in part, disclosed, made available to, or relied upon by any other person, firm, or entity without our express prior written consent. This opinion is limited to the specific opinions expressly stated herein, and no other opinion is implied or may be inferred beyond the specific opinions expressly stated herein.

This opinion is based upon our knowledge of the law and facts relevant to the transactions herein referenced as of the date hereof. We assume no duty to update or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or to reflect any changes in any law that may hereafter occur or become effective.

We hereby consent to the filing of this opinion as part of the Registration Statement and to the reference to our firm under the caption “Legal Matters” in the prospectus filed as a part thereof. Our consent to such reference does not constitute a consent under Section 7 of the Securities Act and in consenting to such reference you acknowledge that we have not reviewed and that we have not certified as to any part of the Registration Statement and that we do not otherwise come within the categories of persons whose consent is required under Section 7 or under the rules and regulations of the Securities and Exchange Commission thereunder.

Respectfully submitted,

/s/ Locke Lord LLP

Locke Lord LLP

Exhibit 5.2

August 30, 2016

Comstock Resources, Inc.
5300 Town and Country Blvd., Suite 500
Frisco, TX 75034

Ladies and Gentlemen:

We have acted as counsel to Comstock Resources, Inc., a Nevada corporation (the "Company"), and its subsidiary guarantor co-registrants (the "Co-Registrants", and together with the Company, the "Registrants"), in connection with the preparation of the Registration Statement on Form S-4 (the "Registration Statement") to be filed on the date hereof by the Registrants with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"). The Registration Statement relates to the registration by the Company of (i) $791,875,000 in aggregate principal amount of Senior Secured Toggle Notes due 2020 (the "New Senior Secured Notes"); (ii) $288,516,000 in aggregate principal amount of 7 ¾% Convertible Secured PIK Notes due 2019 (the "New 2019 Convertible Notes"); (iii) $174,607,000 in aggregate principal amount of 9 ½% Convertible Secured PIK Notes due 2020 (the "New 2020 Convertible Notes", and together with the New Senior Secured Notes and the New 2019 Convertible Notes, the "Debt Securities"); (iv) warrants to purchase common stock of the Company ("Warrants"); (v) shares of common stock of the Company (the "Common Stock") issuable upon exercise of the Warrants (the "Underlying Shares"); (vi) shares of Common Stock issuable upon the conversion of the New 2019 Convertible Notes and the New 2020 Convertible Notes (the "Conversion Shares"); and (vii) guarantees of the Company's Debt Securities by the Co-Registrants (the "Guarantees") (items (i) through (vii) above are collectively referred to herein as the "Securities"). The Securities are to be offered and exchanged in the manner described in the Registration Statement (the "Exchange Offer").

Each of the Debt Securities and the corresponding Guarantees will be issued pursuant to indentures to be entered into by the Company, each of the Co-Registrants, as guarantors, and American Stock Transfer & Trust Company, LLC, as trustee (the "Trustee") in the forms filed as Exhibits 4.11-4.13 to the Registration Statement (each an "Indenture," and collectively, the "Indentures"). The Warrants will be issued pursuant to a warrant agreement in a form filed as Exhibit 4.10 to the Registration Statement (the "Warrant Agreement").

In connection with this opinion, we have examined originals or copies, certified, or otherwise identified to our satisfaction, of: (i) the Registration Statement and the exhibits thereto; (iii) the prospectus contained in the Registration Statement (the "Prospectus"); and (iii) the Statements of Eligibility of the Trustee on Form T-1 under the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), that are filed as Exhibits 25.1-25.3 to the Registration Statement. We have also reviewed such other documents and records of the Company and each Co-Registrant and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company and each Co-Registrant and others, and such other documents as we have deemed necessary or appropriate as a basis for the opinions set forth herein.

We have relied as to certain matters on information obtained from public officials, officers of the Company and other sources believed by us to be responsible.

In rendering the opinions contained herein, we have, with your permission, made the following assumptions: (i) all documents submitted to or reviewed by us, including all amendments and supplements thereto, are accurate and complete and, if not originals, are true, correct, and complete copies of the originals; (ii) the signatures on each of such documents by the parties thereto are genuine; (iii) each individual who signed such documents had the legal capacity to do so; and (iv) all persons who signed such documents on behalf of a business entity other than the Registrants were duly authorized to do so. We have assumed that there are no amendments, modifications, or supplements to such documents other than those amendments, modifications, and supplements that are known to us.

i. In rendering the opinions expressed in paragraphs 1 through 3 below with respect to the Securities referred to therein, we have additionally assumed that: (i) the Trustee will have all requisite power and authority to execute, deliver, and perform its obligations under the Indentures; (ii) at the time of execution of the Indentures, the execution and delivery thereof and the performance of such obligations will have been duly authorized by all necessary action on the Trustee's part, and the Indentures will have been duly delivered by it; (iii) at the time of execution of the Indentures, each of the Indentures will be enforceable against the Trustee in accordance with the terms thereof; (iv) the Indentures will each be duly qualified under the Trust Indenture Act of 1939, as amended; (v) any

supplemental indenture to the Indentures, pursuant to which any Debt Securities and Guarantees are issued, will comply with the Indentures as theretofore supplemented, and the form and terms of such Debt Securities and Guarantees will comply with the Indentures as then supplemented; and (vi) the Indentures actually entered into by the Company, the Co-Registrants, and Trustee will not deviate in any material or substantial respect from the Indentures, such that any deviation would alter our opinions contained herein.

We have also assumed that:

i. the Registration Statement will be effective and will comply with all applicable laws at the time the Securities are issued as contemplated by the Registration Statement;

ii. the existing 10% Senior Secured Notes due 2020, 7 ¾% Senior Notes due 2019, and 9 ½% Senior Notes due 2020 of the Company (together, the "Existing Notes") will have been exchanged in the manner described in the prospectus forming a part of the Registration Statement;

iii. the Registrants will have obtained any legally required consents, approvals, authorizations and other orders of the Commission and any other federal regulatory agencies necessary for the Securities to be exchanged, offered and sold in the manner stated in the Registration Statement and any applicable appropriate prospectus supplement;

iv. all Securities will be issued and sold in compliance with applicable federal and state securities laws and in the manner stated in the Registration Statement and any applicable appropriate prospectus supplement; and

v. the Securities will be issued and sold in the forms and containing the terms set forth in the Registration Statement and any applicable appropriate prospectus supplement.

Our opinions set forth below are subject to (a) bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or other similar laws now or hereafter in effect relating to creditors' rights generally, (b) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity), (c) public policy considerations which may limit the rights of parties to obtain remedies, (d) the waivers of any usury defense contained in the Indentures which may be unenforceable, (e) requirements that a claim with respect to any Debt Securities denominated in a currency, currency unit, or

composite currency other than United States dollars (or a judgment denominated other than United States dollars in respect of such claim) be converted into United States dollars at a rate of exchange prevailing on a date determined pursuant to applicable law, and (f) governmental authority to limit, delay, or prohibit the making of payments outside the United States or in foreign currencies, currency units, or composite currencies (collectively, these qualifications and limitations are referred to herein as the "Enforceability Qualifications").

Based upon and subject to the foregoing, and subject also to the limitations, qualifications, exceptions and assumptions set forth herein, we are of the opinion that:

1) When New Senior Secured Notes have been duly authorized by all necessary corporate action of the Company, and when the New Senior Secured Notes have been duly executed, authenticated and delivered in accordance with the Indenture governing the New Senior Secured Notes against receipt of the 10% Senior Secured Notes due 2020 surrendered in the exchange therefor in accordance with the terms of the Exchange Offer, the New Senior Secured Notes will constitute binding obligations of the Company and the Guarantees thereof will be binding obligations of the Co-Registrants.

2) When New 2019 Convertible Notes have been duly authorized by all necessary corporate action of the Company, and when the New 2019 Convertible Notes have been duly executed, authenticated and delivered in accordance with the Indenture governing the New 2019 Convertible Notes against receipt of the 7 ¾% Senior Notes due 2019 surrendered in the exchange therefor in accordance with the terms of the Exchange Offer, the New 2019 Convertible Notes will constitute binding obligations of the Company and the Guarantees thereof will be binding obligations of the Co-Registrants.

3) When New 2020 Convertible Notes have been duly authorized by all necessary corporate action of the Company, and when the New 2020 Convertible Notes have been duly executed, authenticated and delivered in accordance with the Indenture governing the New 2020 Convertible Notes against receipt of the 9 ½% Senior Notes due 2020 surrendered in the exchange therefor in accordance with the terms of the Exchange Offer, the New 2020 Convertible Notes will constitute binding obligations of the Company and the Guarantees thereof will be binding obligations of the Co-Registrants.

4) When the Warrant Agreement has been duly authorized by all necessary corporate action of the Company, and the Warrants have been issued upon receipt of the 10% Senior Secured Notes due 2020 surrendered in the exchange therefor in accordance with the terms of the Exchange Offer, the Warrants will be binding obligations of the Company.

5) When the Underlying Shares have been duly authorized by all necessary corporate action of the Company and issued upon the exercise of the Warrants, the Underlying Shares will be validly issued, fully paid and non-assessable.

6) When the Conversion Shares have been duly authorized by all necessary corporate action of the Company and issued upon conversion of the New 2019 Convertible Notes or New 2020 Convertible Notes, as the case may be, the Conversion Shares will be validly issued, fully paid and non-assessable.

With respect to any agreement or instrument reviewed by us, that by its terms or otherwise is governed by the law of any jurisdiction other than the laws of the State of Nevada, our opinion herein is based solely on our understanding of the plain language of such agreement or instrument and we do not express our opinion with respect to the interpretation, validity, binding nature, or enforceability of any such agreement or instrument, and we do not assume any responsibility with respect to the effect on the opinions or statements set forth herein of any interpretation thereof inconsistent with such understanding.

We do not express any opinion herein with respect to the law of any jurisdiction other than the General Corporation Law, Limited Partnership Act and Limited Liability Company Act, in each case of the State of Nevada.

This opinion is intended solely for your benefit. It is not to be quoted, in whole or in part, disclosed, made available to, or relied upon by any other person, firm, or entity without our express prior written consent. This opinion is limited to the specific opinions expressly stated herein, and no other opinion is implied or may be inferred beyond the specific opinions expressly stated herein.

This opinion is based upon our knowledge of the law and facts relevant to the transactions herein referenced as of the date hereof. We assume no duty to update or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or to reflect any changes in any law that may hereafter occur or become effective.

We hereby consent to the filing of this opinion as part of the Registration Statement and to the reference to our firm under the caption “Legal Matters” in the prospectus filed as a part thereof. Our consent to such reference does not constitute a consent under Section 7 of the Securities Act and in consenting to such reference you acknowledge that we have not reviewed and that we have not certified as to any part of the Registration Statement and that we do not otherwise come within the categories of persons whose consent is required under Section 7 or under the rules and regulations of the Securities and Exchange Commission thereunder.

Sincerely,

WOODBURN AND WEDGE

By: /s/ Shawn G. Pearson
Shawn G. Pearson

Exhibit 12.1

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

COMPUTATION OF EARNINGS TO FIXED CHARGES RATIO

	Years Ended December 31,					Six Months Ended June 30,	
	2011	2012	2013	2014	2015	2015	2016
	(In thousands, except ratio)						
Fixed charges							
Interest expense	$ 41,592	$ 57,906	$ 73,242	$ 58,631	$ 118,592	$ 54,561	$ 58,826
Capitalized interest expense	13,153	11,357	2,736	10,237	891	891	—
Total fixed charges	$ 54,745	$ 69,263	$ 75,978	$ 68,868	$ 119,483	$ 55,452	$ 58,826
Earnings, as defined							
Loss from continuing operations before income taxes	$ (48,096)	$ (153,713)	$ (162,880)	$ (81,800)	$ (1,201,554)	$ (327,872)	$ (47,177)
Fixed Charges	54,745	69,263	75,978	68,868	119,483	55,452	58,826
Less: capitalized interest	(13,153)	(11,357)	(2,736)	(10,237)	(891)	(891)	—
Earnings, as defined	$ (6,504)	$ (95,807)	$ (89,638)	$ (23,169)	$ (1,082,962)	$ (273,311)	$ 11,649
Ratio of Earnings to Fixed Charges(1)	—	—	—	—	—	—	—

(1) The ratios were computed by dividing earnings by fixed charges. “Earnings” consist of income from continuing operations before income taxes plus fixed charges less capitalized interest. “Fixed charges” consists of interest expense, capitalized interest expense, preferred stock dividends, and that portion of non-capitalized rental expense deemed to be the equivalent of interest. For all periods presented, earnings were inadequate to cover fixed charges. The coverage deficiency was $61.2 million, $165.1 million, $165.6 million, $92.0 million and $1.2 billion for the years ended December 31, 2011, 2012, 2013, 2014 and 2015, respectively, and $328.8 million and $47.2 million for the six months ended June 30, 2015 and 2016, respectively.

Exhibit 21.1

Subsidiaries of Comstock Resources, Inc.

Set forth below is a list of the subsidiaries of Comstock Resources, Inc. as of August 29, 2016 and their respective jurisdictions of organization.

Name of Subsidiary	**Jurisdiction**
Comstock Oil & Gas, LP	Nevada
Comstock Oil & Gas-Louisiana, LLC	Nevada
Comstock Oil & Gas GP, LLC	Nevada
Comstock Oil & Gas Investments, LLC	Nevada
Comstock Oil & Gas Holdings, Inc.	Nevada

Exhibit 23.3

Consent of Independent Registered Public Accounting Firm

We consent to the reference to our firm under the caption “Experts” and to the use of our report dated February 26, 2016, except for Notes 1, 6, 7 and 11 as to the effect of the reverse stock split, as to which the date is August 1, 2016, in Amendment No. 2 to the Registration Statement (Form S-4 No. 333-212795) and related Prospectus of Comstock Resources, Inc. dated August 30, 2016.

/s/ ERNST & YOUNG LLP

Dallas, Texas
August 30, 2016

Exhibit 23.4

Consent of Independent Petroleum Consultants

We consent to the references in this Amendment No. 2 to the Registration Statement (Form S-4, File No. 333-212795) and related Prospectus of Comstock Resources, Inc. filed with the Securities and Exchange Commission on or about August 30, 2016 and any subsequent amendments thereto to our firm under the caption “Experts”, to our estimates of reserves and value of reserves and to our reports on reserves as of December 31, 2013, 2014 and 2015.

/s/ Lee Keeling and Associates, Inc.

Tulsa, Oklahoma
August 30, 2016

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939
OF A CORPORATION DESIGNATED TO ACT AS TRUSTEE

☐ **Check if an Application to Determine Eligibility of a Trustee Pursuant to Section 305(b)(2)**

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC
(Exact name of trustee as specified in its charter)

New York	**13-3439945**
(State of incorporation of organization if not a U.S. national bank)	**(I.R.S. Employer Identification Number)**
6201 15th Avenue, Brooklyn, New York	**11219**
(Address of principal executive offices)	**(Zip Code)**

Paul H. Kim
American Stock Transfer & Trust Company, LLC
6201 15th Avenue
Brooklyn, NY 11219
(718) 921-8183
(Name, address and telephone number of agent for service)

Comstock Resources, Inc.
(Exact name of obligor as specified in its character)

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)	**(Zip Code)**

Senior Secured Toggle Notes due 2020
(Title of the Indenture Securities)

TABLE OF REGISTRANT OBLIGORS

Exact Name of Additional Registrants Obligors	Jurisdiction of Incorporation or Formation	Principal Executive Offices	Primary Standard Industrial Classification Code Number	I.R.S. Employer Identification No.
Comstock Oil & Gas, LP	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	75-2272352
Comstock Oil & Gas-Louisiana, LLC	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	26-0012430
Comstock Oil & Gas GP, LLC	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	(not applicable)
Comstock Oil & Gas Investments, LLC	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	90-0155903
Comstock Oil & Gas Holdings, Inc.	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	75-2968982

Item 1. General Information.

Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

New York State Department of Financial Services
One State Street
New York, NY 10004-1511

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

Item 2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

Items 3-15.

Items 3-15 are not applicable because, to the best of the trustee's knowledge, the obligor is not in default under any indenture for which the trustee acts as trustee.

Item 16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

Exhibit	Exhibit Title
T-1.1	A copy of the Articles of Organization of the Trustee, as amended to date
T-1.2	A copy of the Certificate of Authority of the Trustee to commence business
T-1.4	Limited Liability Trust Company Agreement of the Trustee
T-1.6	The consent of the Trustee required by Section 321(b) of the Trust Indenture Act of 1939
T-1.7	A copy of the latest report of condition of the Trustee published pursuant to law or the requirements of its supervising or examining authority

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the trustee, American Stock Transfer & Trust Company, LLC, a limited liability trust company organized and existing under the laws of the State of New York, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of New York, and State of New York, on the 30th day of August, 2016.

AMERICAN STOCK TRANSFER
& TRUST COMPANY, LLC

Trustee

By: /s/ Paul H. Kim
Name: Paul H. Kim
Title: Assistant General Counsel

EXHIBIT T-1.1

ARTICLES OF ORGANIZATION

OF

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

We, the undersigned, all being of full age, four of us being citizens of the United States, having associated ourselves together for the purposes of forming a limited liability trust company under and pursuant to the Banking Law of the State of New York, do hereby certify the following:

First. The name by which the limited liability trust company is to be known is American Stock Transfer & Trust Company, LLC.

Second. The place where its principal office is to be located is 59 Maiden Lane, Borough of Manhattan, City, County, and State of New York.

Third. The amount of its capital contributions is to be Five Million Dollars ($5,000,000), and the number of units into which such capital contributions are to be divided is five million (5,000,000) units with a par value of $1.00 each.

Fourth. The **company** will not have classes or groups of members, therefore there is only one class of members. Each member shall share the same relative rights, powers, preferences, limitations, and voting powers.

Fifth. The name, place of residence, and citizenship of each organizer are as follows:

Name	Residence	Citizenship
George Karfunkel	Brooklyn, NY, USA	USA
Michael Karfunkel	Brooklyn, NY, USA	USA
Cameron Blanks	Cremorne Point, Australia	Australia
Timothy J. Sims	Terrey Hills, Australia	Australia
Paul J. McCullagh	Tamarama, Australia	Ireland
Joseph John O’Brien	Bondi Beach, Australia	USA
Jay F. Krehbiel	Darling Point, Australia	USA

Sixth. The **term** of existence of the trust company is to be until December 31, 2030, unless the interest holders agree to extend such date.

Seventh. The **number** of managers of the company is to be not less than seven nor more than fifteen.

Eighth. The **names** of the organizers who shall manage the company until the first annual meeting of members are as follows: George Karfunkel, Michael Karfunkel, Cameron Blanks, Timothy J. Sims, Paul J. McCullagh, Joseph John O’Brien, and Jay F. Krehbiel.

Ninth. The limited liability **trust** company is to exercise the powers conferred by Section 100 of the Banking Law. The limited liability trust company shall neither accept deposits nor make loans except for deposits and loans arising directly from the exercise of the fiduciary powers specified in Section 100 of the Banking Law.

IN WITNESS WHEREOF, We have made, signed, and acknowledged this certificate in duplicate this _____ day of March 2008.

/s/ George Karfunkel
George Karfunkel

Paul J. McCullagh

/s/ Michael Karfunkel
Michael Karfunkel

Joseph John O'Brien

Cameron Blanks

Jay F. Krehbiel

Timothy J. Sims

NOTARY:

State of NY)
) ss.:
County of Kings)

On this 28th day of March, 2008 personally appeared before me

George Karfunkel

Michael Karfunkel

to me known to be the persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same.

/s/ Anthony J. Foti
Anthony J. Foti
Notary Public, State of New York
No. 01FO6022425
Qualified in Kings County
Commission Expires March 29, 2011

IN WITNESS WHEREOF, We have made, signed, and acknowledged this certificate in duplicate this _____ day of March 2008.

George Karfunkel

/s/ Paul J. McCullagh
Paul J. McCullagh

Michael Karfunkel

Joseph John O'Brien

/s/ Cameron Blanks
Cameron Blanks

/s/ Jay F. Krehbiel
Jay F. Krehbiel

/s/ Timothy J. Sims
Timothy J. Sims

NOTARY:

State of New South Wales)
) ss.:
County of Australia)

On this 27th day of March, 2008 personally appeared before me

Cameron R. Blanks

Paul J. McCullagh

Timothy J. Sims

Jay F. Krehbiel

to me known to be the persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same.

/s/ Brendan Anthony Bateman
Brendan Anthony Bateman

IN WITNESS WHEREOF, We have made, signed, and acknowledged this certificate in duplicate this _____ day of March 2008.

George Karfunkel

Paul J. McCullagh

Michael Karfunkel

/s/ Joseph John O'Brien
Joseph John O'Brien

Cameron Blanks

Jay F. Krehbiel

Timothy J. Sims

NOTARY: Kingdom of Thailand }
Bangkok Metropolis } ss
Embassy of the United States of America }
State of }
County of }

On this day of Mar 27 2008, personally appeared before me

* Joseph John O'Brien *

to be the persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same.

/s/ Chamnannuch Scherer
Chamnannuch Scherer

Consular Associate of the United States of America

Indefinite

EXHIBIT T-1.2

State of New York
Banking Department

Whereas, *the Articles of Organization of* ***AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,*** *of New York, New York, have heretofore been duly approved and said* ***AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC*** *has complied with the provisions of Chapter 2 of the Consolidated Laws,*

Now Therefore I, David S. Fredsall, as Deputy Superintendent of Banks of the State of New York, do hereby authorize the said ***AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC*** *to transact the business of a Limited Liability Trust Company, at 59 Maiden Lane, Borough of Manhattan, City of New York within this State.*

In Witness Whereof, *I have hereunto set my hand and affixed the official seal of the Banking Department, this 30th day of May in the year two thousand and eight.*

/s/ David S. Fredsall
Deputy Superintendent of Banks

THIRD AMENDED AND RESTATED

LIMITED LIABILITY TRUST COMPANY AGREEMENT

OF

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

THIS THIRD AMENDED AND RESTATED LIMITED LIABILITY TRUST COMPANY AGREEMENT (as amended, amended and restated, supplemented or modified from time to time, the "Agreement") of American Stock Transfer & Trust Company, LLC (the "Company") dated as of this 29th day of June, 2015, by Armor Holding II LLC, as the sole member of the Company (the "Member") amends and restates the Second Amended and Restated Limited Liability Trust Company Agreement of the Company dated as of June 26, 2013 (as amended by that certain First Amendment to the Second Amended and Restated Limited Liability Trust Company Agreement of the Company dated as of April 23, 2014) in its entirety.

RECITAL

The Member converted the Company into a limited liability trust company under the laws of the State of New York and now desires to amend and restate the written agreement governing the affairs of the Company in accordance with the provisions of the Limited Liability Company Law of the State of New York and any successor statute, as amended from time to time (the "Act") and the Banking Law of the State of New York and any successor statute, as amended from time to time (the "Banking Law").

ARTICLE 1
The Limited Liability Trust Company

a. *Formation*. The Member previously converted the Company into a limited liability trust company pursuant to the Act and the Banking Law; such conversion of the Company from a New York trust company into a New York limited liability trust company was approved by the New York Banking Board on April 17, 2008 in conformity with Section 102-a(3) of the Banking Law. The conversion to a limited liability trust company became effective on May 30, 2008, when the New York State Banking Department issued an Authorization Certificate for the converted entity.

b. *Name*. The name of the Company shall be "American Stock Transfer & Trust Company, LLC" and its business shall be carried on in such name with such variations and changes as the Board (as hereinafter defined) shall determine or deem necessary to comply with requirements of the jurisdictions in which the Company's operations are conducted.

c. *Business Purpose*; *Powers*. The purposes for which the Company is formed are:

(i) to exercise the powers conferred by Section 100 of the Banking Law, including corporate trust powers; personal trust powers; pension trust powers for tax-qualified pension trusts and retirement plans; and common or collective trust powers; provided, however, that the Company shall neither accept deposits nor make loans except for deposits and loans arising directly from the exercise of its fiduciary powers as specified in this Section 1(c); and

(ii) in furtherance of the foregoing, to engage in any lawful act or activity for which limited liability trust companies may be formed under the Banking Law.

d. *Registered Office and Agent*. The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The post office address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is 6201 15th Avenue, Brooklyn, New York 11219.

e. *Term*. Subject to the provisions of Article 6 below, the Company shall continue until December 31, 2030, unless the Members agree to extend such date.

ARTICLE 2
The Member

a. *The Member*. The name and address of the Member is as follows:

Name	Address
Armor Holding II LLC	6201 15th Avenue, Brooklyn, New York 11219

b. *Actions by the Member; Meetings*. All actions taken by the Member must be duly authorized by the board of managers of the Member (the "Member's Board") in accordance with the Shareholders Agreement (as hereinafter defined). Subject to the foregoing sentence, the Member may approve a matter or take any action at a meeting or without a meeting by the written consent of the Member. Meetings of the Member may be called at any time by the Member.

c. *Liability of the Member*. All debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and the Member shall not be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a member, except as otherwise provided for by law.

d. *Power to Bind the Company*. Except as required by the Act or the Banking Law, the Member (acting in its capacity as such) shall have no authority to bind the Company to any third party with respect to any matter.

e. *Admission of Members*. New members shall be admitted only upon the prior written approval of the Member.

f. *Engagement of Third Parties*. The Company, may, from time to time, employ any Person or engage third parties to render services to the Company on such terms and for such compensation as the Member may reasonably determine, including, attorneys, investment consultants, brokers or finders, independent auditors and printers. Such employees and third parties may be affiliates of any Member. Persons retained, engaged or employed by the Company may also be engaged, retained or employed by and act on behalf of one or more Member or any of their respective affiliates.

ARTICLE 3
The Board

a. *Management By Board of Managers*.

(i) Subject to such matters which are expressly reserved hereunder, under the Act, under the Banking Law or under that certain Fourth Amended and Restated Shareholders Agreement, dated as of June 20, 2014, as amended from time to time, among the Shareholders of Armor Holdco, Inc. and Armor Holdco, Inc. (the "Shareholders Agreement"), to the Member for decision, the business and affairs of the Company shall be managed by a board of managers (the "Board"), which shall be responsible for policy setting, approving the overall direction of the Company and making all decisions affecting the business and affairs of the Company. In accordance with Section 7002 of the Banking Law, the Board shall consist of seven (7) to fifteen (15) individuals (the "Managers"). Such Managers shall be determined from time to time by resolution of the Member in accordance with Section 4.2 of the Shareholders Agreement.

(ii) Each Manager shall be elected by the Member and shall serve until his or her successor has been duly elected and qualified, or until his or her earlier removal, resignation, death or disability. Subject to the provisions of clause (iii) below, the Member may remove any Manager from the Board or from any other capacity with the Company at any time, with or without cause. A Manager may resign at any time upon written notice to the Member.

(iii) The Member may take all actions that it deems necessary to cause the Board to consist of the same managers who serve on the Member's Board; provided that, subject to Article 3(a)(i), the number of independent directors who serve on the Board may be greater or less than the number of independent directors who serve on the Member's Board; provided, further, that in no event shall the Board be composed of less than three (3) independent directors. Accordingly, if any person who is a member of the Members' Board ceases to be a member of such board for any reason, the Member may take such action as is necessary to remove such person from the Board and elect to the Board the person appointed to the Member's Board in place of such person.

(iv) Any vacancy occurring on the Board as a result of the resignation, removal, death or disability of a Manager or an increase in the size of the Board shall be filled by the Member. A Manager chosen to fill a vacancy resulting from the resignation, removal, death or disability of a Manager shall serve the unexpired term of his or her predecessor in office.

b. *Action By the Board*.

(i) In accordance with Section 7010 of the Banking Law, a regular meeting of the Board shall be held at least ten (10) times a year; provided, however, that during any three (3) consecutive months, the Board shall meet at least twice. Each Manager may call a meeting of the Board upon two (2) days prior written notice to each Manager. The presence of a majority of the Managers then in office shall constitute a quorum at any meeting of the Board. All actions of the Board shall require the affirmative vote of a majority of the Managers then in office.

(ii) Meetings of the Board may be conducted in person or by conference telephone facilities. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if such number of Managers sufficient to approve such action pursuant to the terms of this Agreement consent thereto in writing. Notice of any meeting may be waived by any Manager.

c. *Power to Bind Company*. None of the Managers (acting in their capacity as such) shall have authority to bind the Company to any third party with respect to any matter unless the Board shall have approved such matter and authorized such Manager(s) to bind the Company with respect thereto.

d. *Officers and Related Persons*.

(i) The Board shall have the authority to appoint and terminate officers of the Company and retain and terminate employees, agents and consultants of the Company. The Board, to the extent permitted by applicable law and as provided in any resolution of the Board, may, from time to time in its sole and absolute discretion and without limitation, delegate such duties or any or all of its authority, rights and/or obligations, to any one or more officers, employees, agents, consultants or other duly authorized representatives of the Company as the Board deems appropriate, including the power, acting individually or jointly, to represent and bind the Company in all matters in accordance with the scope of their respective duties.

ARTICLE 4

Capital Structure and Contributions

a. *Capital Structure*. The capital structure of the Company shall consist of one class of common interests, par value $1.00 (the "Common Interests"). Each Common Interest shall entitle its holder to one vote per Common Interest on each matter on which the Member shall be entitled to vote. All Common Interests shall be identical with each other in every respect. The Company shall be authorized to issue 5,000,000 Common Interests. In exchange for all of the outstanding shares of American Stock Transfer & Trust Company held by the Member, the 5,000,000 Common Interests shall be issued to the Member. The Member shall own all of the Common Interests issued and outstanding.

b. *Capital Contributions*. From time to time, the Board may determine that the Company requires capital and may request the Member to make capital contribution(s) in an amount determined by the Board. A capital account shall be maintained for the Member, to which contributions and profits shall be credited and against which distributions and losses shall be charged.

c. *Right to Issue Certificates*. The ownership of a Common Interest by a Member shall be evidenced by a certificate (a "Certificate") issued by the Company. All Common Interests in the Company shall be securities governed by Article 8 of the Uniform Commercial Code as in effect from time to time in any jurisdiction, including without limitation the State of New York.

d. *Form of Certificates*. Certificates attesting to the ownership of Common Interests in the Company shall be in substantially the form set forth in Exhibit A hereto and shall state that the Company is a limited liability trust company formed under the laws of the State of New York, the name of the Member to whom such Certificate is issued and that the Certificate represents limited liability trust company interests within the meaning of the Act and the Banking Law. Each Certificate shall bear the following legend:

> "THIS CERTIFICATE EVIDENCES COMMON INTERESTS IN THE AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC (THE "COMPANY") AND SHALL BE A SECURITY FOR PURPOSES OF ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE. THE COMMON INTERESTS REPRESENTED BY THIS CERTIFICATE

ARE SUBJECT TO THE PROVISIONS OF THE THIRD AMENDED AND RESTATED LIMITED LIABILITY TRUST COMPANY AGREEMENT OF THE COMPANY DATED AS OF JUNE 29, 2015 (AS MAY BE AMENDED, RESTATED, AMENDED AND RESTATED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE "LLTC AGREEMENT"). A COPY OF THE LLTC AGREEMENT WILL BE FURNISHED TO THE RECORD HOLDER OF THIS CERTIFICATE WITHOUT CHARGE UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS."

e. *Execution*. Each Certificate shall be signed by the Chief Executive Officer, the President, the Secretary, an Assistant Secretary or other authorized officer or person of the Company by either manual or facsimile signature.

f. *Registrar*. The Company shall maintain an office where Certificates may be presented for registration of transfer or for exchange. Unless otherwise designated, the Secretary of the Company shall act as registrar and shall keep a register of the Certificates and of their transfer and exchange.

g. *Issuance*. The Certificates of the Company shall be numbered and registered in the interest register or transfer books of the Company as they are issued.

h. *Common Interest Holder Lists*. The Company shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all holders of Common Interests.

i. *Transfer and Exchange*. When Certificates are presented to the Company with a request to register a transfer, the Company shall register the transfer or make the exchange on the register or transfer books of the Company; provided, that any Certificates presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by the holder thereof or his attorney duly authorized in writing. Notwithstanding the foregoing, the Company shall not be required to register the transfer, or exchange, any Certificate if as a result the transfer of the Common Interest at issue would cause the Company or the Member to violate the Securities Act, the Exchange Act, the Investment Company Act, or the laws, rules, regulations, orders and other directives of any Governmental Authority or otherwise violate the terms of this Agreement or the Shareholders Agreement.

j. *Record Holder*. Except to the extent that the Company shall have received written notice of an assignment of Common Interests and such assignment complies with the requirements of Section 7(a) of this Agreement, the Company shall be entitled to treat the individual or entity in whose name any Certificates issued by the Company stand on the books of the Company as the absolute owner thereof, and shall not be bound to recognize any equitable or other claim to, or interest in, such Common Interests on the part of any other individual or entity.

k. *Replacement Certificates*. If any mutilated Certificate is surrendered to the Company, or the Company receives evidence to its satisfaction of the destruction, loss or theft of any Certificate, the Company shall issue a replacement Certificate if the requirements of Section 8-405 of the Uniform Commercial Code are met. If required by the Company, an indemnity and/or the deposit of a bond in such form and in such sum, and with such surety or sureties as the Company may direct, must be supplied by the holder of such lost, destroyed or stolen Certificate that is sufficient in the judgment of the Company to protect the Company from any loss that it may suffer if a Certificate is replaced. The Company may charge for its expenses incurred in connection with replacing a Certificate.

ARTICLE 5
Profits, Losses and Distributions

a. ***Profits and Losses***. For financial accounting and tax purposes, the Company's net profits or net losses shall be determined on an annual basis in accordance with the manner determined by the Board. In each year, profits and losses shall be allocated entirely to the Member.

b. ***Distributions***. The Board shall determine profits available for distribution and the amount, if any, to be distributed to the Member, and shall authorize and distribute on the Common Interests, the determined amount when, as and if declared by the Board. The distributions of the Company shall be allocated entirely to the Member, provided, however, such distributions are in accordance with the Banking Law.

ARTICLE 6
Events of Dissolution

The Company shall be dissolved and its affairs wound up only upon the occurrence of any of the following events (each, an "Event of Dissolution"):

a. The Board votes for dissolution; or

b. A dissolution of the Company under Section 102-a(2) of the Banking Law or Section 701 of the Act.

ARTICLE 7
Transfer of Interests in the Company

Except upon approval of the Member's Board in accordance with Section 4.2 of the Member's Shareholder's Agreement, the Member may sell, assign, transfer, convey, gift, exchange or otherwise dispose of any or all of its Common Interests and, upon receipt by the Company of a written agreement executed by the person or entity to whom such Common Interests are to be transferred agreeing to be bound by the terms of this Agreement, such person shall be admitted as a member.

ARTICLE 8
Exculpation and Indemnification

a. ***Exculpation***. The Member shall not have any liability for the obligations or liabilities of the Company except to the extent provided in the Act or Banking Law. Notwithstanding any other provisions of this Agreement, whether express or implied, or any obligation or duty at law or in equity, none of the Member, Managers, or any officers, directors, stockholders, partners, employees, affiliates, representatives or agents of any of the foregoing, nor any officer, employee, representative or agent of the Company (individually, a "Covered Person" and, collectively, the "Covered Persons") shall be liable to the Company or any other person for any act or omission (in relation to the Company, its

property or the conduct of its business or affairs, this Agreement, any related document or any transaction or investment contemplated hereby or thereby) taken or omitted by a Covered Person in the reasonable belief that such act or omission is in or is not contrary to the best interests of the Company and is within the scope of authority granted to such Covered Person by the Agreement, provided such act or omission does not constitute fraud, willful misconduct, bad faith, or gross negligence.

b. *Indemnification*. To the fullest extent permitted by law, the Company shall indemnify and hold harmless each Covered Person from and against any and all losses, claims, demands, liabilities, expenses, judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative ("Claims"), in which the Covered Person may be involved, or threatened to be involved, as a party or otherwise, by reason of its management of the affairs of the Company or which relates to or arises out of the Company or its property, business or affairs. A Covered Person shall not be entitled to indemnification under this Section 8 with respect to (i) any Claim with respect to which such Covered Person has engaged in fraud, willful misconduct, bad faith or gross negligence or (ii) any Claim initiated by such Covered Person unless such Claim (or part thereof) (A) was brought to enforce such Covered Person's rights to indemnification hereunder or (B) was authorized or consented to by the Board. Expenses incurred by a Covered Person in defending any Claim shall be paid by the Company in advance of the final disposition of such Claim upon receipt by the Company of an undertaking by or on behalf of such Covered Person to repay such amount if it shall be ultimately determined that such Covered Person is not entitled to be indemnified by the Company as authorized by this Article 8.

c. *Insurance*. The Board in its discretion shall have the power to cause the Company to purchase and maintain insurance in accordance with, and subject to, the Act and Banking Law.

d. *Amendments*. Any repeal or modification of this Article 8 by the Member shall not adversely affect any rights of such Covered Person pursuant to this Article 8, including the right to indemnification and to the advancement of expenses of a Covered Person existing at the time of such repeal or modification with respect to any acts or omissions occurring prior to such repeal or modification.

ARTICLE 9
Miscellaneous

a. *Tax Treatment*. Unless otherwise determined by the Member, the Company shall be a disregarded entity for U.S. federal income tax purposes (as well as for any analogous state or local tax purposes), and the Member and the Company shall timely make any and all necessary elections and filings for the Company to be treated as a disregarded entity for U.S. federal income tax purposes (as well as for any analogous state or local tax purposes).

b. *Amendments*. Amendments to this Agreement and to the Certificate of Formation shall be approved in writing by the Member. An amendment shall become effective as of the date specified in the approval of the Member or if none is specified as of the date of such approval or as otherwise provided in the Act.

c. *Severability*. If any provision of this Agreement is held to be invalid or unenforceable for any reason, such provision shall be ineffective to the extent of such invalidity or unenforceability; provided, however, that the remaining provisions will continue in full force without being impaired or invalidated in any way unless such invalid or unenforceable provision or clause shall

be so significant as to materially affect the expectations of the Member regarding this Agreement. Otherwise, any invalid or unenforceable provision shall be replaced by the Member with a valid provision which most closely approximates the intent and economic effect of the invalid or unenforceable provision.

d. *Governing Law*. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to the principles of conflicts of laws thereof.

e. *Limited Liability Trust Company*. The Member intends to form a limited liability trust company and does not intend to form a partnership under the laws of the State of New York or any other laws.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has duly executed this Agreement as of the date first written above.

ARMOR HOLDING II LLC, as sole member

By: /s/ Martin G. Flanigan
Name: Martin G. Flanigan
Title: Chief Financial Officer

[Signature Page to Third Amended and Restated Limited Liability Trust Company Agreement]

EXHIBIT A

[FORM OF CERTIFICATE]

Number [*] Common Interest [*]

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

a limited liability trust company formed under the laws of the State of New York

Limited Liability Trust Company Common Interest

[Legend]

THIS CERTIFICATE EVIDENCES COMMON INTERESTS IN THE AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC (THE "COMPANY") AND SHALL BE A SECURITY FOR PURPOSES OF ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE. THE COMMON INTERESTS REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE PROVISIONS OF THE THIRD AMENDED AND RESTATED LIMITED LIABILITY TRUST COMPANY AGREEMENT OF THE COMPANY DATED AS OF JUNE 29, 2015 (AS MAY BE AMENDED, RESTATED, AMENDED AND RESTATED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE "LLTC AGREEMENT"). A COPY OF THE LLTC AGREEMENT WILL BE FURNISHED TO THE RECORD HOLDER OF THIS CERTIFICATE WITHOUT CHARGE UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS.

This Certifies that is the owner of fully paid and non-assessable Common Interests of the above-named Company and is entitled to the full benefits and privileges of such Common Interest, subject to the duties and obligations, as more fully set forth in the Agreements. This Certificate is transferable on the books of the Company by the holder hereof in person or by duly authorized attorney upon surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF, the said Limited Liability Company has caused this Certificate, and the Common Interest it represents, to be signed by its duly authorized officer this day of , 20 .

By: _____
[Name]
[Title]

[Exhibit A to Third Amended and Restated Limited Liability Trust Company Agreement]

EXHIBIT T-1.6

August 30, 2016

Securities and Exchange Commission
Washington, DC 20549

Gentlemen:

Pursuant to the provisions of Section 321 (b) of the Trust Indenture Act of 1939, and subject to the limitations therein contained, American Stock Transfer & Trust Company, LLC hereby consents that reports of examinations of said corporation by Federal, State, Territorial or District authorities may be furnished by such authorities to you upon request therefor.

Very truly yours,

AMERICAN STOCK TRANSFER
& TRUST COMPANY, LLC

By: /s/ Paul H. Kim
Name: Paul H. Kim
Title: Assistant General Counsel

Schedule RC 15

Consolidated Report of Condition for Insured Banks and Savings Associations for June 30, 2016

All schedules are to be reported in thousands of dollars. Unless otherwise indicated, report the amount outstanding as of the last business day of the quarter.

Schedule RC—Balance Sheet

Dollar Amounts in Thousands				Amount	
Assets					
1. Cash and balances due from depository institutions (from Schedule RC-A):					
a. Noninterest-bearing balances and currency and coin (1)			RCON0081	160	1.a.
b. Interest-bearing balances (2)			RCON0071	7,966	1.b.
2. Securities:					
a. Held-to-maturity securities (from Schedule RC-B, column A)			RCON1754	**0**	2.a.
b. Available-for-sale securities (from Schedule RC-B, column D)			RCON1773	**0**	2.b.
3. Federal funds sold and securities purchased under agreements to resell:					
a. Federal funds sold			RCONB987	0	3.a.
b. Securities purchased under agreements to resell (3)			RCONB989	0	3.b.
4. Loans and lease financing receivables (from Schedule RC-C):					
a. Loans and leases held for sale			RCON5369	0	4.a.
b. Loans and leases, net of unearned income	RCONB528	0			4.b.
c. LESS: Allow ance for loan and lease losses	RCON3123	0			4.c.
d. Loans and leases, net of unearned income and allow ance (item 4.b minus 4.c)			RCONB529	**0**	4.d.
5. Trading assets (from Schedule RC-D)			RCON3545	0	5.
6. Premises and fixed assets (including capitalized leases)			RCON2145	18,928	6.
7. Other real estate ow ned (from Schedule RC-M)			RCON2150	**21,476**	7.
8. Investments in unconsolidated subsidiaries and associated companies			RCON2130	0	8.
9. Direct and indirect investments in real estate ventures			RCON3656	0	9.
10. Intangible assets:					
a. Goodw ill			RCON3163	270,264	10.a.
b. Other intangible assets (from Schedule RC-M)			RCON0426	**214,829**	10.b.
11. Other assets (from Schedule RC-F)			RCON2160	**42,583**	11.
12. Total assets (sum of items 1 through 11)			RCON2170	**576,206**	12.

(1) Includes cash items in process of collection and unposted debits.
(2) Includes time certificates of deposit not held for trading.
(3) Includes all securities resale agreements, regardless of maturity.

Schedule RC 16

Schedule RC—Continued

Dollar Amounts in Thousands				Amount	
Liabilities					
13. Deposits:					
a. In domestic offices (sum of totals of columns A and C from Schedule RC-E)			RCON2200	**0**	13.a.
(1) Noninterest-bearing [1]	RCON6631	0			13.a.(1)
(2) Interest-bearing	RCON6636	0			13.a.(2)
b. Not applicable					
14. Federal funds purchased and securities sold under agreements to repurchase:					
a. Federal funds purchased [2]			RCONB993	0	14.a.
b. Securities sold under agreements to repurchase [3]			RCONB995	0	14.b.
15. Trading liabilities (from Schedule RC-D)			RCON3548	0	15.
16. Other borrowed money (includes mortgage indebtedness and obligations under capitalized leases) (from Schedule RC-M)			RCON3190	**1,270**	16.
17. Not applicable					
18. Not applicable					
19. Subordinated notes and debentures [4]			RCON3200	0	19.
20. Other liabilities (from Schedule RC-G)			RCON2930	**20,654**	20.
21. Total liabilities (sum of items 13 through 20)			RCON2948	**21,924**	21.
22. Not applicable					22.
Equity Capital					
Bank Equity Capital					
23. Perpetual preferred stock and related surplus			RCON3838	0	23.
24. Common stock			RCON3230	5,000	24.
25. Surplus (exclude all surplus related to preferred stock)			RCON3839	1,044,203	25.
26.					
a. Retained earnings			RCON3632	(494,921)	26.a.
b. Accumulated other comprehensive income [5]			RCONB530	0	26.b.
c. Other equity capital components [6]			RCONA130	0	26.c.
27.					
a. Total bank equity capital (sum of items 23 through 26.c)			RCON3210	**554,282**	27.a.
b. Noncontrolling (minority) interests in consolidated subsidiaries			RCON3000	0	27.b.
28. Total equity capital (sum of items 27.a and 27.b)			RCONG105	**554,282**	28.
29. Total liabilities and equity capital (sum of items 21 and 28)			RCON3300	**576,206**	29.

(1) Includes noninterest-bearing demand, time, and savings deposits.
(2) Report overnight Federal Home Loan Bank advances in Schedule RC, item 16, "Other borrowed money."
(3) Includes all securities repurchase agreements, regardless of maturity.
(4) Includes limited-life preferred stock and related surplus.
(5) Includes, but is not limited to, net unrealized holding gains (losses) on available-for-sale securities, accumulated net gains (losses) on cash flow hedges, and accumulated defined benefit pension and other postretirement plan adjustments.
(6) Includes treasury stock and unearned Employee Stock Ownership Plan shares.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939
OF A CORPORATION DESIGNATED TO ACT AS TRUSTEE

☐ **Check if an Application to Determine Eligibility of a Trustee Pursuant to Section 305(b)(2)**

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC
(Exact name of trustee as specified in its charter)

New York **(State of incorporation of organization if not a U.S. national bank)**	**13-3439945** **(I.R.S. Employer Identification Number)**
6201 15th Avenue, Brooklyn, New York **(Address of principal executive offices)**	**11219** **(Zip Code)**

Paul H. Kim
American Stock Transfer & Trust Company, LLC
6201 15th Avenue
Brooklyn, NY 11219
(718) 921-8183
(Name, address and telephone number of agent for service)

Comstock Resources, Inc.
(Exact name of obligor as specified in its character)

Nevada **(State or other jurisdiction of incorporation or organization)**	**94-1667468** **(I.R.S. Employer Identification Number)**
5300 Town and Country Blvd., Suite 500 **Frisco, Texas** **(Address of principal executive offices)**	**75034** **(Zip Code)**

7 ¾% Convertible Secured PIK Notes due 2019
(Title of the Indenture Securities)

TABLE OF REGISTRANT OBLIGORS

Exact Name of Additional Registrants Obligors	Jurisdiction of Incorporation or Formation	Principal Executive Offices	Primary Standard Industrial Classification Code Number	I.R.S. Employer Identification No.
Comstock Oil & Gas, LP	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	75-2272352
Comstock Oil & Gas-Louisiana, LLC	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	26-0012430
Comstock Oil & Gas GP, LLC	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	(not applicable)
Comstock Oil & Gas Investments, LLC	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	90-0155903
Comstock Oil & Gas Holdings, Inc.	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	75-2968982

Item 1. General Information.

Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

New York State Department of Financial Services
One State Street
New York, NY 10004-1511

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

Item 2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

Items 3-15.

Items 3-15 are not applicable because, to the best of the trustee's knowledge, the obligor is not in default under any indenture for which the trustee acts as trustee.

Item 16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

Exhibit	Exhibit Title
T-1.1	A copy of the Articles of Organization of the Trustee, as amended to date
T-1.2	A copy of the Certificate of Authority of the Trustee to commence business
T-1.4	Limited Liability Trust Company Agreement of the Trustee
T-1.6	The consent of the Trustee required by Section 321(b) of the Trust Indenture Act of 1939
T-1.7	A copy of the latest report of condition of the Trustee published pursuant to law or the requirements of its supervising or examining authority

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the trustee, American Stock Transfer & Trust Company, LLC, a limited liability trust company organized and existing under the laws of the State of New York, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of New York, and State of New York, on the 30th day of August, 2016.

AMERICAN STOCK TRANSFER
& TRUST COMPANY, LLC

Trustee

By: /s/ Paul H. Kim
Name: Paul H. Kim
Title: Assistant General Counsel

EXHIBIT T-1.1

ARTICLES OF ORGANIZATION

OF

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

We, the undersigned, all being of full age, four of us being citizens of the United States, having associated ourselves together for the purposes of forming a limited liability trust company under and pursuant to the Banking Law of the State of New York, do hereby certify the following:

First. The name by which the limited liability trust company is to be known is American Stock Transfer & Trust Company, LLC.

Second. The place where its principal office is to be located is 59 Maiden Lane, Borough of Manhattan, City, County, and State of New York.

Third. The amount of its capital contributions is to be Five Million Dollars ($5,000,000), and the number of units into which such capital contributions are to be divided is five million (5,000,000) units with a par value of $1.00 each.

Fourth. The **company** will not have classes or groups of members, therefore there is only one class of members. Each member shall share the same relative rights, powers, preferences, limitations, and voting powers.

Fifth. The name, place of residence, and citizenship of each organizer are as follows:

Name	Residence	Citizenship
George Karfunkel	Brooklyn, NY, USA	USA
Michael Karfunkel	Brooklyn, NY, USA	USA
Cameron Blanks	Cremorne Point, Australia	Australia
Timothy J. Sims	Terrey Hills, Australia	Australia
Paul J. McCullagh	Tamarama, Australia	Ireland
Joseph John O'Brien	Bondi Beach, Australia	USA
Jay F. Krehbiel	Darling Point, Australia	USA

Sixth. The **term** of existence of the trust company is to be until December 31, 2030, unless the interest holders agree to extend such date.

Seventh. The **number** of managers of the company is to be not less than seven nor more than fifteen.

Eighth. The **names** of the organizers who shall manage the company until the first annual meeting of members are as follows: George Karfunkel, Michael Karfunkel, Cameron Blanks, Timothy J. Sims, Paul J. McCullagh, Joseph John O'Brien, and Jay F. Krehbiel.

Ninth. The limited liability **trust** company is to exercise the powers conferred by Section 100 of the Banking Law. The limited liability trust company shall neither accept deposits nor make loans except for deposits and loans arising directly from the exercise of the fiduciary powers specified in Section 100 of the Banking Law.

IN WITNESS WHEREOF, We have made, signed, and acknowledged this certificate in duplicate this _____ day of March 2008.

/s/ George Karfunkel
George Karfunkel

/s/ Michael Karfunkel
Michael Karfunkel

Cameron Blanks

Timothy J. Sims

Paul J. McCullagh

Joseph John O'Brien

Jay F. Krehbiel

NOTARY:

State of NY)
)ss.:
County of Kings)

On this 28th day of March, 2008 personally appeared before me

George Karfunkel

Michael Karfunkel

to me known to be the persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same.

/s/ Anthony J. Foti
Anthony J. Foti
Notary Public, State of New York
No. 01FO6022425
Qualified in Kings County
Commission Expires March 29, 2011

IN WITNESS WHEREOF, We have made, signed, and acknowledged this certificate in duplicate this _____ day of March 2008.

George Karfunkel

/s/ Paul J. McCullagh
Paul J. McCullagh

Michael Karfunkel

Joseph John O'Brien

/s/ Cameron Blanks
Cameron Blanks

/s/ Jay F. Krehbiel
Jay F. Krehbiel

/s/ Timothy J. Sims
Timothy J. Sims

NOTARY:

State of New South Wales)
) ss.:
County of Australia)

On this 27th day of March, 2008 personally appeared before me

Cameron R. Blanks

Paul J. McCullagh

Timothy J. Sims

Jay F. Krehbiel

to me known to be the persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same.

/s/ Brendan Anthony Bateman
Brendan Anthony Bateman

IN WITNESS WHEREOF, We have made, signed, and acknowledged this certificate in duplicate this _____ day of March 2008.

George Karfunkel

Paul J. McCullagh

/s/ Joseph John O'Brien

Michael Karfunkel

Joseph John O'Brien

Cameron Blanks

Jay F. Krehbiel

Timothy J. Sims

NOTARY:	Kingdom of Thailand	}
	Bangkok Metropolis	} ss
	Embassy of the United States of America	}
State of		}
County of		}

On this day of Mar 27 2008, personally appeared before me

* Joseph John O'Brien *

_____ _____

_____ _____

to be the persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same.

/s/ Chamnannuch Scherer
Chamnannuch Scherer

Consular Associate of the United States of America

Indefinite

EXHIBIT T-1.2

State of New York
Banking Department

Whereas, *the Articles of Organization of* ***AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,*** *of New York, New York, have heretofore been duly approved and said* ***AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC*** *has complied with the provisions of Chapter 2 of the Consolidated Laws,*

Now Therefore I, David S. Fredsall, as Deputy Superintendent of Banks of the State of New York, do hereby authorize the said ***AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC*** *to transact the business of a Limited Liability Trust Company, at 59 Maiden Lane, Borough of Manhattan, City of New York within this State.*

In Witness Whereof, *I have hereunto set my hand and affixed the official seal of the Banking Department, this 30th day of May in the year two thousand and eight.*

/s/ David S. Fredsall
Deputy Superintendent of Banks

THIRD AMENDED AND RESTATED

LIMITED LIABILITY TRUST COMPANY AGREEMENT

OF

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

THIS THIRD AMENDED AND RESTATED LIMITED LIABILITY TRUST COMPANY AGREEMENT (as amended, amended and restated, supplemented or modified from time to time, the "Agreement") of American Stock Transfer & Trust Company, LLC (the "Company") dated as of this 29th day of June, 2015, by Armor Holding II LLC, as the sole member of the Company (the "Member") amends and restates the Second Amended and Restated Limited Liability Trust Company Agreement of the Company dated as of June 26, 2013 (as amended by that certain First Amendment to the Second Amended and Restated Limited Liability Trust Company Agreement of the Company dated as of April 23, 2014) in its entirety.

RECITAL

The Member converted the Company into a limited liability trust company under the laws of the State of New York and now desires to amend and restate the written agreement governing the affairs of the Company in accordance with the provisions of the Limited Liability Company Law of the State of New York and any successor statute, as amended from time to time (the "Act") and the Banking Law of the State of New York and any successor statute, as amended from time to time (the "Banking Law").

ARTICLE 1

The Limited Liability Trust Company

a. *Formation*. The Member previously converted the Company into a limited liability trust company pursuant to the Act and the Banking Law; such conversion of the Company from a New York trust company into a New York limited liability trust company was approved by the New York Banking Board on April 17, 2008 in conformity with Section 102-a(3) of the Banking Law. The conversion to a limited liability trust company became effective on May 30, 2008, when the New York State Banking Department issued an Authorization Certificate for the converted entity.

b. *Name*. The name of the Company shall be "American Stock Transfer & Trust Company, LLC" and its business shall be carried on in such name with such variations and changes as the Board (as hereinafter defined) shall determine or deem necessary to comply with requirements of the jurisdictions in which the Company's operations are conducted.

c. *Business Purpose*; *Powers*. The purposes for which the Company is formed are:

(i) to exercise the powers conferred by Section 100 of the Banking Law, including corporate trust powers; personal trust powers; pension trust powers for tax-qualified pension trusts and retirement plans; and common or collective trust powers; provided, however, that the Company shall neither accept deposits nor make loans except for deposits and loans arising directly from the exercise of its fiduciary powers as specified in this Section 1(c); and

(ii) in furtherance of the foregoing, to engage in any lawful act or activity for which limited liability trust companies may be formed under the Banking Law.

d. *Registered Office and Agent*. The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The post office address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is 6201 15th Avenue, Brooklyn, New York 11219.

e. *Term*. Subject to the provisions of Article 6 below, the Company shall continue until December 31, 2030, unless the Members agree to extend such date.

ARTICLE 2
The Member

a. *The Member*. The name and address of the Member is as follows:

Name	Address
Armor Holding II LLC	6201 15th Avenue, Brooklyn, New York 11219

b. *Actions by the Member; Meetings*. All actions taken by the Member must be duly authorized by the board of managers of the Member (the "Member's Board") in accordance with the Shareholders Agreement (as hereinafter defined). Subject to the foregoing sentence, the Member may approve a matter or take any action at a meeting or without a meeting by the written consent of the Member. Meetings of the Member may be called at any time by the Member.

c. *Liability of the Member*. All debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and the Member shall not be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a member, except as otherwise provided for by law.

d. *Power to Bind the Company*. Except as required by the Act or the Banking Law, the Member (acting in its capacity as such) shall have no authority to bind the Company to any third party with respect to any matter.

e. *Admission of Members*. New members shall be admitted only upon the prior written approval of the Member.

f. *Engagement of Third Parties*. The Company, may, from time to time, employ any Person or engage third parties to render services to the Company on such terms and for such compensation as the Member may reasonably determine, including, attorneys, investment consultants, brokers or finders, independent auditors and printers. Such employees and third parties may be affiliates of any Member. Persons retained, engaged or employed by the Company may also be engaged, retained or employed by and act on behalf of one or more Member or any of their respective affiliates.

ARTICLE 3
The Board

a. *Management By Board of Managers*.

(i) Subject to such matters which are expressly reserved hereunder, under the Act, under the Banking Law or under that certain Fourth Amended and Restated Shareholders Agreement, dated as of June 20, 2014, as amended from time to time, among the Shareholders of Armor Holdco, Inc. and Armor Holdco, Inc. (the "Shareholders Agreement"), to the Member for decision, the business and affairs of the Company shall be managed by a board of managers (the "Board"), which shall be responsible for policy setting, approving the overall direction of the Company and making all decisions affecting the business and affairs of the Company. In accordance with Section 7002 of the Banking Law, the Board shall consist of seven (7) to fifteen (15) individuals (the "Managers"). Such Managers shall be determined from time to time by resolution of the Member in accordance with Section 4.2 of the Shareholders Agreement.

(ii) Each Manager shall be elected by the Member and shall serve until his or her successor has been duly elected and qualified, or until his or her earlier removal, resignation, death or disability. Subject to the provisions of clause (iii) below, the Member may remove any Manager from the Board or from any other capacity with the Company at any time, with or without cause. A Manager may resign at any time upon written notice to the Member.

(iii) The Member may take all actions that it deems necessary to cause the Board to consist of the same managers who serve on the Member's Board; provided that, subject to Article 3(a)(i), the number of independent directors who serve on the Board may be greater or less than the number of independent directors who serve on the Member's Board; provided, further, that in no event shall the Board be composed of less than three (3) independent directors. Accordingly, if any person who is a member of the Members' Board ceases to be a member of such board for any reason, the Member may take such action as is necessary to remove such person from the Board and elect to the Board the person appointed to the Member's Board in place of such person.

(iv) Any vacancy occurring on the Board as a result of the resignation, removal, death or disability of a Manager or an increase in the size of the Board shall be filled by the Member. A Manager chosen to fill a vacancy resulting from the resignation, removal, death or disability of a Manager shall serve the unexpired term of his or her predecessor in office.

b. *Action By the Board*.

(i) In accordance with Section 7010 of the Banking Law, a regular meeting of the Board shall be held at least ten (10) times a year; provided, however, that during any three (3) consecutive months, the Board shall meet at least twice. Each Manager may call a meeting of the Board upon two (2) days prior written notice to each Manager. The presence of a majority of the Managers then in office shall constitute a quorum at any meeting of the Board. All actions of the Board shall require the affirmative vote of a majority of the Managers then in office.

(ii) Meetings of the Board may be conducted in person or by conference telephone facilities. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if such number of Managers sufficient to approve such action pursuant to the terms of this Agreement consent thereto in writing. Notice of any meeting may be waived by any Manager.

c. *Power to Bind Company*. None of the Managers (acting in their capacity as such) shall have authority to bind the Company to any third party with respect to any matter unless the Board shall have approved such matter and authorized such Manager(s) to bind the Company with respect thereto.

d. *Officers and Related Persons*.

(i) The Board shall have the authority to appoint and terminate officers of the Company and retain and terminate employees, agents and consultants of the Company. The Board, to the extent permitted by applicable law and as provided in any resolution of the Board, may, from time to time in its sole and absolute discretion and without limitation, delegate such duties or any or all of its authority, rights and/or obligations, to any one or more officers, employees, agents, consultants or other duly authorized representatives of the Company as the Board deems appropriate, including the power, acting individually or jointly, to represent and bind the Company in all matters in accordance with the scope of their respective duties.

ARTICLE 4

Capital Structure and Contributions

a. *Capital Structure*. The capital structure of the Company shall consist of one class of common interests, par value $1.00 (the "Common Interests"). Each Common Interest shall entitle its holder to one vote per Common Interest on each matter on which the Member shall be entitled to vote. All Common Interests shall be identical with each other in every respect. The Company shall be authorized to issue 5,000,000 Common Interests. In exchange for all of the outstanding shares of American Stock Transfer & Trust Company held by the Member, the 5,000,000 Common Interests shall be issued to the Member. The Member shall own all of the Common Interests issued and outstanding.

b. *Capital Contributions*. From time to time, the Board may determine that the Company requires capital and may request the Member to make capital contribution(s) in an amount determined by the Board. A capital account shall be maintained for the Member, to which contributions and profits shall be credited and against which distributions and losses shall be charged.

c. *Right to Issue Certificates*. The ownership of a Common Interest by a Member shall be evidenced by a certificate (a "Certificate") issued by the Company. All Common Interests in the Company shall be securities governed by Article 8 of the Uniform Commercial Code as in effect from time to time in any jurisdiction, including without limitation the State of New York.

d. *Form of Certificates*. Certificates attesting to the ownership of Common Interests in the Company shall be in substantially the form set forth in Exhibit A hereto and shall state that the Company is a limited liability trust company formed under the laws of the State of New York, the name of the Member to whom such Certificate is issued and that the Certificate represents limited liability trust company interests within the meaning of the Act and the Banking Law. Each Certificate shall bear the following legend:

> "THIS CERTIFICATE EVIDENCES COMMON INTERESTS IN THE AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC (THE "COMPANY") AND SHALL BE A SECURITY FOR PURPOSES OF ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE. THE COMMON INTERESTS REPRESENTED BY THIS CERTIFICATE

ARE SUBJECT TO THE PROVISIONS OF THE THIRD AMENDED AND RESTATED LIMITED LIABILITY TRUST COMPANY AGREEMENT OF THE COMPANY DATED AS OF JUNE 29, 2015 (AS MAY BE AMENDED, RESTATED, AMENDED AND RESTATED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE "LLTC AGREEMENT"). A COPY OF THE LLTC AGREEMENT WILL BE FURNISHED TO THE RECORD HOLDER OF THIS CERTIFICATE WITHOUT CHARGE UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS."

e. *Execution*. Each Certificate shall be signed by the Chief Executive Officer, the President, the Secretary, an Assistant Secretary or other authorized officer or person of the Company by either manual or facsimile signature.

f. *Registrar*. The Company shall maintain an office where Certificates may be presented for registration of transfer or for exchange. Unless otherwise designated, the Secretary of the Company shall act as registrar and shall keep a register of the Certificates and of their transfer and exchange.

g. *Issuance*. The Certificates of the Company shall be numbered and registered in the interest register or transfer books of the Company as they are issued.

h. *Common Interest Holder Lists*. The Company shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all holders of Common Interests.

i. *Transfer and Exchange*. When Certificates are presented to the Company with a request to register a transfer, the Company shall register the transfer or make the exchange on the register or transfer books of the Company; provided, that any Certificates presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by the holder thereof or his attorney duly authorized in writing. Notwithstanding the foregoing, the Company shall not be required to register the transfer, or exchange, any Certificate if as a result the transfer of the Common Interest at issue would cause the Company or the Member to violate the Securities Act, the Exchange Act, the Investment Company Act, or the laws, rules, regulations, orders and other directives of any Governmental Authority or otherwise violate the terms of this Agreement or the Shareholders Agreement.

j. *Record Holder*. Except to the extent that the Company shall have received written notice of an assignment of Common Interests and such assignment complies with the requirements of Section 7(a) of this Agreement, the Company shall be entitled to treat the individual or entity in whose name any Certificates issued by the Company stand on the books of the Company as the absolute owner thereof, and shall not be bound to recognize any equitable or other claim to, or interest in, such Common Interests on the part of any other individual or entity.

k. *Replacement Certificates*. If any mutilated Certificate is surrendered to the Company, or the Company receives evidence to its satisfaction of the destruction, loss or theft of any Certificate, the Company shall issue a replacement Certificate if the requirements of Section 8-405 of the Uniform Commercial Code are met. If required by the Company, an indemnity and/or the deposit of a bond in such form and in such sum, and with such surety or sureties as the Company may direct,

must be supplied by the holder of such lost, destroyed or stolen Certificate that is sufficient in the judgment of the Company to protect the Company from any loss that it may suffer if a Certificate is replaced. The Company may charge for its expenses incurred in connection with replacing a Certificate.

ARTICLE 5
Profits, Losses and Distributions

a. *Profits and Losses*. For financial accounting and tax purposes, the Company's net profits or net losses shall be determined on an annual basis in accordance with the manner determined by the Board. In each year, profits and losses shall be allocated entirely to the Member.

b. *Distributions*. The Board shall determine profits available for distribution and the amount, if any, to be distributed to the Member, and shall authorize and distribute on the Common Interests, the determined amount when, as and if declared by the Board. The distributions of the Company shall be allocated entirely to the Member, provided, however, such distributions are in accordance with the Banking Law.

ARTICLE 6
Events of Dissolution

The Company shall be dissolved and its affairs wound up only upon the occurrence of any of the following events (each, an "Event of Dissolution"):

a. The Board votes for dissolution; or

b. A dissolution of the Company under Section 102-a(2) of the Banking Law or Section 701 of the Act.

ARTICLE 7
Transfer of Interests in the Company

Except upon approval of the Member's Board in accordance with Section 4.2 of the Member's Shareholder's Agreement, the Member may sell, assign, transfer, convey, gift, exchange or otherwise dispose of any or all of its Common Interests and, upon receipt by the Company of a written agreement executed by the person or entity to whom such Common Interests are to be transferred agreeing to be bound by the terms of this Agreement, such person shall be admitted as a member.

ARTICLE 8
Exculpation and Indemnification

a. *Exculpation*. The Member shall not have any liability for the obligations or liabilities of the Company except to the extent provided in the Act or Banking Law. Notwithstanding any other provisions of this Agreement, whether express or implied, or any obligation or duty at law or in equity, none of the Member, Managers, or any officers, directors, stockholders, partners, employees, affiliates, representatives or agents of any of the foregoing, nor any officer, employee, representative or agent of the Company (individually, a "Covered Person" and, collectively, the "Covered Persons") shall be liable to the Company or any other person for any act or omission (in relation to the Company, its

property or the conduct of its business or affairs, this Agreement, any related document or any transaction or investment contemplated hereby or thereby) taken or omitted by a Covered Person in the reasonable belief that such act or omission is in or is not contrary to the best interests of the Company and is within the scope of authority granted to such Covered Person by the Agreement, provided such act or omission does not constitute fraud, willful misconduct, bad faith, or gross negligence.

b. *Indemnification*. To the fullest extent permitted by law, the Company shall indemnify and hold harmless each Covered Person from and against any and all losses, claims, demands, liabilities, expenses, judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative ("Claims"), in which the Covered Person may be involved, or threatened to be involved, as a party or otherwise, by reason of its management of the affairs of the Company or which relates to or arises out of the Company or its property, business or affairs. A Covered Person shall not be entitled to indemnification under this Section 8 with respect to (i) any Claim with respect to which such Covered Person has engaged in fraud, willful misconduct, bad faith or gross negligence or (ii) any Claim initiated by such Covered Person unless such Claim (or part thereof) (A) was brought to enforce such Covered Person's rights to indemnification hereunder or (B) was authorized or consented to by the Board. Expenses incurred by a Covered Person in defending any Claim shall be paid by the Company in advance of the final disposition of such Claim upon receipt by the Company of an undertaking by or on behalf of such Covered Person to repay such amount if it shall be ultimately determined that such Covered Person is not entitled to be indemnified by the Company as authorized by this Article 8.

c. *Insurance*. The Board in its discretion shall have the power to cause the Company to purchase and maintain insurance in accordance with, and subject to, the Act and Banking Law.

d. *Amendments*. Any repeal or modification of this Article 8 by the Member shall not adversely affect any rights of such Covered Person pursuant to this Article 8, including the right to indemnification and to the advancement of expenses of a Covered Person existing at the time of such repeal or modification with respect to any acts or omissions occurring prior to such repeal or modification.

ARTICLE 9
Miscellaneous

a. *Tax Treatment*. Unless otherwise determined by the Member, the Company shall be a disregarded entity for U.S. federal income tax purposes (as well as for any analogous state or local tax purposes), and the Member and the Company shall timely make any and all necessary elections and filings for the Company to be treated as a disregarded entity for U.S. federal income tax purposes (as well as for any analogous state or local tax purposes).

b. *Amendments*. Amendments to this Agreement and to the Certificate of Formation shall be approved in writing by the Member. An amendment shall become effective as of the date specified in the approval of the Member or if none is specified as of the date of such approval or as otherwise provided in the Act.

c. *Severability*. If any provision of this Agreement is held to be invalid or unenforceable for any reason, such provision shall be ineffective to the extent of such invalidity or unenforceability; provided, however, that the remaining provisions will continue in full force without being impaired or invalidated in any way unless such invalid or unenforceable provision or clause shall be so significant as to materially affect the expectations of the Member regarding this Agreement. Otherwise, any invalid or unenforceable provision shall be replaced by the Member with a valid provision which most closely approximates the intent and economic effect of the invalid or unenforceable provision.

d. *Governing Law*. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to the principles of conflicts of laws thereof.

e. *Limited Liability Trust Company*. The Member intends to form a limited liability trust company and does not intend to form a partnership under the laws of the State of New York or any other laws.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has duly executed this Agreement as of the date first written above.

ARMOR HOLDING II LLC, as sole member

By: /s/ Martin G. Flanigan
Name: Martin G. Flanigan
Title: Chief Financial Officer

[Signature Page to Third Amended and Restated Limited Liability Trust Company Agreement]

EXHIBIT A

[FORM OF CERTIFICATE]

Number [*] Common Interest [*]

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

a limited liability trust company formed under the laws of the State of New York

Limited Liability Trust Company Common Interest

[Legend]

THIS CERTIFICATE EVIDENCES COMMON INTERESTS IN THE AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC (THE "COMPANY") AND SHALL BE A SECURITY FOR PURPOSES OF ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE. THE COMMON INTERESTS REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE PROVISIONS OF THE THIRD AMENDED AND RESTATED LIMITED LIABILITY TRUST COMPANY AGREEMENT OF THE COMPANY DATED AS OF JUNE 29, 2015 (AS MAY BE AMENDED, RESTATED, AMENDED AND RESTATED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE "LLTC AGREEMENT"). A COPY OF THE LLTC AGREEMENT WILL BE FURNISHED TO THE RECORD HOLDER OF THIS CERTIFICATE WITHOUT CHARGE UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS.

This Certifies that is the owner of fully paid and non-assessable Common Interests of the above-named Company and is entitled to the full benefits and privileges of such Common Interest, subject to the duties and obligations, as more fully set forth in the Agreements. This Certificate is transferable on the books of the Company by the holder hereof in person or by duly authorized attorney upon surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF, the said Limited Liability Company has caused this Certificate, and the Common Interest it represents, to be signed by its duly authorized officer this day of , 20 .

By: _____
[Name]
[Title]

[Exhibit A to Third Amended and Restated Limited Liability Trust Company Agreement]

EXHIBIT T-1.6

August 30, 2016

Securities and Exchange Commission
Washington, DC 20549

Gentlemen:

Pursuant to the provisions of Section 321 (b) of the Trust Indenture Act of 1939, and subject to the limitations therein contained, American Stock Transfer & Trust Company, LLC hereby consents that reports of examinations of said corporation by Federal, State, Territorial or District authorities may be furnished by such authorities to you upon request therefor.

Very truly yours,

AMERICAN STOCK TRANSFER
& TRUST COMPANY, LLC

By: /s/ Paul H. Kim
Name: Paul H. Kim
Title: Assistant General Counsel

Schedule RC 15

Consolidated Report of Condition for Insured Banks and Savings Associations for June 30, 2016

All schedules are to be reported in thousands of dollars. Unless otherwise indicated, report the amount outstanding as of the last business day of the quarter.

Schedule RC—Balance Sheet

Dollar Amounts in Thousands				Amount	
Assets					
1. Cash and balances due from depository institutions (from Schedule RC-A):					
a. Noninterest-bearing balances and currency and coin (1)			RCON0081	160	1.a.
b. Interest-bearing balances (2)			RCON0071	7,966	1.b.
2. Securities:					
a. Held-to-maturity securities (from Schedule RC-B, column A)			RCON1754	**0**	2.a.
b. Available-for-sale securities (from Schedule RC-B, column D)			RCON1773	**0**	2.b.
3. Federal funds sold and securities purchased under agreements to resell:					
a. Federal funds sold			RCONB987	0	3.a.
b. Securities purchased under agreements to resell (3)			RCONB989	0	3.b.
4. Loans and lease financing receivables (from Schedule RC-C):					
a. Loans and leases held for sale			RCON5369	0	4.a.
b. Loans and leases, net of unearned income	RCONB528	0			4.b.
c. LESS: Allow ance for loan and lease losses	RCON3123	0			4.c.
d. Loans and leases, net of unearned income and allow ance (item 4.b minus 4.c)			RCONB529	**0**	4.d.
5. Trading assets (from Schedule RC-D)			RCON3545	0	5.
6. Premises and fixed assets (including capitalized leases)			RCON2145	18,928	6.
7. Other real estate ow ned (from Schedule RC-M)			RCON2150	**21,476**	7.
8. Investments in unconsolidated subsidiaries and associated companies			RCON2130	0	8.
9. Direct and indirect investments in real estate ventures			RCON3656	0	9.
10. Intangible assets:					
a. Goodw ill			RCON3163	270,264	10.a.
b. Other intangible assets (from Schedule RC-M)			RCON0426	**214,829**	10.b.
11. Other assets (from Schedule RC-F)			RCON2160	**42,583**	11.
12. Total assets (sum of items 1 through 11)			RCON2170	**576,206**	12.

(1) Includes cash items in process of collection and unposted debits.
(2) Includes time certificates of deposit not held for trading.
(3) Includes all securities resale agreements, regardless of maturity.

Schedule RC **16**

Schedule RC—Continued

Dollar Amounts in Thousands				Amount	
Liabilities					
13. Deposits:					
a. In domestic offices (sum of totals of columns A and C from Schedule RC-E)			RCON2200	**0**	13.a.
(1) Noninterest-bearing [1]	RCON6631	0			13.a.(1)
(2) Interest-bearing	RCON6636	0			13.a.(2)
b. Not applicable					
14. Federal funds purchased and securities sold under agreements to repurchase:					
a. Federal funds purchased [2]			RCONB993	0	14.a.
b. Securities sold under agreements to repurchase [3]			RCONB995	0	14.b.
15. Trading liabilities (from Schedule RC-D)			RCON3548	0	15.
16. Other borrowed money (includes mortgage indebtedness and obligations under capitalized leases) (from Schedule RC-M)			RCON3190	**1,270**	16.
17. Not applicable					
18. Not applicable					
19. Subordinated notes and debentures [4]			RCON3200	0	19.
20. Other liabilities (from Schedule RC-G)			RCON2930	**20,654**	20.
21. Total liabilities (sum of items 13 through 20)			RCON2948	**21,924**	21.
22. Not applicable					22.
Equity Capital					
Bank Equity Capital					
23. Perpetual preferred stock and related surplus			RCON3838	0	23.
24. Common stock			RCON3230	5,000	24.
25. Surplus (exclude all surplus related to preferred stock)			RCON3839	1,044,203	25.
26.					
a. Retained earnings			RCON3632	(494,921)	26.a.
b. Accumulated other comprehensive income [5]			RCONB530	0	26.b.
c. Other equity capital components [6]			RCONA130	0	26.c.
27.					
a. Total bank equity capital (sum of items 23 through 26.c)			RCON3210	**554,282**	27.a.
b. Noncontrolling (minority) interests in consolidated subsidiaries			RCON3000	0	27.b.
28. Total equity capital (sum of items 27.a and 27.b)			RCONG105	**554,282**	28.
29. Total liabilities and equity capital (sum of items 21 and 28)			RCON3300	**576,206**	29.

(1) Includes noninterest-bearing demand, time, and savings deposits.
(2) Report overnight Federal Home Loan Bank advances in Schedule RC, item 16, "Other borrowed money."
(3) Includes all securities repurchase agreements, regardless of maturity.
(4) Includes limited-life preferred stock and related surplus.
(5) Includes, but is not limited to, net unrealized holding gains (losses) on available-for-sale securities, accumulated net gains (losses) on cash flow hedges, and accumulated defined benefit pension and other postretirement plan adjustments.
(6) Includes treasury stock and unearned Employee Stock Ownership Plan shares.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF A
CORPORATION DESIGNATED TO ACT AS TRUSTEE

☐ **Check if an Application to Determine Eligibility of a Trustee Pursuant to Section 305(b)(2)**

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC
(Exact name of trustee as specified in its charter)

New York **(State of incorporation of organization if not a U.S. national bank)**	**13-3439945** **(I.R.S. Employer Identification Number)**
6201 15th Avenue, Brooklyn, New York **(Address of principal executive offices)**	**11219** **(Zip Code)**

Paul H. Kim
American Stock Transfer & Trust Company, LLC
6201 15th Avenue
Brooklyn, NY 11219
(718) 921-8183
(Name, address and telephone number of agent for service)

Comstock Resources, Inc.
(Exact name of obligor as specified in its character)

Nevada **(State or other jurisdiction of incorporation or organization)**	**94-1667468** **(I.R.S. Employer Identification Number)**
5300 Town and Country Blvd., Suite 500 **Frisco, Texas** **(Address of principal executive offices)**	**75034** **(Zip Code)**

9 ½% Convertible Secured PIK Notes due 2020
(Title of the Indenture Securities)

TABLE OF REGISTRANT OBLIGORS

Exact Name of Additional Registrants Obligors	Jurisdiction of Incorporation or Formation	Principal Executive Offices	Primary Standard Industrial Classification Code Number	I.R.S. Employer Identification No.
Comstock Oil & Gas, LP	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	75-2272352
Comstock Oil & Gas-Louisiana, LLC	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	26-0012430
Comstock Oil & Gas GP, LLC	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	(not applicable)
Comstock Oil & Gas Investments, LLC	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	90-0155903
Comstock Oil & Gas Holdings, Inc.	NV	5300 Town and Country Blvd., Suite 500 Frisco, Texas 75034	1311	75-2968982

Item 1. General Information.

Furnish the following information as to the trustee:
(a) Name and address of each examining or supervising authority to which it is subject.

New York State Department of Financial Services
One State Street
New York, NY 10004-1511

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

Item 2. Affiliations with Obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

Items 3-15.

Items 3-15 are not applicable because, to the best of the trustee's knowledge, the obligor is not in default under any indenture for which the trustee acts as trustee.

Item 16. List of Exhibits.

Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act") and 17 C.F.R. 229.10(d).

Exhibit	Exhibit Title
T-1.1	A copy of the Articles of Organization of the Trustee, as amended to date
T-1.2	A copy of the Certificate of Authority of the Trustee to commence business
T-1.4	Limited Liability Trust Company Agreement of the Trustee
T-1.6	The consent of the Trustee required by Section 321(b) of the Trust Indenture Act of 1939
T-1.7	A copy of the latest report of condition of the Trustee published pursuant to law or the requirements of its supervising or examining authority

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the trustee, American Stock Transfer & Trust Company, LLC, a limited liability trust company organized and existing under the laws of the State of New York, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of New York, and State of New York, on the 30th day of August, 2016.

AMERICAN STOCK TRANSFER
& TRUST COMPANY, LLC

Trustee

By: /s/ Paul H. Kim
Name: Paul H. Kim
Title: Assistant General Counsel

EXHIBIT T-1.1

ARTICLES OF ORGANIZATION

OF

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

We, the undersigned, all being of full age, four of us being citizens of the United States, having associated ourselves together for the purposes of forming a limited liability trust company under and pursuant to the Banking Law of the State of New York, do hereby certify the following:

First. The name by which the limited liability trust company is to be known is American Stock Transfer & Trust Company, LLC.

Second. The place where its principal office is to be located is 59 Maiden Lane, Borough of Manhattan, City, County, and State of New York.

Third. The amount of its capital contributions is to be Five Million Dollars ($5,000,000), and the number of units into which such capital contributions are to be divided is five million (5,000,000) units with a par value of $1.00 each.

Fourth. The **company** will not have classes or groups of members, therefore there is only one class of members. Each member shall share the same relative rights, powers, preferences, limitations, and voting powers.

Fifth. The name, place of residence, and citizenship of each organizer are as follows:

Name	Residence	Citizenship
George Karfunkel	Brooklyn, NY, USA	USA
Michael Karfunkel	Brooklyn, NY, USA	USA
Cameron Blanks	Cremorne Point, Australia	Australia
Timothy J. Sims	Terrey Hills, Australia	Australia
Paul J. McCullagh	Tamarama, Australia	Ireland
Joseph John O’Brien	Bondi Beach, Australia	USA
Jay F. Krehbiel	Darling Point, Australia	USA

Sixth. The **term** of existence of the trust company is to be until December 31, 2030, unless the interest holders agree to extend such date.

Seventh. The **number** of managers of the company is to be not less than seven nor more than fifteen.

Eighth. The **names** of the organizers who shall manage the company until the first annual meeting of members are as follows: George Karfunkel, Michael Karfunkel, Cameron Blanks, Timothy J. Sims, Paul J. McCullagh, Joseph John O’Brien, and Jay F. Krehbiel.

Ninth. The limited liability **trust** company is to exercise the powers conferred by Section 100 of the Banking Law. The limited liability trust company shall neither accept deposits nor make loans except for deposits and loans arising directly from the exercise of the fiduciary powers specified in Section 100 of the Banking Law.

IN WITNESS WHEREOF, We have made, signed, and acknowledged this certificate in duplicate this _____ day of March 2008.

/s/ George Karfunkel
George Karfunkel

/s/ Michael Karfunkel
Michael Karfunkel

Cameron Blanks

Timothy J. Sims

Paul J. McCullagh

Joseph John O'Brien

Jay F. Krehbiel

NOTARY:

State of NY)
)ss.:
County of Kings)

On this 28th day of March, 2008 personally appeared before me

George Karfunkel

Michael Karfunkel

to me known to be the persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same.

/s/ Anthony J. Foti
Anthony J. Foti
Notary Public, State of New York
No. 01FO6022425
Qualified in Kings County
Commission Expires March 29, 2011

IN WITNESS WHEREOF, We have made, signed, and acknowledged this certificate in duplicate this _____ day of March 2008.

	/s/ Paul J. McCullagh
George Karfunkel	Paul J. McCullagh
Michael Karfunkel	Joseph John O'Brien
/s/ Cameron Blanks	/s/ Jay F. Krehbiel
Cameron Blanks	Jay F. Krehbiel
/s/ Timothy J. Sims	
Timothy J. Sims	

NOTARY:

State of New South Wales)
) ss.:
County of Australia)

On this 27th day of March, 2008 personally appeared before me

Cameron R. Blanks	Paul J. McCullagh
Timothy J. Sims	Jay F. Krehbiel

to me known to be the persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same.

/s/ Brendan Anthony Bateman
Brendan Anthony Bateman

IN WITNESS WHEREOF, We have made, signed, and acknowledged this certificate in duplicate this _____ day of March 2008.

George Karfunkel

Paul J. McCullagh

/s/ Joseph John O'Brien
Joseph John O'Brien

Michael Karfunkel

Cameron Blanks

Jay F. Krehbiel

Timothy J. Sims

NOTARY:	Kingdom of Thailand	}
	Bangkok Metropolis	} ss
	Embassy of the United States of America	}
State of		}
County of		}

On this day of Mar 27 2008, personally appeared before me

* Joseph John O'Brien *

_____ _____

_____ _____

to be the persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same.

/s/ Chamnannuch Scherer
Chamnannuch Scherer

Consular Associate of the United States of America

Indefinite

EXHIBIT T-1.2

State of New York
Banking Department

Whereas, *the Articles of Organization of* ***AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,*** *of New York, New York, have heretofore been duly approved and said* ***AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC*** *has complied with the provisions of Chapter 2 of the Consolidated Laws,*

Now Therefore I, David S. Fredsall, as Deputy Superintendent of Banks of the State of New York, do hereby authorize the said ***AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC*** *to transact the business of a Limited Liability Trust Company, at 59 Maiden Lane, Borough of Manhattan, City of New York within this State.*

In Witness Whereof, *I have hereunto set my hand and affixed the official seal of the Banking Department, this 30th day of May in the year two thousand and eight.*

/s/ David S. Fredsall
Deputy Superintendent of Banks

THIRD AMENDED AND RESTATED

LIMITED LIABILITY TRUST COMPANY AGREEMENT

OF

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

THIS THIRD AMENDED AND RESTATED LIMITED LIABILITY TRUST COMPANY AGREEMENT (as amended, amended and restated, supplemented or modified from time to time, the "Agreement") of American Stock Transfer & Trust Company, LLC (the "Company") dated as of this 29th day of June, 2015, by Armor Holding II LLC, as the sole member of the Company (the "Member") amends and restates the Second Amended and Restated Limited Liability Trust Company Agreement of the Company dated as of June 26, 2013 (as amended by that certain First Amendment to the Second Amended and Restated Limited Liability Trust Company Agreement of the Company dated as of April 23, 2014) in its entirety.

RECITAL

The Member converted the Company into a limited liability trust company under the laws of the State of New York and now desires to amend and restate the written agreement governing the affairs of the Company in accordance with the provisions of the Limited Liability Company Law of the State of New York and any successor statute, as amended from time to time (the "Act") and the Banking Law of the State of New York and any successor statute, as amended from time to time (the "Banking Law").

ARTICLE 1

The Limited Liability Trust Company

a. *Formation*. The Member previously converted the Company into a limited liability trust company pursuant to the Act and the Banking Law; such conversion of the Company from a New York trust company into a New York limited liability trust company was approved by the New York Banking Board on April 17, 2008 in conformity with Section 102-a(3) of the Banking Law. The conversion to a limited liability trust company became effective on May 30, 2008, when the New York State Banking Department issued an Authorization Certificate for the converted entity.

b. *Name*. The name of the Company shall be "American Stock Transfer & Trust Company, LLC" and its business shall be carried on in such name with such variations and changes as the Board (as hereinafter defined) shall determine or deem necessary to comply with requirements of the jurisdictions in which the Company's operations are conducted.

c. *Business Purpose*; *Powers*. The purposes for which the Company is formed are:

(i) to exercise the powers conferred by Section 100 of the Banking Law, including corporate trust powers; personal trust powers; pension trust powers for tax-qualified pension trusts and retirement plans; and common or collective trust powers; provided, however, that the Company shall neither accept deposits nor make loans except for deposits and loans arising directly from the exercise of its fiduciary powers as specified in this Section 1(c); and

(ii) in furtherance of the foregoing, to engage in any lawful act or activity for which limited liability trust companies may be formed under the Banking Law.

d. *Registered Office and Agent*. The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The post office address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is 6201 15th Avenue, Brooklyn, New York 11219.

e. *Term*. Subject to the provisions of Article 6 below, the Company shall continue until December 31, 2030, unless the Members agree to extend such date.

ARTICLE 2
The Member

a. *The Member*. The name and address of the Member is as follows:

Name	Address
Armor Holding II LLC	6201 15th Avenue, Brooklyn, New York 11219

b. *Actions by the Member; Meetings*. All actions taken by the Member must be duly authorized by the board of managers of the Member (the "Member's Board") in accordance with the Shareholders Agreement (as hereinafter defined). Subject to the foregoing sentence, the Member may approve a matter or take any action at a meeting or without a meeting by the written consent of the Member. Meetings of the Member may be called at any time by the Member.

c. *Liability of the Member*. All debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and the Member shall not be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a member, except as otherwise provided for by law.

d. *Power to Bind the Company*. Except as required by the Act or the Banking Law, the Member (acting in its capacity as such) shall have no authority to bind the Company to any third party with respect to any matter.

e. *Admission of Members*. New members shall be admitted only upon the prior written approval of the Member.

f. *Engagement of Third Parties*. The Company, may, from time to time, employ any Person or engage third parties to render services to the Company on such terms and for such compensation as the Member may reasonably determine, including, attorneys, investment consultants, brokers or finders, independent auditors and printers. Such employees and third parties may be affiliates of any Member. Persons retained, engaged or employed by the Company may also be engaged, retained or employed by and act on behalf of one or more Member or any of their respective affiliates.

ARTICLE 3
The Board

a. *Management By Board of Managers*.

(i) Subject to such matters which are expressly reserved hereunder, under the Act, under the Banking Law or under that certain Fourth Amended and Restated Shareholders Agreement, dated as of June 20, 2014, as amended from time to time, among the Shareholders of Armor Holdco, Inc. and Armor Holdco, Inc. (the "Shareholders Agreement"), to the Member for decision, the business and affairs of the Company shall be managed by a board of managers (the "Board"), which shall be responsible for policy setting, approving the overall direction of the Company and making all decisions affecting the business and affairs of the Company. In accordance with Section 7002 of the Banking Law, the Board shall consist of seven (7) to fifteen (15) individuals (the "Managers"). Such Managers shall be determined from time to time by resolution of the Member in accordance with Section 4.2 of the Shareholders Agreement.

(ii) Each Manager shall be elected by the Member and shall serve until his or her successor has been duly elected and qualified, or until his or her earlier removal, resignation, death or disability. Subject to the provisions of clause (iii) below, the Member may remove any Manager from the Board or from any other capacity with the Company at any time, with or without cause. A Manager may resign at any time upon written notice to the Member.

(iii) The Member may take all actions that it deems necessary to cause the Board to consist of the same managers who serve on the Member's Board; provided that, subject to Article 3(a)(i), the number of independent directors who serve on the Board may be greater or less than the number of independent directors who serve on the Member's Board; provided, further, that in no event shall the Board be composed of less than three (3) independent directors. Accordingly, if any person who is a member of the Members' Board ceases to be a member of such board for any reason, the Member may take such action as is necessary to remove such person from the Board and elect to the Board the person appointed to the Member's Board in place of such person.

(iv) Any vacancy occurring on the Board as a result of the resignation, removal, death or disability of a Manager or an increase in the size of the Board shall be filled by the Member. A Manager chosen to fill a vacancy resulting from the resignation, removal, death or disability of a Manager shall serve the unexpired term of his or her predecessor in office.

b. *Action By the Board*.

(i) In accordance with Section 7010 of the Banking Law, a regular meeting of the Board shall be held at least ten (10) times a year; provided, however, that during any three (3) consecutive months, the Board shall meet at least twice. Each Manager may call a meeting of the Board upon two (2) days prior written notice to each Manager. The presence of a majority of the Managers then in office shall constitute a quorum at any meeting of the Board. All actions of the Board shall require the affirmative vote of a majority of the Managers then in office.

(ii) Meetings of the Board may be conducted in person or by conference telephone facilities. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if such number of Managers sufficient to approve such action pursuant to the terms of this Agreement consent thereto in writing. Notice of any meeting may be waived by any Manager.

c. *Power to Bind Company*. None of the Managers (acting in their capacity as such) shall have authority to bind the Company to any third party with respect to any matter unless the Board shall have approved such matter and authorized such Manager(s) to bind the Company with respect thereto.

d. *Officers and Related Persons*.

(i) The Board shall have the authority to appoint and terminate officers of the Company and retain and terminate employees, agents and consultants of the Company. The Board, to the extent permitted by applicable law and as provided in any resolution of the Board, may, from time to time in its sole and absolute discretion and without limitation, delegate such duties or any or all of its authority, rights and/or obligations, to any one or more officers, employees, agents, consultants or other duly authorized representatives of the Company as the Board deems appropriate, including the power, acting individually or jointly, to represent and bind the Company in all matters in accordance with the scope of their respective duties.

ARTICLE 4

Capital Structure and Contributions

a. *Capital Structure*. The capital structure of the Company shall consist of one class of common interests, par value $1.00 (the "Common Interests"). Each Common Interest shall entitle its holder to one vote per Common Interest on each matter on which the Member shall be entitled to vote. All Common Interests shall be identical with each other in every respect. The Company shall be authorized to issue 5,000,000 Common Interests. In exchange for all of the outstanding shares of American Stock Transfer & Trust Company held by the Member, the 5,000,000 Common Interests shall be issued to the Member. The Member shall own all of the Common Interests issued and outstanding.

b. *Capital Contributions*. From time to time, the Board may determine that the Company requires capital and may request the Member to make capital contribution(s) in an amount determined by the Board. A capital account shall be maintained for the Member, to which contributions and profits shall be credited and against which distributions and losses shall be charged.

c. *Right to Issue Certificates*. The ownership of a Common Interest by a Member shall be evidenced by a certificate (a "Certificate") issued by the Company. All Common Interests in the Company shall be securities governed by Article 8 of the Uniform Commercial Code as in effect from time to time in any jurisdiction, including without limitation the State of New York.

d. *Form of Certificates*. Certificates attesting to the ownership of Common Interests in the Company shall be in substantially the form set forth in Exhibit A hereto and shall state that the Company is a limited liability trust company formed under the laws of the State of New York, the name of the Member to whom such Certificate is issued and that the Certificate represents limited liability trust company interests within the meaning of the Act and the Banking Law. Each Certificate shall bear the following legend:

> "THIS CERTIFICATE EVIDENCES COMMON INTERESTS IN THE AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC (THE "COMPANY") AND SHALL BE A SECURITY FOR PURPOSES OF ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE. THE COMMON INTERESTS REPRESENTED BY THIS CERTIFICATE

ARE SUBJECT TO THE PROVISIONS OF THE THIRD AMENDED AND RESTATED LIMITED LIABILITY TRUST COMPANY AGREEMENT OF THE COMPANY DATED AS OF JUNE 29, 2015 (AS MAY BE AMENDED, RESTATED, AMENDED AND RESTATED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE "LLTC AGREEMENT"). A COPY OF THE LLTC AGREEMENT WILL BE FURNISHED TO THE RECORD HOLDER OF THIS CERTIFICATE WITHOUT CHARGE UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS."

e. *Execution*. Each Certificate shall be signed by the Chief Executive Officer, the President, the Secretary, an Assistant Secretary or other authorized officer or person of the Company by either manual or facsimile signature.

f. *Registrar*. The Company shall maintain an office where Certificates may be presented for registration of transfer or for exchange. Unless otherwise designated, the Secretary of the Company shall act as registrar and shall keep a register of the Certificates and of their transfer and exchange.

g. *Issuance*. The Certificates of the Company shall be numbered and registered in the interest register or transfer books of the Company as they are issued.

h. *Common Interest Holder Lists*. The Company shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all holders of Common Interests.

i. *Transfer and Exchange*. When Certificates are presented to the Company with a request to register a transfer, the Company shall register the transfer or make the exchange on the register or transfer books of the Company; provided, that any Certificates presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by the holder thereof or his attorney duly authorized in writing. Notwithstanding the foregoing, the Company shall not be required to register the transfer, or exchange, any Certificate if as a result the transfer of the Common Interest at issue would cause the Company or the Member to violate the Securities Act, the Exchange Act, the Investment Company Act, or the laws, rules, regulations, orders and other directives of any Governmental Authority or otherwise violate the terms of this Agreement or the Shareholders Agreement.

j. *Record Holder*. Except to the extent that the Company shall have received written notice of an assignment of Common Interests and such assignment complies with the requirements of Section 7(a) of this Agreement, the Company shall be entitled to treat the individual or entity in whose name any Certificates issued by the Company stand on the books of the Company as the absolute owner thereof, and shall not be bound to recognize any equitable or other claim to, or interest in, such Common Interests on the part of any other individual or entity.

k. *Replacement Certificates*. If any mutilated Certificate is surrendered to the Company, or the Company receives evidence to its satisfaction of the destruction, loss or theft of any Certificate, the Company shall issue a replacement Certificate if the requirements of Section 8-405 of the Uniform Commercial Code are met. If required by the Company, an indemnity and/or the deposit of a bond in such form and in such sum, and with such surety or sureties as the Company may direct, must be supplied by the holder of such lost, destroyed or stolen Certificate that is sufficient in the judgment of the Company to protect the Company from any loss that it may suffer if a Certificate is replaced. The Company may charge for its expenses incurred in connection with replacing a Certificate.

ARTICLE 5
Profits, Losses and Distributions

a. ***Profits and Losses***. For financial accounting and tax purposes, the Company's net profits or net losses shall be determined on an annual basis in accordance with the manner determined by the Board. In each year, profits and losses shall be allocated entirely to the Member.

b. ***Distributions***. The Board shall determine profits available for distribution and the amount, if any, to be distributed to the Member, and shall authorize and distribute on the Common Interests, the determined amount when, as and if declared by the Board. The distributions of the Company shall be allocated entirely to the Member, provided, however, such distributions are in accordance with the Banking Law.

ARTICLE 6
Events of Dissolution

The Company shall be dissolved and its affairs wound up only upon the occurrence of any of the following events (each, an "Event of Dissolution"):

a. The Board votes for dissolution; or

b. A dissolution of the Company under Section 102-a(2) of the Banking Law or Section 701 of the Act.

ARTICLE 7
Transfer of Interests in the Company

Except upon approval of the Member's Board in accordance with Section 4.2 of the Member's Shareholder's Agreement, the Member may sell, assign, transfer, convey, gift, exchange or otherwise dispose of any or all of its Common Interests and, upon receipt by the Company of a written agreement executed by the person or entity to whom such Common Interests are to be transferred agreeing to be bound by the terms of this Agreement, such person shall be admitted as a member.

ARTICLE 8
Exculpation and Indemnification

a. ***Exculpation***. The Member shall not have any liability for the obligations or liabilities of the Company except to the extent provided in the Act or Banking Law. Notwithstanding any other provisions of this Agreement, whether express or implied, or any obligation or duty at law or in equity, none of the Member, Managers, or any officers, directors, stockholders, partners, employees, affiliates, representatives or agents of any of the foregoing, nor any officer, employee, representative or agent of the Company (individually, a "Covered Person" and, collectively, the "Covered Persons") shall be liable to the Company or any other person for any act or omission (in relation to the Company, its

property or the conduct of its business or affairs, this Agreement, any related document or any transaction or investment contemplated hereby or thereby) taken or omitted by a Covered Person in the reasonable belief that such act or omission is in or is not contrary to the best interests of the Company and is within the scope of authority granted to such Covered Person by the Agreement, provided such act or omission does not constitute fraud, willful misconduct, bad faith, or gross negligence.

b. *Indemnification*. To the fullest extent permitted by law, the Company shall indemnify and hold harmless each Covered Person from and against any and all losses, claims, demands, liabilities, expenses, judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative ("Claims"), in which the Covered Person may be involved, or threatened to be involved, as a party or otherwise, by reason of its management of the affairs of the Company or which relates to or arises out of the Company or its property, business or affairs. A Covered Person shall not be entitled to indemnification under this Section 8 with respect to (i) any Claim with respect to which such Covered Person has engaged in fraud, willful misconduct, bad faith or gross negligence or (ii) any Claim initiated by such Covered Person unless such Claim (or part thereof) (A) was brought to enforce such Covered Person's rights to indemnification hereunder or (B) was authorized or consented to by the Board. Expenses incurred by a Covered Person in defending any Claim shall be paid by the Company in advance of the final disposition of such Claim upon receipt by the Company of an undertaking by or on behalf of such Covered Person to repay such amount if it shall be ultimately determined that such Covered Person is not entitled to be indemnified by the Company as authorized by this Article 8.

c. *Insurance*. The Board in its discretion shall have the power to cause the Company to purchase and maintain insurance in accordance with, and subject to, the Act and Banking Law.

d. *Amendments*. Any repeal or modification of this Article 8 by the Member shall not adversely affect any rights of such Covered Person pursuant to this Article 8, including the right to indemnification and to the advancement of expenses of a Covered Person existing at the time of such repeal or modification with respect to any acts or omissions occurring prior to such repeal or modification.

ARTICLE 9
Miscellaneous

a. *Tax Treatment*. Unless otherwise determined by the Member, the Company shall be a disregarded entity for U.S. federal income tax purposes (as well as for any analogous state or local tax purposes), and the Member and the Company shall timely make any and all necessary elections and filings for the Company to be treated as a disregarded entity for U.S. federal income tax purposes (as well as for any analogous state or local tax purposes).

b. *Amendments*. Amendments to this Agreement and to the Certificate of Formation shall be approved in writing by the Member. An amendment shall become effective as of the date specified in the approval of the Member or if none is specified as of the date of such approval or as otherwise provided in the Act.

c. *Severability*. If any provision of this Agreement is held to be invalid or unenforceable for any reason, such provision shall be ineffective to the extent of such invalidity or unenforceability; provided, however, that the remaining provisions will continue in full force without being impaired or invalidated in any way unless such invalid or unenforceable provision or clause shall

be so significant as to materially affect the expectations of the Member regarding this Agreement. Otherwise, any invalid or unenforceable provision shall be replaced by the Member with a valid provision which most closely approximates the intent and economic effect of the invalid or unenforceable provision.

d. *Governing Law*. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to the principles of conflicts of laws thereof.

e. *Limited Liability Trust Company*. The Member intends to form a limited liability trust company and does not intend to form a partnership under the laws of the State of New York or any other laws.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has duly executed this Agreement as of the date first written above.

ARMOR HOLDING II LLC, as sole member

By: /s/ Martin G. Flanigan
Name: Martin G. Flanigan
Title: Chief Financial Officer

[Signature Page to Third Amended and Restated Limited Liability Trust Company Agreement]

EXHIBIT A

[FORM OF CERTIFICATE]

Number [*] Common Interest [*]

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

a limited liability trust company formed under the laws of the State of New York

Limited Liability Trust Company Common Interest

[Legend]

THIS CERTIFICATE EVIDENCES COMMON INTERESTS IN THE AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC (THE "COMPANY") AND SHALL BE A SECURITY FOR PURPOSES OF ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE. THE COMMON INTERESTS REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE PROVISIONS OF THE THIRD AMENDED AND RESTATED LIMITED LIABILITY TRUST COMPANY AGREEMENT OF THE COMPANY DATED AS OF JUNE 29, 2015 (AS MAY BE AMENDED, RESTATED, AMENDED AND RESTATED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE "LLTC AGREEMENT"). A COPY OF THE LLTC AGREEMENT WILL BE FURNISHED TO THE RECORD HOLDER OF THIS CERTIFICATE WITHOUT CHARGE UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS.

This Certifies that is the owner of fully paid and non-assessable Common Interests of the above-named Company and is entitled to the full benefits and privileges of such Common Interest, subject to the duties and obligations, as more fully set forth in the Agreements. This Certificate is transferable on the books of the Company by the holder hereof in person or by duly authorized attorney upon surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF, the said Limited Liability Company has caused this Certificate, and the Common Interest it represents, to be signed by its duly authorized officer this day of , 20 .

By: _____
[Name]
[Title]

[Exhibit A to Third Amended and Restated Limited Liability Trust Company Agreement]

EXHIBIT T-1.6

August 30, 2016

Securities and Exchange Commission
Washington, DC 20549

Gentlemen:

Pursuant to the provisions of Section 321 (b) of the Trust Indenture Act of 1939, and subject to the limitations therein contained, American Stock Transfer & Trust Company, LLC hereby consents that reports of examinations of said corporation by Federal, State, Territorial or District authorities may be furnished by such authorities to you upon request therefor.

Very truly yours,

AMERICAN STOCK TRANSFER
& TRUST COMPANY, LLC

By: /s/ Paul H. Kim
Name: Paul H. Kim
Title: Assistant General Counsel

Schedule RC 15

Consolidated Report of Condition for Insured Banks and Savings Associations for June 30, 2016

All schedules are to be reported in thousands of dollars. Unless otherwise indicated, report the amount outstanding as of the last business day of the quarter.

Schedule RC—Balance Sheet

Dollar Amounts in Thousands				Amount	
Assets					
1. Cash and balances due from depository institutions (from Schedule RC-A):					
a. Noninterest-bearing balances and currency and coin (1)			RCON0081	160	1.a.
b. Interest-bearing balances (2)			RCON0071	7,966	1.b.
2. Securities:					
a. Held-to-maturity securities (from Schedule RC-B, column A)			RCON1754	**0**	2.a.
b. Available-for-sale securities (from Schedule RC-B, column D)			RCON1773	**0**	2.b.
3. Federal funds sold and securities purchased under agreements to resell:					
a. Federal funds sold			RCONB987	0	3.a.
b. Securities purchased under agreements to resell (3)			RCONB989	0	3.b.
4. Loans and lease financing receivables (from Schedule RC-C):					
a. Loans and leases held for sale			RCON5369	0	4.a.
b. Loans and leases, net of unearned income	RCONB528	0			4.b.
c. LESS: Allow ance for loan and lease losses	RCON3123	0			4.c.
d. Loans and leases, net of unearned income and allow ance (item 4.b minus 4.c)			RCONB529	**0**	4.d.
5. Trading assets (from Schedule RC-D)			RCON3545	0	5.
6. Premises and fixed assets (including capitalized leases)			RCON2145	18,928	6.
7. Other real estate ow ned (from Schedule RC-M)			RCON2150	**21,476**	7.
8. Investments in unconsolidated subsidiaries and associated companies			RCON2130	0	8.
9. Direct and indirect investments in real estate ventures			RCON3656	0	9.
10. Intangible assets:					
a. Goodw ill			RCON3163	270,264	10.a.
b. Other intangible assets (from Schedule RC-M)			RCON0426	**214,829**	10.b.
11. Other assets (from Schedule RC-F)			RCON2160	**42,583**	11.
12. Total assets (sum of items 1 through 11)			RCON2170	**576,206**	12.

(1) Includes cash items in process of collection and unposted debits.
(2) Includes time certificates of deposit not held for trading.
(3) Includes all securities resale agreements, regardless of maturity.

Schedule RC 16

Schedule RC—Continued

Dollar Amounts in Thousands				Amount	
Liabilities					
13. Deposits:					
a. In domestic offices (sum of totals of columns A and C from Schedule RC-E)			RCON2200	0	13.a.
(1) Noninterest-bearing [1]	RCON6631	0			13.a.(1)
(2) Interest-bearing	RCON6636	0			13.a.(2)
b. Not applicable					
14. Federal funds purchased and securities sold under agreements to repurchase:					
a. Federal funds purchased [2]			RCONB993	0	14.a.
b. Securities sold under agreements to repurchase [3]			RCONB995	0	14.b.
15. Trading liabilities (from Schedule RC-D)			RCON3548	0	15.
16. Other borrowed money (includes mortgage indebtedness and obligations under capitalized leases) (from Schedule RC-M)			RCON3190	1,270	16.
17. Not applicable					
18. Not applicable					
19. Subordinated notes and debentures [4]			RCON3200	0	19.
20. Other liabilities (from Schedule RC-G)			RCON2930	20,654	20.
21. Total liabilities (sum of items 13 through 20)			RCON2948	21,924	21.
22. Not applicable					22.
Equity Capital					
Bank Equity Capital					
23. Perpetual preferred stock and related surplus			RCON3838	0	23.
24. Common stock			RCON3230	5,000	24.
25. Surplus (exclude all surplus related to preferred stock)			RCON3839	1,044,203	25.
26.					
a. Retained earnings			RCON3632	(494,921)	26.a.
b. Accumulated other comprehensive income [5]			RCONB530	0	26.b.
c. Other equity capital components [6]			RCONA130	0	26.c.
27.					
a. Total bank equity capital (sum of items 23 through 26.c)			RCON3210	554,282	27.a.
b. Noncontrolling (minority) interests in consolidated subsidiaries			RCON3000	0	27.b.
28. Total equity capital (sum of items 27.a and 27.b)			RCONG105	554,282	28.
29. Total liabilities and equity capital (sum of items 21 and 28)			RCON3300	576,206	29.

(1) Includes noninterest-bearing demand, time, and savings deposits.
(2) Report overnight Federal Home Loan Bank advances in Schedule RC, item 16, "Other borrowed money."
(3) Includes all securities repurchase agreements, regardless of maturity.
(4) Includes limited-life preferred stock and related surplus.
(5) Includes, but is not limited to, net unrealized holding gains (losses) on available-for-sale securities, accumulated net gains (losses) on cash flow hedges, and accumulated defined benefit pension and other postretirement plan adjustments.
(6) Includes treasury stock and unearned Employee Stock Ownership Plan shares.

Exhibit 99.1

COMSTOCK RESOURCES, INC.

LETTER OF TRANSMITTAL AND CONSENT

Relating to

Offer to Exchange Any and All of the:

10% Senior Secured Notes due 2020 (CUSIP Nos. 205768 AK0 and U2038J AC1)	**7¾% Senior Notes due 2019 (CUSIP No. 205768 AH7)**	**9½% Senior Notes due 2020 (CUSIP No. 205768 AJ3)**
for	***for***	***for***
up to $700,000,000 in Aggregate Principal Amount of New Senior Secured Toggle Notes due 2020	**up to $288,516,000 in Aggregate Principal Amount of New 7¾% Convertible Secured PIK Notes due 2019**	**up to $174,607,000 in Aggregate Principal Amount of New 9½% Convertible Secured PIK Notes due 2020**
and		
Warrants Exercisable for up to an aggregate of 1,925,500 Shares of Common Stock		

Solicitation of Consents to Proposed Amendments to the Related Indentures

Pursuant to the Preliminary Prospectus, dated August 31, 2016
(as the same may be supplemented or amended from time to time, the "Prospectus")

THE EXCHANGE OFFER AND THE CONSENT SOLICITATION (AS DEFINED BELOW) WILL EXPIRE AT 11:59 P.M., NEW YORK CITY TIME, ON SEPTEMBER 2, 2016, UNLESS EXTENDED OR EARLIER TERMINATED BY US WITH RESPECT TO ANY OR ALL SERIES (SUCH DATE AND TIME, AS THE SAME MAY BE EXTENDED, THE "EXPIRATION DATE"). TO BE ELIGIBLE TO RECEIVE THE APPLICABLE EARLY EXCHANGE CONSIDERATION (AS DEFINED HEREIN), ELIGIBLE HOLDERS MUST TENDER THEIR OLD NOTES (AS DEFINED HEREIN) AT OR PRIOR TO 11:59 P.M., NEW YORK CITY TIME, ON SEPTEMBER 2, 2016 UNLESS EXTENDED (SUCH TIME AND DATE WITH RESPECT TO AN EXCHANGE OFFER AND CONSENT SOLICITATION, AS IT MAY BE EXTENDED FOR SUCH EXCHANGE OFFER, THE "EARLY TENDER DATE"). TENDERS MAY BE WITHDRAWN AT ANY TIME BEFORE 11:59 P.M., NEW YORK CITY TIME, ON SEPTEMBER 2, 2016 (SUCH DATE AND TIME, AS THE SAME MAY BE EXTENDED, THE "WITHDRAWAL DEADLINE").

The Exchange Agent and the Information Agent for the Exchange Offer and Consent Solicitation is:

D.F. King & Co., Inc.
48 Wall Street, 22nd Floor
New York, New York 10005
Banks and Brokers Call Collect: (212) 269-5550
All Others Call Toll Free: (877) 732-3619
Email: crk@dfking.com
By Facsimile Transmission (for Eligible Institutions only): (212) 709-3328
Confirmation: (212) 232-3235
Attn: Peter Aymar

By Mail, Overnight Carrier or Hand Delivery:
48 Wall Street, 22nd Floor
New York, New York 10005

DELIVERY OF THIS LETTER OF TRANSMITTAL TO AN ADDRESS OTHER THAN AS SET FORTH ABOVE OR TRANSMISSION TO A FACSIMILE NUMBER OTHER THAN THE ONE LISTED ABOVE WILL NOT CONSTITUTE VALID DELIVERY TO THE EXCHANGE AGENT.

PLEASE READ THE ENTIRE LETTER OF TRANSMITTAL AND CONSENT, INCLUDING THE INSTRUCTIONS TO THIS LETTER, CAREFULLY BEFORE CHECKING ANY BOX BELOW AND COMPLETING THIS LETTER OF TRANSMITTAL.

Capitalized terms used and not defined herein shall have the respective meanings ascribed to them in the Prospectus.

The undersigned acknowledges that it has received the Prospectus as filed with the Securities and Exchange Commission dated August 31, 2016 and this Letter of Transmittal (as each may be amended or supplemented from time to time), copies of which accompany this letter (collectively, the "Offer Documents"), which together constitute the Company's (i) offer to exchange any and all of the outstanding Old Notes for the exchange consideration, and (ii) solicitation of consent to the proposed amendments to the respective indentures governing the Old Notes (the "Proposed Amendments"), in each case, upon the terms and subject to the conditions, as described in the Offer Documents.

Comstock Resources, Inc. (the "Company"), is offering to exchange, upon the terms and subject to the conditions set forth in the Offer Documents, its outstanding 10% Senior Secured Notes due 2020 (the "Old Senior Secured Notes"), 7 ¾% Senior Notes due 2019 (the "Old 2019 Notes"), and 9 ½% Senior Notes due 2020 (the "Old 2020 Notes", and together with the Old Senior Secured Notes and the Old 2019 Notes, the "Old Notes").

Holders of Old Notes that are validly tendered and not withdrawn in the Exchange Offer prior to the Early Tender Date will, subject to the terms and conditions of the Exchange Offer, receive for each $1,000 in principal amount of Old Notes so tendered, the following (the "Early Exchange Consideration"):

i. For Holders of Old Senior Secured Notes, (a) $1,000 principal amount new Senior Secured Toggle Notes due 2020 (the "New Senior Secured Notes") and (b) warrants exercisable for 2.75 shares of the Company's common stock at an exercise price of $0.01 per share.

ii. For Holders of Old 2019 Notes, $1,000 principal amount new 7 ¾% Convertible Secured PIK Notes due 2019 (the "New 2019 Convertible Notes").

iii. For Holders of Old 2020 Notes, $1,000 principal amount new 9 ½% Convertible Secured PIK Notes due 2020 (the "New 2020 Convertible Notes").

Together, the New Senior Secured Notes, the New 2019 Convertible Notes and the New 2020 Convertible Notes are referred to as the "New Notes."

Holders of Old Notes that are validly tendered and not withdrawn in the Exchange Offer after the Early Tender Date and prior to the Expiration Date will, subject to the terms and conditions of the Exchange Offer, receive for each $1,000 in principal amount of Old Notes so tendered, the following (the "Late Exchange Consideration"):

i. For Holders of Old Senior Secured Notes, (a) $950 principal amount New Senior Secured Notes and (b) warrants exercisable for 2.75 shares of the Company's common stock at an exercise price of $0.01 per share.

ii. For Holders of Old 2019 Notes, $950 principal amount New 2019 Convertible Notes.

iii. For Holders of Old 2020 Notes, $950 principal amount New 2020 Convertible Notes.

The Early Tender Date and the Expiration Date are currently the same. Accordingly, all holders whose old notes are tendered and not validly withdrawn prior to the Expiration Date will receive the applicable Early Exchange Consideration. However, if we extend the Expiration Date past the Early Tender Date, holders whose old notes are tendered and not validly withdrawn prior to the Expiration Date but after the Early Tender Date will receive the applicable Late Exchange Consideration.

Concurrently with the Exchange Offer, the Company, pursuant to the Offer Documents, including this Letter of Transmittal, solicits (the "Consent Solicitation") the consents (the "Consents") from holders of the Old Notes to the Proposed Amendments. The Consent Solicitation will expire at the Expiration Time. In order to validly tender Old Notes for exchange, holders must also validly deliver and not revoke Consents prior to the Expiration Date with respect to those notes.

Holders who tender less than all of their Old Notes must continue to hold Old Notes in the minimum authorized denomination of $2,000 principal amount or in an integral multiple of $1,000 in excess thereof.

The New Notes will be issued in minimum denominations of $1.00 and in integral multiples thereof.

Holders who validly tender their Old Notes pursuant to the Exchange Offer will be deemed to have delivered their corresponding Consents by such tender. Additionally, the delivery of a Consent constitutes consent to all of the Proposed Amendments to the applicable Existing Indenture and the execution and delivery of the applicable Supplemental Indenture. The Company's obligation to consummate the Exchange Offer is conditioned upon certain conditions, as described under "General Terms of the Exchange Offer and Consent Solicitation—Conditions to the Exchange Offer and Consent Solicitation" in the Prospectus.

QUESTIONS AND REQUESTS FOR ASSISTANCE OR FOR ADDITIONAL COPIES OF THE APPLICABLE OFFER DOCUMENTS, INCLUDING THIS LETTER OF TRANSMITTAL, MAY BE DIRECTED TO THE INFORMATION AGENT.

Only holders of Old Notes validly tendered at or prior to the Early Tender Date and not validly withdrawn by the Withdrawal Deadline will be eligible to receive the Early Exchange Consideration, and only owners of Old Notes validly tendered at or prior to the Expiration Date (but after the Early Tender Date) and not validly withdrawn by the Withdrawal Deadline will be eligible to receive the Late Exchange Consideration. See "General Terms of the Exchange Offer and Consent Solicitation—Procedures for Tendering Old Notes" in the Prospectus. The Exchange Offer may be extended, amended, terminated or consummated as provided in the applicable Offer Documents.

No alternative, conditional or contingent tender of Old Notes will be accepted. The undersigned waives all rights to receive notice of acceptance of such holder's Old Notes for exchange.

For a holder to tender Old Notes pursuant to the Exchange Offer, a properly completed and duly executed Letter of Transmittal (or a facsimile thereof), together with any signature guarantees and any other documents required by the instructions hereto (or an Agent's Message, as described below, in lieu thereof) must be received by the Exchange Agent at the address or facsimile number set forth above either (i) prior to the Early Tender Date to receive the Early Exchange Consideration or (ii) after the Early Tender Date but prior to the Expiration Date to receive the Late Exchange Consideration, and the Old Notes must be transferred pursuant to the procedures for book–entry transfer described in the Prospectus and a Book–Entry Confirmation must be received by the Exchange Agent, or, if certificated, delivered with this Letter of Transmittal. **We have not provided guaranteed delivery provisions in connection with the Exchange Offer and Consent Solicitation. You must tender your Old Notes and deliver the corresponding Consents in accordance with the procedures set forth herein.**

In all cases, the exchange of Old Notes tendered and accepted for exchange pursuant to the Exchange Offer will be made only after timely receipt by the Exchange Agent of:

- a Book–Entry Confirmation with respect to such Old Notes (or, if certificated, Old Notes are to be delivered with this Letter of Transmittal);
- this Letter of Transmittal (or a facsimile thereof) properly completed and duly executed, or an Agent's Message (as described below) in lieu thereof; and
- any required signature guarantees and other documents required by this Letter of Transmittal.

In lieu of physically completing and signing the Letter of Transmittal and delivering it to the Exchange Agent, Depository Trust Company ("DTC") participants may electronically transmit their acceptance of the Exchange Offer through the Automated Tender Offer Program ("ATOP"), for which the transaction is eligible. In accordance with ATOP procedures, DTC will then verify the acceptance of the Exchange Offer and send an Agent's Message to the Exchange Agent for its acceptance. Delivery of the Agent's Message by DTC will satisfy the terms of the Exchange Offer as to execution and delivery of this Letter of Transmittal by the participant identified in the Agent's Message. The Agent's Message must be received by the Exchange Agent at or prior to the Expiration Date for the Exchange Offer for the tendering holders to be eligible to receive the applicable exchange consideration. An "Agent's Message" is a message transmitted by DTC, received by the Exchange Agent and forming part of the Book-Entry Confirmation, which states that DTC has received an express acknowledgement from you that you have received the applicable Offer Documents including this Letter of Transmittal and agree to be bound by the terms of this Letter of Transmittal and that we may enforce such agreement against you. In addition, DTC participants may electronically deliver their consents pursuant to the Consent Solicitation as part of the electronic transmission of their acceptance of the Exchange Offer. Holders tendering through ATOP must provide the necessary representations and other relevant information to the Exchange Agent, electronically or otherwise, in order to be eligible to receive the consideration applicable to the Exchange Offer and Consent Solicitation. **Holders tendering through ATOP do not need to complete and deliver this Letter of Transmittal to the Exchange Agent.**

If a holder transmits its acceptance through the ATOP, delivery of such tendered Old Notes must be made to the Exchange Agent pursuant to the book–entry delivery procedures set in the Prospectus. Unless such holder delivers the Old Notes being tendered to the Exchange Agent by book–entry delivery, the Company may treat such tender as defective for purposes of delivery of tenders, acceptance for exchange and the right to receive New Notes. Delivery of documents to DTC (physically or by electronic means) does not constitute delivery to the Exchange Agent. If you desire to tender your Old Notes prior to either the Early Tender Date or the Expiration Date, you must allow sufficient time for completion of the ATOP procedures during the normal business hours of DTC on such date.

HOLDERS OF OLD NOTES, BY CAUSING THEIR OLD NOTES TO BE TENDERED ON THEIR BEHALF THROUGH ATOP, THEREBY AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THE EXCHANGE OFFER AS DESCRIBED IN THE APPLICABLE OFFER DOCUMENTS, INCLUDING THIS LETTER OF TRANSMITTAL, AND CONSENT TO THE PROPOSED AMENDMENTS TO THE INDENTURE RELATING TO THE TENDERED OLD NOTES DESCRIBED IN THE OFFER DOCUMENTS.

If you are in a jurisdiction where offers to sell, or solicitations of offers to purchase, the securities offered by the Prospectus and this Letter of Transmittal are unlawful, or if you are a person to whom it is unlawful to direct these types of activities, then the Exchange Offer does not extend to you.

The undersigned should complete, execute and deliver this Letter of Transmittal to indicate the action the undersigned desires to take with respect to the Exchange Offer: **The undersigned authorizes the Exchange Agent to deliver this Letter of Transmittal to Comstock Resources, Inc. as evidence of the undersigned's tender of the Old Notes and consent to the Proposed Amendments to the Indenture relating to the tendered Old Notes described in the Offer Documents, and to report to American Stock Transfer & Trust Company, LLC, as Trustee, such tender and consent.**

THE UNDERSIGNED MUST COMPLETE THE APPROPRIATE BOX(ES) BELOW WITH RESPECT TO THE OLD NOTES TO WHICH THIS LETTER OF TRANSMITTAL RELATES.

DESCRIPTION OF OLD NOTES TENDERED			
Name(s) and Address(es) of Registered Holder(s) or Name of DTC Participant and Participant's DTC Account Number in which Old Notes are Held (Please fill in, if blank	**Aggregate Principal Amount of Old Notes Represented / Principal Amount Tendered(1)**		
	10% Senior Secured Notes due 2020 (CUSIP Nos. 205768 AK0 and U2038J AC1)	**7 ¾% Senior Notes due 2019 (CUSIP No. 205768 AH7)**	**9 ½% Senior Notes due 2020 (CUSIP No. 205768 AJ3)**
Total Principal Amount Tendered:			

(1) Unless otherwise indicated in these columns, any tendering holder will be deemed to have tendered the entire principal amount represented by the Old Notes indicated in this column.

If the space provided in the above form is inadequate, list the information requested above on a separate signed schedule and attach that schedule to this Letter of Transmittal.

TENDER OF OLD NOTES

☐ CHECK HERE IF OLD NOTES AND CORRESPONDING CONSENTS ARE BEING DELIVERED BY BOOK-ENTRY TRANSFER MADE TO AN ACCOUNT MAINTAINED BY THE EXCHANGE AGENT WITH DTC AND COMPLETE THE FOLLOWING (ONLY PARTICIPANTS IN DTC MAY DELIVER OLD NOTES BY BOOK-ENTRY TRANSFER):

Name of Tendering Institution _____

DTC Account Number _____

Date Tendered _____

Transaction Code Number _____

NOTE: SIGNATURES MUST BE PROVIDED BELOW PLEASE READ THE ACCOMPANYING INSTRUCTIONS CAREFULLY

Ladies and Gentlemen:

By the execution hereof, the undersigned hereby acknowledges receipt of the preliminary prospectus dated August 31, 2016 as filed with the Securities and Exchange Commission (the "Prospectus"), as may be amended or supplemented from time to time, of Comstock Resources, Inc., a Nevada corporation (the "Company"), and this letter of transmittal (as it may be supplemented and amended from time to time, this "Letter of Transmittal") (collectively, the "Offer Documents"). We urge you to carefully review the applicable Offer Documents for the terms and conditions of the Exchange Offer. Certain terms used but not defined herein have the meaning given to them in the Offer Documents.

Upon the terms and subject to the conditions of the Exchange Offer, the undersigned hereby tenders to the Company the principal amount or amounts of its Old Notes described in the box marked "Description of Old Notes Tendered."

Subject to and effective upon the acceptance for exchange of the Old Notes tendered herewith, and the delivery of the exchange consideration upon the terms and conditions of the Exchange Offer, the undersigned hereby (1) irrevocably sells, assigns and transfers to the issuer of its Old Notes all right, title and interest in and to all such Old Notes as are being tendered herewith and (2) irrevocably appoints the Exchange Agent as its agent and attorney-in-fact (with full knowledge that the Exchange Agent is also acting as the Company's agent with respect to the tendered Old Notes with full power coupled with an interest) to (a) transfer ownership of the Old Notes on the account books maintained by the DTC, together with all accompanying evidences of transfer and authenticity, to or upon the order of the issuer of its Old Notes, (b) present the Old Notes for transfer on the relevant security register, (c) receive all benefits or otherwise exercise all rights of beneficial ownership of the Old Notes and (d) evidence the consent of the undersigned to the Proposed Amendments in any instrument embodying such consent, all in accordance with the terms of the Exchange Offer, as set forth in the Offer Documents.

If you have tendered Old Notes, you may withdraw those Old Notes prior to the Withdrawal Deadline by submitting a withdrawal instruction to DTC subject to the limitations and requirements described in "General Terms of the Exchange Offer and Consent Solicitation—Withdrawal of Tenders; Revocation of Consents" in the Prospectus.

The undersigned hereby represents and warrants that the undersigned has full power and authority to tender, sell, assign and transfer the Old Notes tendered hereby and to acquire the exchange consideration upon the exchange of such tendered Old Notes and give the consent, and that, when the Old Notes are accepted for exchange, the Company will acquire good, marketable and unencumbered title thereto, free and clear of all liens, restrictions, charges and encumbrances, and that the Old Notes tendered hereby are not subject to any adverse claims or proxies. The undersigned will, upon request, execute and deliver any additional documents deemed by us or the Exchange Agent to be necessary or desirable to complete the sale, assignment and transfer of the Old Notes tendered hereby. The undersigned has received the applicable Offer Documents and agrees to all of the terms of the Exchange Offer.

The Company reserves the right not to accept as validly given any certification as to eligibility given by a holder of Old Notes if we have reason to believe that such certification has not properly been given or is otherwise incorrect. As it may be unlawful in certain jurisdictions to deliver (or be deemed to have delivered) exchange consideration to holders of Old Notes, such holders who are residents, citizens, nationals of or have otherwise some form of connection with certain jurisdictions are required to inform themselves about and observe any applicable legal requirements. It is the responsibility of any such holder wishing to accept the proposals to satisfy itself as to the full observance of the laws of the relevant jurisdiction in connection therewith, including the obtaining of any governmental, exchange control or other consents which may be required and the compliance with any other necessary formalities.

The undersigned understands that tenders of Old Notes pursuant to any one of the procedures described in the Prospectus under the heading "General Terms of the Exchange Offer and Consent Solicitation—Procedures for

Tendering Old Notes" and in the instructions herein will, upon the Company's acceptance for exchange of such tendered Old Notes, constitute a binding agreement between the undersigned and us upon the terms and subject to the conditions of the Exchange Offer.

Additionally, the undersigned understands that by tendering Old Notes in the Exchange Offer, the undersigned will be deemed to have consented to the Proposed Amendments to the respective indenture governing their Old Notes as described in the Prospectus under the heading "Proposed Amendments to Existing Indentures and Old Notes." Holders may not tender their Old Notes pursuant to the Exchange Offer without delivering consents to the Proposed Amendments, and holders may not deliver consents to the Proposed Amendments pursuant to the Consent Solicitation without tendering their Old Notes.

The Exchange Offer is subject to certain conditions described in the section of the Prospectus entitled "General Terms of the Exchange Offer and Consent Solicitation—Conditions to the Exchange Offer and Consent Solicitation." The undersigned understands that the Company's obligation to accept for exchange Old Notes validly tendered and not validly withdrawn pursuant to the Exchange Offer is subject to the conditions set forth in the Offer Documents. The undersigned recognizes that as a result of these conditions (certain of which may be waived, in whole or in part, by us), as more particularly set forth in the Offer Documents, we may not be required to accept for exchange or to exchange any of the Old Notes tendered hereby and, in such event, the Old Notes not accepted for exchange will be returned to the undersigned at the address shown below the signature of the undersigned.

Unless otherwise indicated in the boxes entitled "Special Delivery Instructions" or "Special Payment or Issuance Instructions" in this Letter of Transmittal, certificates for all securities issued as part of the exchange consideration in exchange for tendered Old Notes, and any Old Notes delivered herewith but not exchanged, will be registered in the name of and delivered to the undersigned at the address shown below the signature of the undersigned. If securities are to be issued as part of the exchange consideration to a person other than the person(s) signing this Letter of Transmittal, or if securities delivered as part of the exchange consideration are to be mailed to someone other than the person(s) signing this Letter of Transmittal, the appropriate boxes of this Letter of Transmittal should be completed. If Old Notes are surrendered by holder(s) that have completed either the box entitled "Special Delivery Instructions" or "Special Payment or Issuance Instructions" in this Letter of Transmittal, signature(s) on this Letter of Transmittal must be guaranteed by a Medallion Signature Guarantor (as defined in Instruction 3).

All authority herein conferred or agreed to be conferred in this Letter of Transmittal shall survive the death or incapacity of the undersigned and any obligation of the undersigned hereunder shall be binding upon the heirs, executors, administrators, personal representatives, trustees in bankruptcy, legal representatives, successors and assigns of the undersigned.

THE UNDERSIGNED, BY COMPLETING THE BOXES ENTITLED "DESCRIPTION OF OLD NOTES TENDERED" AND SIGNING AND DELIVERING THIS LETTER, WILL HAVE TENDERED THE OLD NOTES AS SET FORTH IN SUCH BOXES AND SHALL CONSENT TO THE PROPOSED AMENDMENTS TO THE RESPECTIVE INDENTURES DESCRIBED IN THE PROSPECTUS.

THE UNDERSIGNED ACKNOWLEDGES THAT THE EXCHANGE OFFER AND CONSENT SOLICITATION IS SUBJECT TO THE MORE DETAILED TERMS AND CONDITIONS SET FORTH IN THE PROSPECTUS. IN CASE OF ANY CONFLICT BETWEEN THE TERMS AND CONDITIONS OF THE PROSPECTUS AND THIS LETTER OF TRANSMITTAL AND CONSENT, THE TERMS AND CONDITIONS OF THE PROSPECTUS SHALL PREVAIL.

REGISTERED HOLDERS OF OLD NOTES SIGN HERE

(In addition, complete IRS Form W-9 below or applicable IRS Form W-8)

PLEASE SIGN HERE

Authorized Signature of Registered Holder

Area Code and Telephone Number:

PLEASE SIGN HERE (if held jointly)

Authorized Signature of Registered Holder (if held jointly)

Area Code and Telephone Number (if held jointly):

Must be signed by registered holder(s) exactly as name(s) appear(s) on the Old Notes or on a security position listing as the owner of the Old Notes or by person(s) authorized to become registered holder(s) by properly completed bond powers transmitted herewith. See Instruction 3. If signature is by attorney-in-fact, trustee, executor, administrator, guardian, officer of a corporation or other person acting in a fiduciary or representative capacity, please provide the following information:

Name:
Title:
Address:

Area Code and Telephone Number:

Date:
Taxpayer Identification or Social Security Number:

Name:
Title:
Address:

Area Code and Telephone Number:

Date:
Taxpayer Identification or Social Security Number:

SIGNATURE GUARANTEE

(If required, see Instruction 3)

Signature(s) Guaranteed by an Eligible Institution: Authorized Signature Name of Eligible Institution Guaranteeing Signature: Capacity (Full Title): Area Code and Telephone Number:	Date: Address:

SPECIAL PAYMENT OR ISSUANCE INSTRUCTIONS
(See Instructions 4, 5 and 6)

To be completed ONLY if the exchange consideration for the Old Notes accepted for exchange is paid to, or any Old Notes that are not tendered or are not accepted are to be issued in the name of someone other than the undersigned.

Issue: ☐ New Notes to:
☐ Old Notes to:
(Check Appropriate Box)

Name(s) _____

Address: _____

_____

Telephone # _____

(Taxpayer Identification or Social Security Number)

☐ Credit the exchange consideration and/or untendered Old Notes delivered by book-entry transfer to the DTC account set forth below:

_____
(Account Number)

_____
(Name of Account Party)

SPECIAL DELIVERY INSTRUCTIONS
(See Instructions 3, 4, 5 and 6)

To be completed ONLY if the exchange consideration or any Old Notes that are not tendered or are not accepted are to be sent to someone other than the undersigned, or to the undersigned at an address other than that shown above.

Deliver: ☐ New Notes to:
☐ Old Notes to:
(Check Appropriate Box)

Name(s) _____

Address: _____

_____

Telephone # _____

(Taxpayer Identification or Social Security Number)

☐ Credit the exchange consideration and/or untendered Old Notes delivered by book-entry transfer to the DTC account set forth below:

_____
(Account Number)

_____
(Name of Account Party)

INSTRUCTIONS

Forming Part of the Terms and Conditions of the Exchange Offer

1. Delivery of this Letter of Transmittal

All confirmations of any book-entry transfers delivered to the Exchange Agent's account at DTC, as well as a properly completed and duly executed copy of this Letter of Transmittal (or facsimile thereof), and any other documents required by this Letter of Transmittal or, in the case of a book-entry transfer, an appropriate Agent's Message, must be received by the Exchange Agent at its address set forth herein on or prior to the Expiration Date (and prior to the Early Tender Date to receive the Early Exchange Consideration). The method of delivery of this Letter of Transmittal, the Old Notes and all other required documents is at the election and risk of the holder. Except as otherwise provided below, the delivery will be deemed made only when actually received by the Exchange Agent.

Any beneficial holder whose Old Notes are registered in the name of a broker, dealer, bank, trust company, other nominee or custodian and who wishes to tender Old Notes in the Exchange Offer should contact such registered holder promptly and instruct such registered holder to tender on such beneficial holder's behalf. If such beneficial holder wishes to tender directly, such beneficial holder must, prior to completing and executing this Letter of Transmittal and tendering Old Notes, either make appropriate arrangements to register ownership of the Old Notes in such beneficial holder's own name or obtain a properly completed bond power from the registered holder. Beneficial holders should be aware that the transfer of registered ownership may take considerable time.

Delivery to an address other than as set forth herein, or instructions via a facsimile number other than the ones set forth herein, will not constitute a valid delivery.

The Company expressly reserves the right, at any time or from time to time, to extend the Expiration Date and/or the Early Tender Date by complying with certain conditions set forth in the applicable Offer Documents.

LETTERS OF TRANSMITTAL SHOULD NOT BE SENT TO THE COMPANY OR DTC.

2. Certificated Notes

If you hold Old Notes in physical, certificated form, you need to deliver them with this Letter of Transmittal.

3. Signature on this Letter of Transmittal; Written Instruments and Endorsements; Guarantee of Signatures;

If this Letter of Transmittal is signed by the registered holder(s) of the Old Notes tendered hereby, the signature(s) must correspond with the name(s) as written on the face of the certificates without alteration or enlargement or any change whatsoever.

If any of the Old Notes tendered hereby are owned of record by two or more joint owners, all such owners must sign this Letter of Transmittal.

If a number of Old Notes registered in different names are tendered, it will be necessary to complete, sign and submit as many separate copies of this Letter of Transmittal as there are different registrations of Old Notes.

Signatures on all Letters of Transmittal must be guaranteed by a recognized participant in the Securities Transfer Agents Medallion Program, the New York Stock Exchange Medallion Signature Program or the Stock Exchange Medallion Program (a "Medallion Signature Guarantor"), unless the Old Notes tendered thereby are tendered (i) by a holder of Old Notes who has not completed either the box entitled "Special Delivery Instructions" or the box entitled "Special Payment or Issuance Instructions" on this Letter of Transmittal or (ii) for the account of a member firm of a registered national securities exchange, a member of the Financial Industry Regulatory Authority or a commercial bank or trust company having an office or correspondent in the United States (each of the foregoing being referred to as an "Eligible Institution"). If the Old Notes are registered in the name of a person other than the signer of the Letter of Transmittal or if Old Notes not accepted for purchase or not tendered

are to be returned to a person other than the holder, then the signatures on the Letters of Transmittal accompanying the tendered Old Notes must be guaranteed by a Medallion Signature Guarantor as described above.

If this Letter of Transmittal is signed by the registered holder or holders of Old Notes listed and tendered hereby, no endorsements of the tendered Old Notes or separate written instruments of transfer or exchange are required. In any other case, the registered holder (or acting holder) must either properly endorse the Old Notes or transmit properly completed bond powers with this Letter of Transmittal (in either case executed exactly as the name(s) of the registered holder(s) appear(s) on the Old Notes, with the signature on the Old Notes or bond power guaranteed by a Medallion Signature Guarantor (except where the Old Notes are tendered for the account of an Eligible Institution).

If Old Notes are to be tendered by any person other than the person in whose name the Old Notes are registered, the Old Notes must be endorsed or accompanied by an appropriate written instrument or instruments of transfer executed exactly as the name or names of the holder or holders appear on the Old Notes, with the signature(s) on the Old Notes or instruments of transfer guaranteed as provided above, and this Letter of Transmittal must be executed and delivered either by the holder or holders, or by the tendering person pursuant to a valid proxy signed by the holder or holders, which signature must, in either case, be guaranteed as provided below.

4. Special Issuance, Delivery and Payment Instructions

Tendering holders should indicate, in the applicable box, the account at DTC in which the exchange consideration is to be issued and deposited, if different from the accounts of the person signing this Letter of Transmittal.

Tendering holders should indicate, in the applicable box, the name and address in which Old Notes for principal amounts not tendered or not accepted for exchange are to be issued and delivered, if different from the names and addresses of the person signing this Letter of Transmittal.

In the case of issuance or payment in a different name, the taxpayer identification number or social security number of the person named must also be indicated and the tendering holder should complete the applicable box.

If no instructions are given, the exchange consideration (and any Old Notes not tendered or not accepted) will be issued in the name of and delivered to the acting holder of the Old Notes or deposited at such holder’s account at DTC, as applicable.

5. Transfer Taxes

The Company shall pay all transfer taxes, if any, applicable to the exchange of Old Notes pursuant to the Exchange Offer. If, however, transfer taxes are payable in circumstances where certificates representing the securities issued as part of the exchange consideration or Old Notes for principal amounts not tendered or accepted for exchange are to be delivered to, or are to be registered or issued in the name of, any person other than the registered holder of the Old Notes tendered or where tendered Old Notes are registered in the name of any person other than the person signing this Letter of Transmittal, or if a transfer tax is imposed for any reason other than the exchange of Old Notes pursuant to the Exchange Offer, then the amount of any such transfer taxes (whether imposed on the registered holder or any other person) will be payable by the tendering holder. If satisfactory evidence of payment of such taxes or exemption therefrom is not submitted herewith, the amount of such transfer taxes will be billed directly to such tendering holder.

Except as provided in this Instruction 5, it will not be necessary for transfer stamps to be affixed to the Old Notes listed in this Letter of Transmittal.

6. Waiver of Condition

We reserve the absolute right to waive, in whole or in part, any of the specified conditions to the Exchange Offer set forth in the Offer Documents.

7. Requests for Assistance or Additional Copies

Questions and requests for assistance relating to the Offer Documents, including this Letter of Transmittal and other related documents and relating to the procedure for tendering may be directed to the Exchange Agent at the address and telephone number set forth above.

Questions and requests for assistance or for additional copies of the Offer Documents may be directed to the Information Agent at the address and telephone number set forth above.

8. Validity and Form

All questions as to the validity, form, eligibility (including time of receipt) and acceptance for exchange or purchase of any tendered Old Notes pursuant to any of the instructions in this Letter of Transmittal, and the form and validity (including time of receipt of notices of withdrawal) of all documents will be determined by the Company in its absolute discretion, which determination will be final and binding. We reserve the absolute right to reject any or all tenders of any Old Notes determined by us not to be in proper form, or if the acceptance of, or exchange of, such Old Notes may, in the opinion of counsel for us, be unlawful. We also reserve the right to waive any conditions to any offer that we are legally permitted to waive.

Tender of Old Notes will not be deemed to have been validly made until all defects or irregularities in such tender have been cured or waived. All questions as to the form and validity (including time of receipt) of any delivery will be determined by the Company in its absolute discretion, which determination shall be final and binding. None of the Company, the Exchange Agent, the Information Agent or any other person or entity is under any duty to give notification of any defects or irregularities in any tender or withdrawal of any Old Notes, or will incur any liability for failure to give any such notification.

9. Important Tax Information

YOU ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF UNITED STATES FEDERAL TAX ISSUES IN THIS LETTER OF TRANSMITTAL IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED BY YOU, FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON YOU UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE"); (B) ANY SUCH DISCUSSION IS INCLUDED HEREIN IN CONNECTION WITH THE SOLICITATION BY THE ISSUER OF TENDERS AND THE PROMOTION OR MARKETING OF THE TRANSACTIONS DISCUSSED HEREIN AND IN THE OTHER OFFER DOCUMENTS; AND (C) YOU SHOULD SEEK ADVICE BASED ON YOUR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

Under current United States federal income tax law, the Exchange Agent (as payor) may be required to withhold a portion of any payments (including payments with respect to accrued interest) made to certain holders (or other payees) pursuant to the Exchange Offer and other transactions described in the Prospectus. To avoid backup withholding, each tendering United States holder or other United States payee should provide the Exchange Agent with its correct taxpayer identification number ("TIN") and certify that it is not subject to backup withholding by completing Form W-9 of the United States Internal Revenue Service (the "IRS"), or otherwise establish an exemption from the backup withholding rules. In general, for an individual, the TIN is such individual's social security number. If the Exchange Agent is not provided with the correct TIN, the United States holder (or other payee) may be subject to a $50 penalty imposed by the IRS. If an exemption from backup withholding is not established, any reportable payments will be subject to backup withholding at the applicable rate, currently 28%. Such reportable payments generally will be subject to information reporting, even if an exemption from backup withholding is established. If a United States holder has not been issued a TIN and has applied for one or intends to apply for one in the near future, such United States holder should write "Applied For" in the space provided for the TIN in Part I of Form W-9, sign and date the Form W-9 and the Certificate of Awaiting Taxpayer Identification Number below. If "Applied For" is written in Part I and the Exchange Agent is not provided with a TIN prior to the date of payment, the Exchange Agent will withhold 28% of any reportable payments made to the United States holder. For further information concerning backup withholding and instructions for completing the attached Form W-9 (including how to obtain a TIN if you do not have one and how to complete Form W-9 if the Old Notes are held in more than one name), consult the instructions in Form W-9. All IRS forms mentioned herein may be obtained on the IRS website at www.irs.gov.

Certain persons (including, among others, corporations and certain non-United States persons) are not subject to these backup withholding and reporting requirements. Exempt United States persons should indicate their exempt status on Form W-9. A non-United States Holder generally will not be subject to backup withholding with respect to any reportable payments (including payments with respect to accrued interest) as long as (1) the payor or broker does not have actual knowledge or reason to know that the holder is a U.S. person, and (2) the holder has furnished to the payor or broker a properly executed applicable IRS Form W-8 (or a successor form) certifying, under penalties of perjury, its status as a non-United States person or otherwise establishes an exemption. An IRS Form W-8 can be obtained from the Exchange Agent or the IRS website at www.irs.gov. Holders should consult their tax advisors as to any qualification for exemption from backup withholding and the procedure for obtaining the exemption. Backup withholding is not an additional United States federal income tax. Rather, the amount of United States federal income tax withheld will be creditable against the United States federal income tax liability of a person subject to backup withholding. If backup withholding results in an overpayment of United States federal income tax, a refund may be obtained provided that the required information is timely furnished to the IRS.

Payment of interest (including original issue discount) to non-United States holders may be subject to a 30% United States withholding tax, or a lower rate under an applicable treaty. Interest may be exempt from withholding if it qualifies as “portfolio interest” to the non-United States holder. In order to claim a lower rate or exemption, a non-United States Holder must furnish a properly executed applicable IRS Form W-8 (or a successor form) claiming a lower rate or exemption. Non-United States Holders should consult their tax advisors as to any qualification for a lower rate under an applicable treaty or exemption from withholding.

A person’s failure to complete Form W-9, applicable IRS Form W-8 or other appropriate form will not, by itself, cause such person’s Old Notes to be deemed invalidly tendered, but may require the Exchange Agent to withhold a portion of any payments made to such person pursuant to the Exchange Offer and other transactions described in the Prospectus.

NOTE: FAILURE TO COMPLETE AND RETURN FORM W-9 (OR FORM W-8, AS APPLICABLE) MAY RESULT IN BACKUP WITHHOLDING OF 28% OF ANY REPORTABLE PAYMENTS MADE TO YOU PURSUANT TO THE EXCHANGE OFFER AND OTHER TRANSACTIONS DESCRIBED IN THE PROSPECTUS. PLEASE REVIEW FORM W-9 AND INSTRUCTIONS CONTAINED IN THIS LETTER OF TRANSMITTAL FOR ADDITIONAL DETAILS OR CONTACT THE EXCHANGE AGENT FOR THE APPLICABLE FORM W-8.

IMPORTANT: THIS LETTER OF TRANSMITTAL OR A FACSIMILE THEREOF TOGETHER WITH OLD NOTES OR CONFIRMATION OF BOOK-ENTRY TRANSFER AND ALL OTHER REQUIRED DOCUMENTS MUST BE RECEIVED BY THE EXCHANGE AGENT ON OR PRIOR TO THE EXPIRATION DATE.

As described above, please complete the “Certificate of Awaiting Taxpayer Identification Number” on the following page if you are a United States holder that has not been issued a TIN and has applied for, or intends to apply for in the near future, a TIN.

CERTIFICATE OF AWAITING TAXPAYER IDENTIFICATION NUMBER

I certify, under penalties of perjury, that a taxpayer identification number has not been issued to me, and either (1) I have mailed or delivered an application to receive a taxpayer identification number to the appropriate Internal Revenue Service Center or Social Security Administration Office or (2) I intend to mail or deliver an application in the near future. I understand that, if I do not provide a taxpayer identification number by the time of payment, a portion (currently 28%) of all reportable payments made to me will be withheld and remitted to the Internal Revenue Service.

SIGNATURE

DATE

Form **W-9**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type See **Specific Instructions** on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only **one** of the following seven boxes:

☐ Individual/soleproprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) u ___

Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.

☐ Other (see instructions) u

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number

			–			–				

or

Employer identification number

		–							

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here **Signature of U.S. person** u **Date** u

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at *www.irs.gov/fw9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S.

trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.

2. The treaty article addressing the income.

3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

4. The type and amount of income that qualifies for the exemption from tax.

5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,

2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note. ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name

on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

Limited Liability Company (LLC). If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over $600 required to be reported and direct sales over $5,000[1]	Generally, exempt payees 1 through 5[2]
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

1 See Form 1099-MISC, Miscellaneous Income, and its instructions.

2 However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note. You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at *www.ssa.gov.* You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at *www.irs.gov/businesses* and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: *A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.*

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account[1]
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor[2]
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee[1]
b. So-called trust account that is not a legal or valid trust under state law	The actual owner[1]
5. Sole proprietorship or disregarded entity owned by an individual	The owner[3]
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	**Give name and EIN of:**
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity[4]
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

[1] List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

[2] Circle the minor's name and furnish the minor's SSN.

[3] You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

[4] List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

*** Note.** Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to *phishing@irs.gov*. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: *spam@uce.gov* or contact them at *www.ftc.gov/idtheft* or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

The Dealer Manager for the Exchange Offer is:

BofA Merrill Lynch
The Hearst Building
214 North Tryon Street, 14th Floor
Charlotte, North Carolina 28255
Attention: Debt Advisory
Collect: (980) 388-4813 and (646) 855-2464; Toll-Free: (888) 292-0070