UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

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

Date of Report (Date of Earliest Event Reported): September 6, 2016

COMSTOCK RESOURCES, INC.
(Exact Name of Registrant as Specified in Charter)

STATE OF NEVADA	001-03262	94-1667468
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification Number)

5300 Town and Country Boulevard
Suite 500
Frisco, Texas 75034
(Address of principal executive offices)

(972) 668-8800
(Registrant’s Telephone No.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement

On September 6, 2016, Comstock Resources, Inc. (the "**Company**") completed its debt exchange offer and consent solicitation (the "**Exchange Offer**") for its 10% Senior Secured Notes due 2020 (the "**Old Senior Secured Notes**"), its 7 ¾% Senior Notes due 2019 (the "**Old 2019 Notes**") and its 9 ½% Senior Notes due 2020 (the "**Old 2020 Notes**", and with the Old Senior Secured Notes and the Old 2019 Notes, collectively, the "**Old Notes**"). In exchange, the Company issued new 10% Senior Secured Toggle Notes due 2020 (the "**New Senior Secured Notes**"), warrants to purchase shares of the Company's common stock (the "**Warrants**"), new 7 ¾% Convertible Secured PIK Notes due 2019 (the "**New 2019 Convertible Notes**") and new 9 ½% Convertible Secured PIK Notes due 2020 (the "**New 2020 Convertible Notes**, and together with the New 2019 Convertible Notes, collectively, the "**New Convertible Notes**"). The New Senior Secured Notes and the New Convertible Notes are collectively referred to herein as the "**New Notes**." The New Notes are fully and unconditionally guaranteed by the Company's principal subsidiaries Comstock Oil & Gas, LP, Comstock Oil & Gas-Louisiana, LLC, Comstock Oil & Gas GP, LLC, Comstock Oil & Gas Investments, LLC and Comstock Oil & Gas Holdings, Inc. (the "**Subsidiary Guarantors**").

The terms of the New Senior Secured Notes, the New 2019 Convertible Notes and the New 2020 Convertible Notes are each governed by an Indenture dated as of September 6, 2016 (collectively, the "**New Indentures**"), among the Company, the Subsidiary Guarantors and American Stock Transfer & Trust Company, LLC, as trustee (the "**Trustee**").

The New Senior Secured Notes will mature on March 15, 2020, and interest is payable on the New Senior Secured Notes on each March 15 and September 15, commencing March 15, 2017. The record dates for the New Senior Secured Notes are March 1 and September 1. The Company, at its election, may pay up to $91.875 million of accrued interest by issuing additional New Senior Secured Notes in lieu of the cash interest that would otherwise be payable on the New Senior Secured Notes. The Company may redeem some or all of the New Senior Secured Notes at the redemption prices specified in the Indenture governing the New Senior Secured Notes (the "**Senior Secured Notes Indenture**"). If the Company experiences a change of control or upon certain sales of assets, as described in the Senior Secured Notes Indenture, each holder of the New Senior Secured Notes will have the right to require the Company to repurchase certain or all of the New Senior Secured Notes at a purchase price described in the Senior Secured Notes Indenture plus accrued and unpaid interest, if any, to the date of such repurchase.

The New Senior Secured Notes are the Company's senior secured obligations. The New Senior Secured Notes and the guarantees are the general obligations of the Company and the Subsidiary Guarantors, and rank equally and ratably with all existing and future senior indebtedness and senior to (i) the Company's and the Subsidiary Guarantors' obligations under the New Convertible Notes pursuant to the terms of the Junior Lien Intercreditor Agreement (as described below) and (ii) the Company's and the Subsidiary Guarantors' subordinated indebtedness. The New Senior Secured Notes and the guarantees are secured on a first-priority basis, subject to permitted collateral liens, equally and ratably with the indebtedness under the Company's revolving credit facility (subject to payment priorities in favor of the lenders under

the revolving credit facility pursuant to the Pari Passu Intercreditor Agreement described below), by the collateral securing the Company's revolving credit facility, as amended by the Credit Agreement Amendment described below (the "**Collateral**").

The Senior Secured Notes Indenture restricts the ability of the Company and the Subsidiary Guarantors to, among other things: (i) incur additional indebtedness; (ii) pay distributions or dividends on equity or purchase, redeem or otherwise acquire equity; (iii) make certain investments; (iv) use assets as collateral in other transactions; (v) sell certain assets or merge with or into other companies; and (vi) enter into transactions with affiliates. These covenants are subject to a number of exceptions and qualifications.

The Senior Secured Notes Indenture contains customary events of default, including:

- default in any payment of interest on any New Senior Secured Note when due, which continues for 30 days;
- default in the payment of principal of or premium, if any, on any New Senior Secured Note when due;
- failure by the Company to comply with its obligations under the Senior Secured Notes Indenture, in certain cases subject to notice and grace periods;
- payment default and acceleration with respect to other indebtedness of the Company and its Restricted Subsidiaries (as defined in the Senior Secured Notes Indenture) in the aggregate amount of $25.0 million or more;
- certain events of bankruptcy, insolvency or reorganization of a Subsidiary Guarantor or any other Restricted Subsidiary; and
- failure by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary to pay certain final judgments aggregating in excess of $25.0 million within 60 days.

If an event of default under the Senior Secured Notes Indenture occurs and is continuing, the Trustee or the holders of at least 25% in principal amount of the outstanding New Senior Secured Notes may declare the principal of, premium, if any, and accrued and unpaid interest, if any, on the New Senior Secured Notes to be due and payable, or, in the case of certain events of default relating to bankruptcy, insolvency or reorganization, those amounts will automatically become immediately due and payable.

The New 2019 Convertible Notes will mature on April 1, 2019, and interest is payable on the New 2019 Convertible Notes on each April 1 and October 1, commencing April 1, 2017. The record dates for the New 2019 Convertible Notes are March 15 and September 15. The New 2020 Convertible Notes will mature on June 15, 2020, and interest is payable on the New 2020 Convertible Notes on each June 15 and December 15, commencing December 15, 2016. The record dates for the New 2020 Convertible Notes are June 1 and December 1. Interest on the New 2020 Convertible Notes is payable solely by issuing additional New 2020 Convertible Notes in an amount equal to the applicable amount of interest for each interest period. Interest on the New 2019 Convertible Notes is payable solely by issuing additional New 2019 Convertible Notes in an amount equal to the applicable amount of interest for each interest period. The Company may redeem some or all of the New Convertible Notes at the redemption

prices specified in the Indentures governing the New 2019 Convertible Notes and the New 2020 Convertible Notes, as applicable (together, the "**Convertible Notes Indentures**"). If the Company sells certain assets or experiences a change of control, as described in the Convertible Notes Indentures, each holder of the New Convertible Notes will have the right to require the Company to repurchase the New Convertible Notes at a purchase price described in the applicable Convertible Notes Indentures plus accrued and unpaid interest, if any, to the date of such repurchase.

The New Convertible Notes are the Company's senior obligations. The New Convertible Notes will be secured, on a second priority basis, subject to the Revolving Credit Agreement Obligations (as defined below) and the Company's obligations under the New Senior Secured Notes (together, the "**Priority Lien Obligations**"), by junior liens on the Collateral. The New Convertible Notes will rank equally in right of payment with all of the Company's existing and future senior indebtedness and senior in right of payment to all of the Company's future subordinated indebtedness. Pursuant to the terms of the Junior Lien Intercreditor Agreement, the New Convertible Notes will be effectively subordinated to the Priority Lien Obligations to the extent of the Collateral.

The New Convertible Notes are convertible, subject to and following receipt of required stockholder approval and the effectiveness of an amendment to the Company's restated articles of incorporation, at the option of the holder, into shares of the Company's common stock at a conversion rate of 81.2 shares of common stock per $1,000 principal amount of such New Convertible 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.

Subject to and following receipt of required stockholder approval and the effectiveness of an amendment to the Company's restated articles of incorporation, the New Convertible Notes are mandatorily convertible into shares of the Company's common stock at the conversion rate then in effect per $1,000 principal amount of such New Convertible 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 the Company's 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 the Company's common stock or otherwise would 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 the Company file a registration statement on Form S-3 with respect to the resale of such shares pursuant to a registration rights agreement, the form of which is an exhibit to the Convertible Notes Indentures.

The Convertible Notes Indentures restrict the Company's ability and the ability of certain of its subsidiaries to, among other things: (i) incur additional indebtedness; (ii) pay distributions or dividends on equity or purchase, redeem or otherwise acquire equity; (iii) make certain investments; (iv) use assets as collateral in other transactions; (v) sell certain assets or merge with or into other companies; and (vi) enter into transactions with affiliates. These covenants are subject to a number of important exceptions and qualifications.

Each Convertible Notes Indenture contains customary events of default, including:

- default in any payment of interest on the applicable New Convertible Notes when due, continued for 30 days;
- default in the payment of principal of or premium, if any, on the applicable New Convertible Notes when due;
- failure by the Company to comply with its obligations under the applicable Convertible Notes Indenture, in certain cases subject to notice and grace periods;
- payment default and acceleration with respect to other indebtedness of the Company and its Restricted Subsidiaries (as defined in each Convertible Notes Indenture) in the aggregate amount of $50.0 million or more;
- certain events of bankruptcy, insolvency or reorganization of a Subsidiary Guarantor or any other Restricted Subsidiary; and
- failure by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary to pay certain final judgments aggregating in excess of $50.0 million within 60 days.

If an event of default under either Convertible Notes Indenture occurs and is continuing, the Trustee or the holders of at least 25% in principal amount of the applicable outstanding New Convertible Notes may declare the principal of, premium, if any, and accrued and unpaid interest, if any, on the applicable New Convertible Notes to be due and payable, or, in the case of certain events of default relating to bankruptcy, insolvency or reorganization, those amounts will automatically become immediately due and payable.

The Warrants were issued pursuant to a Warrant Agreement dated as of September 6, 2016 between the Company and American Stock Transfer & Trust Company, LLC, as warrant agent (the "**Warrant Agreement**"). Under the terms of the Warrant Agreement, the Warrants are exercisable for a period of two years at an exercise price of $0.01 per share, subject to certain adjustments as described in the Warrant Agreement.

In connection with the completion of the Exchange Offer, the Company entered into a Second Amendment to Credit Agreement dated September 6, 2016 (the "**Credit Agreement Amendment**"), among the Company, the lenders party thereto and Bank of Montreal, as administrative agent (the "**Administrative Agent**"). The Credit Agreement Amendment modifies various provisions of the Company's existing credit agreement to reflect the consummation of the Exchange Offer.

The Company also entered into an Amended and Restated Priority Lien Intercreditor Agreement dated September 6, 2016, among the Company, the Subsidiary Guarantors, the Administrative Agent and the Trustee (the "**Pari Passu Intercreditor Agreement**"). The Pari Passu Intercreditor Agreement provides that with respect to the proceeds of the Collateral, (i) the credit agreement 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 the Company or its subsidiaries enter into with its revolving credit lenders or their affiliates and letters of credit outstanding (the "**Revolving Credit Agreement 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.

Further, the Collateral Agent entered into a Junior Lien Intercreditor Agreement dated September 6, 2016 (the "**Junior Lien Intercreditor Agreement**" and together with the Pari Passu Intercreditor Agreement, the "**Intercreditor Agreements**") which provides that the Priority Obligations and the New Senior Secured Notes will have priority of payment as to the proceeds of the Collateral over the New Convertible Notes.

As approved by the holders of the Old Notes in connection with the Exchange Offer, the Company entered into a First Supplemental Indenture with respect to the Old Senior Secured Notes (the "**First Supplemental Indenture**"), a Fifth Supplemental Indenture with respect to the Old 2019 Notes (the "**Fifth Supplemental Indenture**") and a Sixth Supplemental Indenture with respect to the Old 2020 Notes (the "**Sixth Supplemental Indenture**" and together with the First Supplemental Indenture and the Fifth Supplemental Indenture, the "**Supplemental Indentures**"), in each case dated September 6, 2016 among the Company, the Subsidiary Guarantors and the Trustee, as successor to The Bank of New York Mellon Trust Company, N.A. Each Supplemental Indenture eliminates or amends certain of the restrictive covenants contained in the Indentures governing the applicable series of Old Notes, and the First Supplemental Indenture additionally provides for the release of all liens securing the Old Senior Secured Notes. The Supplemental Indentures are binding on all Old Notes that remain outstanding.

Other material terms of the New Notes, the New Indentures, the Warrants, the Warrant Agreement, the Intercreditor Agreements and the Supplemental Indentures are described in the Prospectus, dated September 2, 2016, as filed by the Company with the Securities and Exchange Commission (the "**Commission**"). The foregoing descriptions of the New Notes, the New Indentures, the Warrants, the Warrant Agreement, the Credit Agreement Amendment, the Intercreditor Agreements and the Supplemental Indentures are qualified in their entirety by reference to the New Indentures (including the forms of New Notes attached thereto), the Warrant Agreement (including the form of Warrant attached thereto), the Credit Agreement Amendment, the Intercreditor Agreements and the Supplemental Indentures, which are filed herewith as Exhibits 4.1 to 4.9 and 10.1 and incorporated herein by reference.

The Company and the Subsidiary Guarantors registered the New Notes, the underlying guarantees and the Warrants with the Commission pursuant to a Registration Statement on Form S-4 (Registration No. 333-212795) which became effective on September 2, 2016 (the "**Registration Statement**").

The Company received no cash proceeds from the Exchange Offer.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant

The description contained under Item 1.01 above is incorporated by reference in its entirety into this Item 2.03.

Item 3.03 Material Modification to Rights of Security Holders

The description of the Supplemental Indentures contained under Item 1.01 above is incorporated by reference in its entirety into this Item 3.03.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

Exhibit Number	Description
4.1	Indenture dated September 6, 2016, among Comstock Resources, Inc., the Subsidiary Guarantors party thereto, and American Stock Transfer & Trust Company, LLC, Trustee for the Senior Secured Toggle Notes due 2020.
4.2	Indenture dated September 6, 2016, among 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.
4.3	Indenture dated September 6, 2016, among 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.
4.4	First Supplemental Indenture dated September 6, 2016, among Comstock Resources, Inc., the Subsidiary Guarantors party thereto, and American Stock Transfer & Trust Company, LLC, as successor Trustee for the 10% Senior Secured Notes due 2020.
4.5	Fifth Supplemental Indenture dated September 6, 2016, among Comstock Resources, Inc., the Subsidiary Guarantors party thereto, and American Stock Transfer & Trust Company, LLC, as successor Trustee for the 7 ¾% Senior Notes due 2019.
4.6	Sixth Supplemental Indenture dated September 6, 2016, among Comstock Resources, Inc., the Subsidiary Guarantors party thereto, and American Stock Transfer & Trust Company, LLC, as successor Trustee for the 9 ½% Senior Notes due 2020.
4.7	Amended and Restated Priority Lien Intercreditor Agreement dated September 6, 2016, among 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 Senior Secured Toggle Notes due 2020, 7 ¾% Convertible Secured PIK Notes due 2019, 9 ½% Convertible Secured PIK Notes due 2020, 10% Senior Secured Notes due 2020, 7 ¾% Senior Notes due 2019 and 9 ½% Senior Notes due 2020.
4.8	Junior Lien Intercreditor Agreement dated September 6, 2016, between Bank of Montreal, as priority lien collateral agent, and Bank of Montreal, as second lien collateral agent.
4.9	Warrant Agreement dated September 6, 2016, between Comstock Resources, Inc. and American Stock Transfer & Trust Company, LLC, as warrant agent.
10.1	Second Amendment to Credit Agreement dated September 6, 2016, among Comstock Resources, Inc., the lenders party thereto and Bank of Montreal, as administrative agent.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

COMSTOCK RESOURCES, INC.

Dated: September 8, 2016

By: /s/ ROLAND O. BURNS
Roland O. Burns
President and Chief Executive Officer

Exhibit 4.1

COMSTOCK RESOURCES, INC.,

AND

EACH OF THE SUBSIDIARY GUARANTORS PARTY HERETO

SENIOR SECURED TOGGLE NOTES DUE 2020

INDENTURE

Dated as of September 6, 2016

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,

as Trustee

TABLE OF CONTENTS

ARTICLE 1. DEFINITIONS AND INCORPORATION BY REFERENCE	1
Section 1.01. Definitions	1
Section 1.02. Other Definitions	32
Section 1.03. Rules of Construction	33
ARTICLE 2. THE NOTES	34
Section 2.01. Form and Dating	34
Section 2.02. Execution and Authentication	35
Section 2.03. Registrar and Paying Agent	35
Section 2.04. Paying Agent to Hold Money in Trust	36
Section 2.05. Holder Lists	36
Section 2.06. Transfer and Exchange	36
Section 2.07. Replacement Notes	41
Section 2.08. Outstanding Notes	41
Section 2.09. Treasury Notes	42
Section 2.10. Temporary Notes	42
Section 2.11. Cancellation	42
Section 2.12. Defaulted Interest	42
Section 2.13. CUSIP and ISIN Numbers	43
ARTICLE 3. REDEMPTION AND PREPAYMENT	43
Section 3.01. Notices to Trustee	43
Section 3.02. Selection of Notes to Be Redeemed	43
Section 3.03. Notice of Redemption	44
Section 3.04. Effect of Notice of Redemption	45
Section 3.05. Deposit of Redemption Price	45
Section 3.06. Notes Redeemed in Part	45
Section 3.07. Optional Redemption	45
Section 3.08. Offer to Purchase by Application of Excess Proceeds	46
Section 3.09. No Mandatory Sinking Fund	48
ARTICLE 4. COVENANTS	48
Section 4.01. Payment of Notes	48
Section 4.02. Maintenance of Office or Agency	48
Section 4.03. Reports	49
Section 4.04. Certificates and Other Information	50
Section 4.05. Taxes	52
Section 4.06. Stay, Extension and Usury Laws	52
Section 4.07. Limitation on Restricted Payments	52
Section 4.08. Limitation on Dividend and Other Payment Restrictions Affecting Subsidiaries	56
Section 4.09. Limitation on Indebtedness and Disqualified Stock	57
Section 4.10. Limitation on Asset Sales	60
Section 4.11. Limitation on Transactions with Affiliates	61
Section 4.12. Limitation on Liens	62

Section 4.13. Future Subsidiary Guarantees 62
Section 4.14. Existence 63
Section 4.15. Offer to Repurchase Upon Change of Control 63
Section 4.16. Future Designation of Restricted and Unrestricted Subsidiaries 65
Section 4.17. Suspended Covenants 66
Section 4.18. Further Assurances 67
Section 4.19. Limitation on Certain Agreements 68
Section 4.20. Limitation on Sale and Leaseback Transactions 68

ARTICLE 5. SUCCESSORS 68
Section 5.01. Merger, Consolidation, or Sale of Assets 68
Section 5.02. Successor Substituted 71

ARTICLE 6. DEFAULTS AND REMEDIES 72
Section 6.01. Events of Default 72
Section 6.02. Acceleration 75
Section 6.03. Other Remedies 76
Section 6.04. Waiver of Past Defaults 76
Section 6.05. Control by Majority 76
Section 6.06. Limitation on Suits 77
Section 6.07. Rights of Holders of Notes to Receive Payment 77
Section 6.08. Collection Suit by Trustee 77
Section 6.09. Trustee is Authorized to File Proofs of Claim 78
Section 6.10. Priorities 78
Section 6.11. Undertaking for Costs 79
Section 6.12. The Collateral Agent 79

ARTICLE 7. TRUSTEE 79
Section 7.01. Duties of Trustee 79
Section 7.02. Rights of Trustee 80
Section 7.03. Individual Rights of Trustee 81
Section 7.04. Trustee's Disclaimer 81
Section 7.05. Notice of Defaults 82
Section 7.06. Compensation and Indemnity 82
Section 7.07. Replacement of Trustee 83
Section 7.08. Successor Trustee by Merger, etc. 84
Section 7.09. Eligibility; Disqualification 84

ARTICLE 8. LEGAL DEFEASANCE AND COVENANT DEFEASANCE 84
Section 8.01. Option to Effect Legal Defeasance or Covenant Defeasance 84
Section 8.02. Legal Defeasance and Discharge 85
Section 8.03. Covenant Defeasance 85
Section 8.04. Conditions to Legal or Covenant Defeasance 86
Section 8.05. Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions 87

Section 8.06. Repayment to the Company 88
Section 8.07. Reinstatement 88
Section 8.08. Discharge 88

ARTICLE 9. AMENDMENT, SUPPLEMENT AND WAIVER 90
Section 9.01. Without Consent of Holders of Notes 90
Section 9.02. With Consent of Holders of Notes 91
Section 9.03. Consents in connection with Purchase, Tender or Exchange 93
Section 9.04. Revocation and Effect of Consents 93
Section 9.05. Notation on or Exchange of Notes 93
Section 9.06. Trustee to Sign Amendments, etc. 93
Section 9.07. Acts of Holders 94

ARTICLE 10. GUARANTEES OF NOTES 95
Section 10.01. Subsidiary Guarantees of Notes 95
Section 10.02. Releases of Subsidiary Guarantees 96
Section 10.03. Limitation on Subsidiary Guarantor Liability 97
Section 10.04. “Trustee” to Include Paying Agent 97
Section 10.05. Execution and Delivery of Guaranty 97
Section 10.06. Subrogation 98

ARTICLE 11. SECURITY 98
Section 11.01. Collateral Agreements; Additional Collateral 98
Section 11.02. Release of Liens Securing Notes 100
Section 11.03. Release Documentation 101
Section 11.04. No Impairment of the Security Interests 101
Section 11.05. Collateral Agent 101
Section 11.06. Purchaser Protected 102
Section 11.07. Authorization of Receipt of Funds by the Trustee Under the Collateral Agreements 103
Section 11.08. Powers Exercisable by Receiver or Trustee 103
Section 11.09. Compensation and Indemnification 103

ARTICLE 12. MISCELLANEOUS 103
Section 12.01. Notices 103
Section 12.02. Certificate and Opinion as to Conditions Precedent 105
Section 12.03. Statements Required in Certificate or Opinion 105
Section 12.04. Rules by Trustee and Agents 106
Section 12.05. No Personal Liability of Directors, Officers, Employees and Stockholders 106
Section 12.06. Governing Law 106
Section 12.07. Waiver of Jury Trial 106
Section 12.08. No Adverse Interpretation of Other Agreements 106
Section 12.09. Successors 106
Section 12.10. Severability 107
Section 12.11. Table of Contents, Headings, etc. 107

Section 12.12. Counterparts 107
Section 12.13. Language of Notices, Etc. 107
Section 12.14. U.S.A. PATRIOT Act 107
Section 12.15. Force Majeure 107
Section 12.16. Foreign Sanction Regulations 108

EXHIBITS

EXHIBIT A Form of Note

EXHIBIT B Form of Supplemental Indenture

This INDENTURE, dated as of September 6, 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 September 6, 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 September 6, 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 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

Term	Defined in Section
“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 $697,195,000. 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 Section 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, 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: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

GUARANTORS:

COMSTOCK OIL & GAS, LP

By: Comstock Oil & Gas GP, LLC,
its general partner

By: Comstock Resources, Inc.,
its sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS - LOUISIANA, LLC

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS GP, LLC

By: Comstock Resources, Inc.,
its sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS INVESTMENTS LLC

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: Manager

COMSTOCK OIL & GAS HOLDINGS, INC.

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

TRUSTEE:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS TRUSTEE

By: /s/ PAUL H. KIM
Name: Paul H. Kim
Title: Assistant General Counsel

Signature Page to Senior Secured Notes Indenture

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. [205768 AP9]

ISIN NO. [US205768AP99]

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 September 6, 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 September 6, 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 4.2

COMSTOCK RESOURCES, INC.,

AND

EACH OF THE SUBSIDIARY GUARANTORS PARTY HERETO

---

7 ¾% Convertible Secured PIK Notes due 2019

INDENTURE

Dated as of September 6, 2016

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

as Trustee

TABLE OF CONTENTS

ARTICLE 1. DEFINITIONS AND INCORPORATION BY REFERENCE		1
Section 1.01.	Definitions	1
Section 1.02.	Other Definitions	35
Section 1.03.	Incorporation by Reference of Trust Indenture Act	35
Section 1.04.	Rules of Construction	36
ARTICLE 2. THE NOTES		37
Section 2.01.	Form and Dating	37
Section 2.02.	Execution and Authentication	37
Section 2.03.	Registrar and Paying Agent	38
Section 2.04.	Paying Agent to Hold Money in Trust	39
Section 2.05.	Holder Lists	39
Section 2.06.	Transfer and Exchange	39
Section 2.07.	Replacement Notes	44
Section 2.08.	Outstanding Notes	44
Section 2.09.	Treasury Notes	44
Section 2.10.	Temporary Notes	45
Section 2.11.	Cancellation	45
Section 2.12.	Defaulted Interest	45
Section 2.13.	CUSIP and ISIN Numbers	45
ARTICLE 3. REDEMPTION OF NOTES		46
Section 3.01.	Notice to Trustee	46
Section 3.02.	Selection by Trustee of Notes to Be Redeemed	46
Section 3.03.	Notice of Redemption	46
Section 3.04.	Deposit of Redemption Price	47
Section 3.05.	Notes Payable on Redemption Date	47
Section 3.06.	Notes Redeemed in Part	47
ARTICLE 4. COVENANTS		48
Section 4.01.	Payment of Principal, Premium, if any, and Interest	48
Section 4.02.	Maintenance of Office or Agency	48
Section 4.03.	Money for Security Payments to Be Held in Trust	48
Section 4.04.	Reports	50
Section 4.05.	Statement by Officers as to Default and Other Information	50
Section 4.06.	Payment of Taxes; Maintenance of Properties; Insurance	53
Section 4.07.	Limitation on Restricted Payments	54
Section 4.08.	Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries	57
Section 4.09.	Limitation on Indebtedness and Disqualified Stock	58
Section 4.10.	Limitation on Asset Sales	61
Section 4.11.	Limitation on Transactions with Affiliates	64
Section 4.12.	Limitation on Liens	65
Section 4.13.	Additional Subsidiary Guarantors	65
Section 4.14.	Corporate Existence	66

Section 4.15.	Offer to Repurchase Upon Change of Control	66
Section 4.16.	Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries	68
Section 4.17.	Suspended Covenants	68
Section 4.18.	Further Assurances	69
Section 4.19.	Limitation on Sale and Leaseback Transactions	70
ARTICLE 5. CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE		70
Section 5.01.	Company May Consolidate, etc., Only on Certain Terms	70
Section 5.02.	Successor Substituted	72
ARTICLE 6. DEFAULTS AND REMEDIES		72
Section 6.01.	Events of Default	72
Section 6.02.	Acceleration of Maturity; Rescission and Annulment	75
Section 6.03.	Collection of Indebtedness and Suits for Enforcement by Trustee	76
Section 6.04.	Trustee May File Proofs of Claim	77
Section 6.05.	Trustee May Enforce Claims Without Possession of Notes	78
Section 6.06.	Application of Money Collected	78
Section 6.07.	Limitation on Suits	78
Section 6.08.	Unconditional Right of Holders to Receive Principal, Premium and Interest	79
Section 6.09.	Restoration of Rights and Remedies	79
Section 6.10.	Rights and Remedies Cumulative	79
Section 6.11.	Delay or Omission Not Waiver	80
Section 6.12.	Control by Holders	80
Section 6.13.	Waiver of Past Defaults	80
Section 6.14.	Waiver of Stay, Extension or Usury Laws	81
Section 6.15.	The Collateral Agent	81
ARTICLE 7. TRUSTEE		81
Section 7.01.	Duties of Trustee	81
Section 7.02.	Certain Rights of Trustee	82
Section 7.03.	Trustee Not Responsible for Recitals or Issuance of Notes	84
Section 7.04.	May Hold Notes	84
Section 7.05.	Money Held in Trust	84
Section 7.06.	Compensation and Reimbursement	84
Section 7.07.	Corporate Trustee Required; Eligibility	85
Section 7.08.	Conflicting Interests	85
Section 7.09.	Resignation and Removal; Appointment of Successor	85
Section 7.10.	Acceptance of Appointment by Successor	87
Section 7.11.	Merger, Conversion, Consolidation or Succession to Business	87
Section 7.12.	Preferential Collection of Claims Against Company	87
Section 7.13.	Notice of Defaults	88
Section 7.14.	Reports by Trustee	88

ARTICLE 8. DEFEASANCE AND COVENANT DEFEASANCE		88
Section 8.01.	Company’s Option to Effect Defeasance or Covenant Defeasance	88
Section 8.02.	Defeasance and Discharge	88
Section 8.03.	Covenant Defeasance	89
Section 8.04.	Conditions to Defeasance or Covenant Defeasance	89
Section 8.05.	Deposited Money and U.S. Government Obligations to Be Held in Trust; Other Miscellaneous Provisions	91
Section 8.06.	Reinstatement	91
ARTICLE 9. SUPPLEMENTAL INDENTURES		92
Section 9.01.	Without Consent of Holders of Notes	92
Section 9.02.	With Consent of Holders of Notes	93
Section 9.03.	Consents in connection with Purchase, Tender or Exchange	94
Section 9.04.	Revocation and Effect of Consents	94
Section 9.05.	Notation on or Exchange of Notes	95
Section 9.06.	Trustee to Sign Amendments, etc.	95
ARTICLE 10. SUBSIDIARY GUARANTEES		95
Section 10.01.	Unconditional Guarantee	95
Section 10.02.	Subsidiary Guarantors May Consolidate, etc., on Certain Terms	96
Section 10.03.	Release of Subsidiary Guarantors	97
Section 10.04.	Limitation of Subsidiary Guarantors’ Liability	98
Section 10.05.	Contribution	98
Section 1.1	Severability	98
ARTICLE 11. SECURITY		99
Section 11.01.	Collateral Agreements; Additional Collateral	99
Section 11.02.	Release of Liens Securing Notes	101
Section 11.03.	Release Documentation	102
Section 11.04.	No Impairment of the Security Interests	102
Section 11.05.	Collateral Agent	102
Section 11.06.	Purchaser Protected	104
Section 11.07.	Authorization of Receipt of Funds by the Trustee Under the Collateral Agreements	104
Section 11.08.	Powers Exercisable by Receiver or Trustee	104
Section 11.09.	Compensation and Indemnification	104
ARTICLE 12. CONVERSION		104
Section 12.01.	Conversion	104
Section 12.02.	Conversion Procedures	106
Section 12.03.	Cash in Lieu of Fractional Shares	106
Section 12.04.	Taxes on Conversion	107
Section 12.05.	Company to Reserve, Provide and List Common Stock	107
Section 12.06.	Adjustment of Conversion Rate	107

Section 12.07.	No Adjustments	108
Section 12.08.	Notice of Adjustments	108
Section 12.09.	Notice of Certain Transactions	109
Section 12.10.	Effect of Reclassifications, Consolidations, Mergers, Binding Share Exchanges or Sales on Conversion Privilege	109
Section 12.11.	Trustee’s Disclaimer	111
ARTICLE 13. SATISFACTION AND DISCHARGE		111
Section 13.01.	Satisfaction and Discharge of Indenture	111
Section 13.02.	Application of Trust Money	113
ARTICLE 14. MISCELLANEOUS		113
Section 14.01.	Compliance Certificates and Opinions	113
Section 14.02.	Form of Documents Delivered to Trustee	113
Section 14.03.	Acts of Holders	114
Section 14.04.	Notices, etc. to Trustee, Company and Subsidiary Guarantors	115
Section 14.05.	Notice to Holders; Waiver	115
Section 14.06.	Effect of Headings and Table of Contents	116
Section 14.07.	Successors and Assigns	116
Section 14.08.	Severability	116
Section 14.09.	Benefits of Supplemental Indenture	116
Section 14.10.	Governing Law; Trust Indenture Act Controls	117
Section 14.11.	Legal Holidays	117
Section 14.12.	No Personal Liability of Directors, Officers, Employees and Stockholders	117
Section 14.13.	Holder Communications	118
Section 14.14.	Duplicate Originals	118
Section 14.15.	No Adverse Interpretation of Other Agreements	118
Section 14.16.	Force Majeure	118
Section 14.17.	Waiver of Jury Trial	118

EXHIBITS

EXHIBIT A	Form of Note
EXHIBIT B	Form of Supplemental Indenture
EXHIBIT C	Registration Rights Agreement

This INDENTURE, dated as of September 6, 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 September 6, 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 September 6, 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 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 September 6, 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 $270,557,000. 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: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

GUARANTORS:

COMSTOCK OIL & GAS, LP

By: Comstock Oil & Gas GP, LLC,
its general partner

By: Comstock Resources, Inc.,
its sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS - LOUISIANA, LLC

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS GP, LLC

By: Comstock Resources, Inc.,
its sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

Signature Page to 2019 Convertible Notes Indenture

COMSTOCK OIL & GAS INVESTMENTS LLC

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: Manager

COMSTOCK OIL & GAS HOLDINGS, INC.

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

TRUSTEE:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS TRUSTEE

By: /s/ PAUL H. KIM
Name: Paul H. Kim
Title: Assistant General Counsel

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. [205768 AM6]
ISIN NO. [US205768AM68]

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 September 6, 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 September 6, 2016 (as heretofore amended, supplemented or otherwise modified, the "*Indenture*"), providing for the issuance of the Company's 7 3⁄4% 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 4.3

COMSTOCK RESOURCES, INC.,

AND

EACH OF THE SUBSIDIARY GUARANTORS PARTY HERETO

---

9 ½% Convertible Secured PIK Notes due 2020

INDENTURE

Dated as of September 6, 2016

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

as Trustee

TABLE OF CONTENTS

ARTICLE 1. DEFINITIONS AND INCORPORATION BY REFERENCE 1

Section 1.01. Definitions 1

Section 1.02. Other Definitions 34

Section 1.03. Incorporation by Reference of Trust Indenture Act 35

Section 1.04. Rules of Construction 36

ARTICLE 2. THE NOTES 37

Section 2.01. Form and Dating 37

Section 2.02. Execution and Authentication 37

Section 2.03. Registrar and Paying Agent 38

Section 2.04. Paying Agent to Hold Money in Trust 39

Section 2.05. Holder Lists 39

Section 2.06. Transfer and Exchange 39

Section 2.07. Replacement Notes 44

Section 2.08. Outstanding Notes 44

Section 2.09. Treasury Notes 44

Section 2.10. Temporary Notes 45

Section 2.11. Cancellation 45

Section 2.12. Defaulted Interest 45

Section 2.13. CUSIP and ISIN Numbers 45

ARTICLE 3. REDEMPTION OF NOTES 46

Section 3.01. Notice to Trustee 46

Section 3.02. Selection by Trustee of Notes to Be Redeemed 46

Section 3.03. Notice of Redemption 46

Section 3.04. Deposit of Redemption Price 47

Section 3.05. Notes Payable on Redemption Date 47

Section 3.06. Notes Redeemed in Part 47

ARTICLE 4. COVENANTS 48

Section 4.01. Payment of Principal, Premium, if any, and Interest 48

Section 4.02. Maintenance of Office or Agency 48

Section 4.03. Money for Security Payments to Be Held in Trust 48

Section 4.04. Reports 50

Section 4.05. Statement by Officers as to Default and Other Information 50

Section 4.06. Payment of Taxes; Maintenance of Properties; Insurance 53

Section 4.07. Limitation on Restricted Payments 54

Section 4.08. Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries 57

Section 4.09. Limitation on Indebtedness and Disqualified Stock 58

Section 4.10. Limitation on Asset Sales 61

Section 4.11. Limitation on Transactions with Affiliates 64

Section 4.12. Limitation on Liens 65

Section 4.13. Additional Subsidiary Guarantors 65

Section 4.14. Corporate Existence 66

Section 4.15. Offer to Repurchase Upon Change of Control 66
Section 4.16. Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries 68
Section 4.17. Suspended Covenants 68
Section 4.18. Further Assurances 69
Section 4.19. Limitation on Sale and Leaseback Transactions 70

ARTICLE 5. CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE 70
Section 5.01. Company May Consolidate, etc., Only on Certain Terms 70
Section 5.02. Successor Substituted 72

ARTICLE 6. DEFAULTS AND REMEDIES 72
Section 6.01. Events of Default 72
Section 6.02. Acceleration of Maturity; Rescission and Annulment 75
Section 6.03. Collection of Indebtedness and Suits for Enforcement by Trustee 76
Section 6.04. Trustee May File Proofs of Claim 77
Section 6.05. Trustee May Enforce Claims Without Possession of Notes 78
Section 6.06. Application of Money Collected 78
Section 6.07. Limitation on Suits 78
Section 6.08. Unconditional Right of Holders to Receive Principal, Premium and Interest 79
Section 6.09. Restoration of Rights and Remedies 79
Section 6.10. Rights and Remedies Cumulative 79
Section 6.11. Delay or Omission Not Waiver 80
Section 6.12. Control by Holders 80
Section 6.13. Waiver of Past Defaults 80
Section 6.14. Waiver of Stay, Extension or Usury Laws 81
Section 6.15. The Collateral Agent 81

ARTICLE 7. TRUSTEE 81
Section 7.01. Duties of Trustee 81
Section 7.02. Certain Rights of Trustee 82
Section 7.03. Trustee Not Responsible for Recitals or Issuance of Notes 84
Section 7.04. May Hold Notes 84
Section 7.05. Money Held in Trust 84
Section 7.06. Compensation and Reimbursement 84
Section 7.07. Corporate Trustee Required; Eligibility 85
Section 7.08. Conflicting Interests 85
Section 7.09. Resignation and Removal; Appointment of Successor 85
Section 7.10. Acceptance of Appointment by Successor 87
Section 7.11. Merger, Conversion, Consolidation or Succession to Business 87
Section 7.12. Preferential Collection of Claims Against Company 87
Section 7.13. Notice of Defaults 88
Section 7.14. Reports by Trustee 88

ARTICLE 8. DEFEASANCE AND COVENANT DEFEASANCE 88
Section 8.01. Company's Option to Effect Defeasance or Covenant Defeasance 88
Section 8.02. Defeasance and Discharge 88
Section 8.03. Covenant Defeasance 89
Section 8.04. Conditions to Defeasance or Covenant Defeasance 89
Section 8.05. Deposited Money and U.S. Government Obligations to Be Held in Trust; Other Miscellaneous Provisions 91
Section 8.06. Reinstatement 91

ARTICLE 9. SUPPLEMENTAL INDENTURES 92
Section 9.01. Without Consent of Holders of Notes 92
Section 9.02. With Consent of Holders of Notes 93
Section 9.03. Consents in connection with Purchase, Tender or Exchange 94
Section 9.04. Revocation and Effect of Consents 94
Section 9.05. Notation on or Exchange of Notes 95
Section 9.06. Trustee to Sign Amendments, etc. 95

ARTICLE 10. SUBSIDIARY GUARANTEES 95
Section 10.01. Unconditional Guarantee 95
Section 10.02. Subsidiary Guarantors May Consolidate, etc., on Certain Terms 96
Section 10.03. Release of Subsidiary Guarantors 97
Section 10.04. Limitation of Subsidiary Guarantors' Liability 98
Section 10.05. Contribution 98
Section 1.1 Severability 98

ARTICLE 11. SECURITY 99
Section 11.01. Collateral Agreements; Additional Collateral 99
Section 11.02. Release of Liens Securing Notes 101
Section 11.03. Release Documentation 102
Section 11.04. No Impairment of the Security Interests 102
Section 11.05. Collateral Agent 102
Section 11.06. Purchaser Protected 104
Section 11.07. Authorization of Receipt of Funds by the Trustee Under the Collateral Agreements 104
Section 11.08. Powers Exercisable by Receiver or Trustee 104
Section 11.09. Compensation and Indemnification 104

ARTICLE 12. CONVERSION 104
Section 12.01. Conversion 104
Section 12.02. Conversion Procedures 106
Section 12.03. Cash in Lieu of Fractional Shares 106
Section 12.04. Taxes on Conversion 107
Section 12.05. Company to Reserve, Provide and List Common Stock 107
Section 12.06. Adjustment of Conversion Rate 107

Section 12.07. No Adjustments 108
Section 12.08. Notice of Adjustments 108
Section 12.09. Notice of Certain Transactions 109
Section 12.10. Effect of Reclassifications, Consolidations, Mergers, Binding Share Exchanges or Sales on Conversion Privilege 109
Section 12.11. Trustee’s Disclaimer 110

ARTICLE 13. SATISFACTION AND DISCHARGE 111
Section 13.01. Satisfaction and Discharge of Indenture 111
Section 13.02. Application of Trust Money 113

ARTICLE 14. MISCELLANEOUS 113
Section 14.01. Compliance Certificates and Opinions 113
Section 14.02. Form of Documents Delivered to Trustee 113
Section 14.03. Acts of Holders 114
Section 14.04. Notices, etc. to Trustee, Company and Subsidiary Guarantors 115
Section 14.05. Notice to Holders; Waiver 115
Section 14.06. Effect of Headings and Table of Contents 116
Section 14.07. Successors and Assigns 116
Section 14.08. Severability 116
Section 14.09. Benefits of Supplemental Indenture 116
Section 14.10. Governing Law; Trust Indenture Act Controls 117
Section 14.11. Legal Holidays 117
Section 14.12. No Personal Liability of Directors, Officers, Employees and Stockholders 117
Section 14.13. Holder Communications 118
Section 14.14. Duplicate Originals 118
Section 14.15. No Adverse Interpretation of Other Agreements 118
Section 14.16. Force Majeure 118
Section 14.17. Waiver of Jury Trial 118

EXHIBITS

EXHIBIT A	Form of Note
EXHIBIT B	Form of Supplemental Indenture
EXHIBIT C	Registration Rights Agreement

This INDENTURE, dated as of September 6, 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 September 6, 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 September 6, 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 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 September 6, 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 $169,747,000. 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: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

GUARANTORS:

COMSTOCK OIL & GAS, LP

By: Comstock Oil & Gas GP, LLC,
its general partner

By: Comstock Resources, Inc.,
its sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS—LOUISIANA, LLC

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS GP, LLC

By: Comstock Resources, Inc.,
its sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

Signature Page to 2020 Convertible Notes Indenture

COMSTOCK OIL & GAS INVESTMENTS LLC

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: Manager

COMSTOCK OIL & GAS HOLDINGS, INC.

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

TRUSTEE:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, AS TRUSTEE

By: /s/ PAUL H. KIM
Name: Paul H. Kim
Title: Assistant General Counsel

Signature Page to 2020 Convertible Notes Indenture

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. [205768 AN4]

ISIN NO. [US205768AN42]

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 September 6, 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.

[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

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 September 6, 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 4.4

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 September 6, 2016

to

INDENTURE

dated as of March 13, 2015

10% SENIOR SECURED NOTES DUE 2020

THIS FIRST SUPPLEMENTAL INDENTURE dated as of September 6, 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 August 31, 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 September 6, 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 September 2, 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: /s/ ROLAND O. BURNS
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: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS LOUISIANA, LLC

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS GP, LLC

By: Comstock Resources, Inc. as sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

[Signature Page to Comstock Resources, Inc. First Supplemental Indenture]

COMSTOCK OIL & GAS INVESTMENTS, LLC

By:	/s/ ROLAND O. BURNS
Name:	Roland O. Burns
Title:	Manager

COMSTOCK OIL & GAS HOLDINGS, INC.

By:	/s/ ROLAND O. BURNS
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: /s/ PAUL H. KIM
Name: Paul H. Kim
Title: Assistant General Counsel

[Signature Page to Comstock Resources, Inc. First Supplemental Indenture]

Exhibit 4.5

COMSTOCK RESOURCES, INC.,

THE SUBSIDIARY GUARANTORS NAMED HEREIN

and

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,

as Trustee

FIFTH SUPPLEMENTAL INDENTURE

dated as of September 6, 2016

to

INDENTURE

dated as of October 9, 2009

---

7 ¾% Senior Notes due 2019

THIS FIFTH SUPPLEMENTAL INDENTURE dated as of September 6, 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 August 31, 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 September 2, 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: /S/ ROLAND O. BURNS
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: /S/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS LOUISIANA, LLC

By: /S/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS GP, LLC

By: Comstock Resources, Inc. as sole member

By: /S/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

[Signature Page to Comstock Resources, Inc. Fifth Supplemental Indenture]

COMSTOCK OIL & GAS INVESTMENTS, LLC

By:	/S/ ROLAND O. BURNS
Name:	Roland O. Burns
Title:	Manager

COMSTOCK OIL & GAS HOLDINGS, INC.

By:	/S/ ROLAND O. BURNS
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: /s/ PAUL H. KIM
Name: Paul H. Kim
Title: Assistant General Counsel

[Signature Page to Comstock Resources, Inc. Fifth Supplemental Indenture]

Exhibit 4.6

COMSTOCK RESOURCES, INC.,

THE SUBSIDIARY GUARANTORS NAMED HEREIN

and

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,

as Trustee

SIXTH SUPPLEMENTAL INDENTURE

dated as of September 6, 2016

to

INDENTURE

dated as of October 9, 2009

---

9 ½% Senior Notes due 2020

THIS SIXTH SUPPLEMENTAL INDENTURE dated as of September 6, 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 August 31, 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 September 2, 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: /s/ ROLAND O. BURNS
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: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS LOUISIANA, LLC

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS GP, LLC

By: Comstock Resources, Inc. as sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

[Signature Page to Comstock Resources, Inc. Sixth Supplemental Indenture]

COMSTOCK OIL & GAS INVESTMENTS, LLC

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: Manager

COMSTOCK OIL & GAS HOLDINGS, INC.

By: /s/ ROLAND O. BURNS
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: /s/ PAUL H. KIM
Name: Paul H. Kim
Title: Assistant General Counsel

[Signature Page to Comstock Resources, Inc. Sixth Supplemental Indenture]

Exhibit 4.7

AMENDED AND RESTATED PRIORITY LIEN INTERCREDITOR AGREEMENT

THIS AMENDED AND RESTATED PRIORITY LIEN INTERCREDITOR AGREEMENT is dated as of September 6, 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 September 6, 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 September 6, 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: /s/ JAMES V. DUCOTE
Name: James V. Ducote
Title: Managing Director

Address:

700 Louisiana, Suite 2100
Houston, Texas 77002
Facsimile: 713-223-4007
Attention: James V. Ducote

[Signature Page to Amended and Restated Priority Lien Intercreditor Agreement]

BANK OF MONTREAL, as Revolving Credit Agreement Agent

By: /s/ JAMES V. DUCOTE
Name: James V. Ducote
Title: Managing Director

Address:

700 Louisiana, Suite 2100
Houston, Texas 77002
Facsimile: 713-223-4007
Attention: James V. Ducote

[Signature Page to Amended and Restated Priority Lien Intercreditor Agreement]

Solely for purposes of Section 4.24 of
this Agreement:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, as Existing Trustee

By: /s/ PAUL H. KIM
Name: Paul H. Kim
Title: Assistant General Counsel

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

[Signature Page to Amended and Restated Priority Lien Intercreditor Agreement]

AMERICAN STOCK TRANSFER &
TRUST COMPANY, LLC, as Trustee

By: /s/ PAUL H. KIM
Name: Paul H. Kim
Title: Assistant General Counsel

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

[Signature Page to Amended and Restated Priority Lien Intercreditor Agreement]

COMSTOCK RESOURCES, INC.

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS GP, LLC,

By: Comstock Resources, Inc., its sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS INVESTMENTS, LLC

By: Comstock Resources, Inc., its sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: Manager

[Signature Page to Amended and Restated Priority Lien Intercreditor Agreement]

COMSTOCK OIL & GAS, LP,

By: Comstock Oil & Gas GP, LLC, its general partner

By: Comstock Resources, Inc., its sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS HOLDINGS, INC.

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS—LOUISIANA, INC.

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

Address for each Grantor:

5300 Town and Country Blvd., Suite 500
Frisco, Texas 75034
Attn: Roland O. Burns

[Signature Page to Amended and Restated Priority Lien Intercreditor Agreement]

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 September 6, 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 September 6, 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

(b) 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:

<u>Acknowledged and agreed</u>:

COMSTOCK RESOURCES, INC.

By: ____________________________________
Name:
Title:

[Signature Page to Joinder Agreement to Amended and Restated Priority Lien Intercreditor Agreement]

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]

Exhibit 4.8

JUNIOR LIEN INTERCREDITOR AGREEMENT

dated as of September 6, 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 SEPTEMBER 6, 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 SEPTEMBER 6, 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 SEPTEMBER 6, 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 SEPTEMBER 6, 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

		Page
ARTICLE I.	DEFINITIONS	1
Section 1.01	Construction; Certain Defined Terms	1
ARTICLE II.	LIEN PRIORITIES	12
Section 2.01	Relative Priorities	12
Section 2.02	Prohibition on Marshalling, Etc.	13
Section 2.03	No New Liens	13
Section 2.04	Similar Collateral and Agreements	14
Section 2.05	No Duties of Agents	14
ARTICLE III.	ENFORCEMENT RIGHTS	18
Section 3.01	Limitation on Enforcement Action	18
Section 3.02	Standstill Period; Permitted Enforcement Action	19
Section 3.03	Insurance	19
Section 3.04	Notification of Release of Collateral	20
Section 3.05	No Interference; Payment Over	20
ARTICLE IV.	OTHER AGREEMENTS	22
Section 4.01	Release of Liens; Automatic Release of Second Liens	22
Section 4.02	Certain Agreements With Respect to Insolvency or Liquidation Proceedings	22
Section 4.03	Reinstatement	26
Section 4.04	Refinancings	27
Section 4.05	Amendments to Second Lien Documents	28
Section 4.06	Legends	28
Section 4.07	Second Lien Secured Parties as Unsecured Creditors; Judgment Lien Creditor	29
Section 4.08	Postponement of Subrogation	29
Section 4.09	Acknowledgment by the Secured Debt Representatives	29
ARTICLE V.	GRATUITOUS BAILMENT FOR PERFECTION OF CERTAIN SECURITY INTERESTS	29
Section 5.01	General	29
Section 5.02	Deposit Accounts	30
ARTICLE VI.	APPLICATION OF PROCEEDS; DETERMINATION OF AMOUNTS	30
Section 6.01	Application of Proceeds	30

Table of Contents
(continued)

		Page
Section 6.02	Determination of Amounts	31
ARTICLE VII.	NO RELIANCE; NO LIABILITY; OBLIGATIONS ABSOLUTE; CONSENT OF GRANTORS; ETC.	31
Section 7.01	No Reliance; Information	31
Section 7.02	No Warranties or Liability	32
Section 7.03	Obligations Absolute	33
Section 7.04	Grantors Consent	33
ARTICLE VIII.	REPRESENTATIONS AND WARRANTIES	33
Section 8.01	Representations and Warranties of Each Party	33
Section 8.02	Representations and Warranties of Each Representative	34
ARTICLE IX.	MISCELLANEOUS	34
Section 9.01	Notices	34
Section 9.02	Waivers; Amendment	35
Section 9.03	Actions Upon Breach; Specific Performance	35
Section 9.04	Parties in Interest	36
Section 9.05	Survival of Agreement	36
Section 9.06	Counterparts	36
Section 9.07	Severability	36
Section 9.08	Governing Law; Jurisdiction; Consent to Service of Process	36
Section 9.09	WAIVER OF JURY TRIAL	37
Section 9.10	Headings	37
Section 9.11	Conflicts	37
Section 9.12	Provisions Solely to Define Relative Rights	37
Section 9.13	Certain Terms Concerning the Second Lien Collateral Agent	37
Section 9.14	Certain Terms Concerning the Priority Lien Agent and Second Lien Collateral Agent	38
Section 9.15	Authorization of Secured Agents	38
Section 9.16	Further Assurances	38
Section 9.17	Relationship of Secured Parties	38
Section 9.18	Resignation of Agent	39

		Page
ARTICLE X.	SECOND LIEN RIGHT TO PURCHASE	40
Section 10.01	Purchase Right	40
Section 10.02	Purchase Notice	40
Section 10.03	Purchase Price	40
Section 10.04	Purchase Closing	41
Section 10.05	Actions After Purchase Closing	41
Section 10.06	No Recourse or Warranties; Defaulting Priority Lien Secured Parties	41

Annex and Exhibits

Annex I

Exhibit A Form of Priority Confirmation Joinder

Exhibit B Security Documents

JUNIOR LIEN INTERCREDITOR AGREEMENT, dated as of September 6, 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 September 6, 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 September 6, 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 September 6, 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 September 6, 2016, 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 September 6, 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 September 6, 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: /s/ JAMES V. DUCOTE
Name: James V. Ducote
Title: Managing Director

BANK OF MONTREAL, as Second Lien Collateral Agent

By: /s/ JAMES V. DUCOTE
Name: James V. Ducote
Title: Managing Director

ACKNOWLEDGED AND AGREED AS OF THE DATE FIRST ABOVE WRITTEN:

COMSTOCK RESOURCES, INC.

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS GP, LLC,

By: Comstock Resources, Inc., its sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS INVESTMENTS, LLC

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: Manager

COMSTOCK OIL & GAS, LP,

By: Comstock Oil & Gas GP, LLC, its general partner

By: Comstock Resources, Inc., its sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: Manager

COMSTOCK OIL & GAS HOLDINGS, INC.

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: Manager

COMSTOCK OIL & GAS – LOUISIANA, LLC

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: Manager

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 September 6, 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 September 6, 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 September 6, 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 September 6, 2016.

[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 September 6, 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 September 6, 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 4.9

WARRANT AGREEMENT

dated as of September 6, 2016

between

COMSTOCK RESOURCES, INC.

and

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,

as Warrant Agent

TABLE OF CONTENTS

		Page
Article 1 Definitions		1
Section 1.01	Certain Definitions	1
Article 2 Issuance, Execution and Transfer of Warrants		6
Section 2.01	Issuance and Delivery of Warrants	6
Section 2.02	Execution and Authentication of Warrants	6
Section 2.03	Registration, Transfer, Exchange and Substitution	7
Section 2.04	Form of Global Warrant Certificates	7
Section 2.05	Cancellation of the Global Warrant Certificates	7
Article 3 Exercise and Settlement of Warrants		8
Section 3.01	Exercise of Warrants	8
Section 3.02	Procedure for Exercise	8
Section 3.03	Settlement of Warrants	9
Section 3.04	Delivery of Common Shares	9
Section 3.05	No Fractional Common Shares or Warrants to Be Issued	10
Section 3.06	Acquisition of Warrants by Company	10
Section 3.07	Validity of Exercise	10
Section 3.08	Certain Calculations	10
Article 4 Adjustments		11
Section 4.01	Adjustments to Exercise Price	11
Section 4.02	Adjustments to Number of Warrants	13
Section 4.03	Certain Distributions of Rights and Warrants	13
Section 4.04	Stockholder Rights Plans	13
Section 4.05	Restrictions on Adjustments	14
Section 4.06	Successor upon Consolidation, Merger and Sale of Assets	14
Section 4.07	Adjustment upon Reorganization Event	15
Section 4.08	Common Shares Outstanding; Common Shares Reserved for Issuance on Exercise	16
Section 4.09	Calculations; Instructions to Warrant Agent	16
Section 4.10	Notice of Adjustments	16
Section 4.11	Warrant Agent Not Responsible for Adjustments or Validity	16
Section 4.12	Statements on Warrants	17
Section 4.13	Effect of Adjustment	17
Article 5 Other Provisions Relating to Rights of Global Warrant Holder		17
Section 5.01	No Rights as Stockholders	17
Section 5.02	Mutilated or Missing Global Warrant Certificates	17
Section 5.03	Modification, Waiver and Meetings	17
Article 6 Concerning the Warrant Agent and Other Matters		18
Section 6.01	Payment of Certain Taxes	18
Section 6.02	Change of Warrant Agent	18
Section 6.03	Compensation; Further Assurances	20
Section 6.04	Reliance on Counsel	20

Section 6.05	Proof of Actions Taken	20
Section 6.06	Correctness of Statements	20
Section 6.07	Validity of Agreement	20
Section 6.08	Use of Agents	20
Section 6.09	Liability of Warrant Agent	20
Section 6.10	Legal Proceedings	21
Section 6.11	Actions as Agent	21
Section 6.12	Appointment and Acceptance of Agency	21
Section 6.13	Successors and Assigns	21
Section 6.14	Notices	21
Section 6.15	Applicable Law; Jurisdiction	22
Section 6.16	Waiver of Jury Trial	22
Section 6.17	Benefit of this Warrant Agreement	22
Section 6.18	Registered Global Warrant Holder	22
Section 6.19	Headings	23
Section 6.20	Counterparts	23
Section 6.21	Entire Agreement	23
Section 6.22	Severability	23
Section 6.23	Termination	23
Section 6.24	Confidentiality	23
Section 6.25	Force Majeure	23

WARRANT AGREEMENT

Warrant Agreement (as it may be amended from time to time, this "**Warrant Agreement**"), dated as of September 6, 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 seventeen thousand three hundred forty-two (1,917,342) 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 1,917,342 (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:

$$E_1 = E_0 \times \frac{N_0}{N_1}$$

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:

$$E_1 = E_0 \ x \ \frac{\overset{P}{FMV}}{P}$$

where:

E1	=	the Exercise Price in effect immediately after the Open of Business on the Ex-Date for such dividend or distribution;
E0	=	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: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President and Chief Financial Officer

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

By: /s/ PAUL H. KIM
Name: Paul H. Kim
Title: Assistant General Counsel

[SIGNATURE PAGE TO WARRANT AGREEMENT]

SCHEDULE A

SCHEDULE OF INCREASES OR DECREASES IN WARRANTS

The initial Number of Warrants is 1,917,342. In accordance with the Warrant Agreement dated as of September 6, 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. 001 CUSIP NO. 205768 112

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.

September 6, 2016

NUMBER OF WARRANTS: Initially, 1,917,342 Warrants, subject to adjustment as described in the Warrant Agreement dated as of September 6, 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:

<u>Full Physical Settlement</u>: 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.

<u>Net Share Settlement</u>: 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:

Cede & Co., 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 September 6, 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 September 6, 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. 001 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 10.1

SECOND AMENDMENT TO CREDIT AGREEMENT

This SECOND AMENDMENT TO CREDIT AGREEMENT (this "**Amendment**") dated as of September 6, 2016 (the "**Amendment Effective Date**"), is among COMSTOCK RESOURCES, INC. (the "**Borrower**"), the financial institutions party hereto as lenders, and BANK OF MONTREAL, as administrative agent for the Lenders (in such capacity, together with its successors and assigns, the "**Administrative Agent**").

PRELIMINARY STATEMENT

A. The Borrower, the Administrative Agent, the Lenders and certain other parties have entered into that certain Credit Agreement dated as of March 4, 2015 (as amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the "**Credit Agreement**").

B. Reference is made to that certain Subsidiary Guaranty by certain of the Borrower's subsidiaries in favor of the Administrative Agent dated as of March 13, 2015 (as amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the "**Guaranty**").

C. The Borrower has informed the Administrative Agent that it plans to incur secured Indebtedness in connection with the exchange of (i) up to $700,000,000 in aggregate principal amount of its outstanding 2015 Senior Secured Notes for certain 10% Senior Secured Toggle Notes due 2020 issued by the Borrower, (ii) up to $288,516,000 in aggregate principal amount of its outstanding 2011 Senior Notes for certain 7 ¼% Second Lien Convertible PIK Notes due 2019 issued by the Borrower and (iii) up to $174,607,000 in aggregate principal amount of its outstanding 2012 Senior Notes for certain 9 ½% Second Lien Convertible PIK Notes due 2020 issued by the Borrower, in each case as more fully described in that certain Registration Statement on Form S-4 filed with the Securities and Exchange Commission on August 1, 2016, as amended (collectively, the "**Notes Exchange Transaction**").

D. The Borrower has requested that the Administrative Agent and the Lenders make certain amendments to the Credit Agreement and the Guaranty with respect to the Notes Exchange Transaction and the Indebtedness outstanding after giving effect thereto and make certain other amendments as more particularly set forth herein.

E. Subject to the terms and conditions of this Amendment, the Administrative Agent and the Lenders have entered into this Amendment in order to effectuate such amendments and modifications to the Credit Agreement and the Guaranty, as set forth herein.

NOW THEREFORE, in consideration of the foregoing and the mutual agreements set forth herein, the parties agree as follows:

Section 1. ***Definitions***. Unless otherwise defined in this Amendment, each capitalized term used in this Amendment has the meaning assigned to such term in the Credit Agreement.

Section 2. ***Amendments to the Credit Agreement***. Effective as of the Amendment Effective Date, the Credit Agreement (including Schedule 7.10 thereto) is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Credit Agreement attached as Exhibit A hereto.

Section 3. ***Amendment to Guaranty***. Effective as of the Amendment Effective Date, the reference to the term "Intercreditor Agreement" in Section 5.7 of the Guaranty, shall be amended and restated to be a reference to "Intercreditor Agreements".

Section 4. ***Ratification***. The Borrower hereby ratifies and confirms all of the Obligations under the Credit Agreement (as amended hereby) and the other Loan Documents, and, in particular, affirms that the terms of the Security Documents secure, and will continue to secure, all Obligations, after giving effect to this Amendment.

Section 5. ***Effectiveness***. This Amendment shall become effective on the Amendment Effective Date upon satisfaction of all of the conditions set forth in this Section 5:

(a) The Administrative Agent shall have received duly executed counterparts of this Amendment from the Borrower, the Administrative Agent and the Majority Lenders;

(b) The Administrative Agent shall have received a fully executed copy of the Priority Lien Intercreditor Agreement and the Second Lien Intercreditor Agreement (each as defined in the Credit Agreement, as amended hereby) executed by the parties thereto;

(c) The Administrative Agent shall have received a fully executed copy of the Security Documents listed on Exhibit B attached hereto;

(d) The Administrative Agent shall have received fully executed copies of the Indenture Debt Documents listed on Exhibit C attached hereto;

(e) The Administrative Agent shall have received evidence reasonably satisfactory to it that the Notes Exchange Transaction shall have been consummated, or concurrently with the effectiveness of this Amendment will be consummated;

(f) The Borrower shall have confirmed and acknowledged to the Administrative Agent and the Lenders, and by its execution and delivery of this Amendment, the Borrower does hereby confirm and acknowledge to the Administrative Agent and the Lenders, that (i) the execution, delivery and performance of this Amendment, the Priority Lien Intercreditor Agreement, the Second Lien Intercreditor Agreement and the Security Documents (collectively, the "**Amendment Documents**") has been duly authorized by all requisite corporate action on the part of the Borrower and each other Loan Party; (ii) the Credit Agreement (as amended hereby) and each other Loan Document constitute valid and legally binding agreements enforceable against the Borrower and each other Loan Party that is a party thereto in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other similar laws relating to or affecting the enforcement of creditors' rights generally and by general principles of equity,

(iii) the representations and warranties by the Borrower and the other Loan Parties contained in the Credit Agreement and in the other Loan Documents are true and correct on and as of the date hereof in all material respects as though made as of the date hereof, and (iv) no Default or Event of Default exists under the Credit Agreement or any of the other Loan Documents; and

(g) The Administrative Agent shall be satisfied that the Borrower is in compliance with Sections 6.16 and 6.19 of the Credit Agreement, as amended hereby.

Section 6. ***Governing Law***. This Amendment shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 7. ***Miscellaneous***. (a) On and after the effectiveness of this Amendment, each reference in each Loan Document to "this Amendment", "this Note", "this Mortgage", "hereunder", "hereof" or words of like import, referring to such Loan Document, and each reference in each other Loan Document to "the Credit Agreement", "the Notes", "the Mortgages", "thereunder", "thereof" or words of like import referring to the Credit Agreement, the Notes, or the Mortgage or any of them, shall mean and be a reference to such Loan Document, the Credit Agreement, the Notes, the Mortgage or any of them, as amended or otherwise modified by this Amendment; (b) the execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any default of the Borrower or any right, power or remedy of the Administrative Agent or the Lenders under any of the Loan Documents, nor constitute a waiver of any provision of any of the Loan Documents and except as otherwise modified by the terms hereof, the Credit Agreement, the Guaranty and such other Loan Documents shall remain in full force and effect; (c) this Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement; and (d) delivery of an executed counterpart of a signature page to this Amendment by telecopier shall be effective as delivery of a manually executed counterpart of this Amendment.

Section 8. ***Final Agreement***. THE CREDIT AGREEMENT, THE GUARANTY, AND THE OTHER LOAN DOCUMENTS, INCLUDING THIS AMENDMENT, REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO ORAL AGREEMENTS BETWEEN THE PARTIES.

[Signature Pages Follow]

IN WITNESS WHEREOF, each of the parties hereto has caused this Second Amendment to Credit Agreement to be executed by its officer(s) thereunto duly authorized as of the date first above written.

BORROWER:

COMSTOCK RESOURCES, INC.,
a Nevada corporation

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President and Chief Financial Officer

ADMINISTRATIVE AGENT AND LENDERS:

BANK OF MONTREAL, as Administrative Agent and Issuing Bank and Lender

By: /s/ JAMES V. DUCOTE
Name: James V. Ducote
Title: Managing Director

BANK OF AMERICA, N.A., as Lender

By: /s/ RAZA JAFFERI
Name: Raza Jafferi
Title: Vice President

ACKNOWLEDGMENT BY GUARANTORS

Each of the undersigned Guarantors hereby (i) consents to the terms and conditions of that certain Second Amendment to Credit Agreement dated as of September 6, 2016 (the "**Amendment**"), including the terms of Section 3 of the Amendment (ii) acknowledges and agrees that its consent is not required for the effectiveness of the Amendment, (iii) ratifies and acknowledges its respective Obligations under each Loan Document to which it is a party and affirms that the terms of its respective Guaranty guarantees, and will continue to guarantee, the Obligations, after giving effect to the Amendment, and (iv) represents and warrants that (a) no Default or Event of Default has occurred and is continuing, (b) it is in full compliance with all covenants and agreements pertaining to it in the Loan Documents, and (c) it has reviewed a copy of the Amendment.

COMSTOCK OIL & GAS HOLDINGS, INC.
COMSTOCK OIL & GAS - LOUISIANA, LLC
COMSTOCK OIL & GAS GP, LLC,
By Comstock Resources, Inc., its sole member
COMSTOCK OIL & GAS, LP,
By Comstock Oil & Gas GP, LLC,
its general partner,
By Comstock Resources, Inc., its sole member

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: President

COMSTOCK OIL & GAS INVESTMENTS, LLC

By: /s/ ROLAND O. BURNS
Name: Roland O. Burns
Title: Manager

Exhibit A

CREDIT AGREEMENT

Dated as of March 4, 2015

among

COMSTOCK RESOURCES, INC.,
as the Borrower,

BANK OF MONTREAL,
as Administrative Agent and Issuing Bank,

BANK OF AMERICA, N.A.,
as Syndication Agent

The Other Lenders Party Hereto,

BMO CAPITAL MARKETS, INC.
as Arranger

CREDIT AGREEMENT

This CREDIT AGREEMENT is dated as of March 4, 2015, among COMSTOCK RESOURCES, INC., a Nevada corporation ("Borrower"), each lender from time to time party hereto (collectively, the "Lenders" and each individually, a "Lender"), and BANK OF MONTREAL, as Administrative Agent and Issuing Bank, BANK OF AMERICA, N.A., as Syndication Agent.

ARTICLE I.

DEFINITIONS AND ACCOUNTING TERMS

SECTION 1.1 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

"2011 Senior Notes" means those certain 7 ¾% senior unsecured notes due 2019 issued by the Borrower ~~in an aggregate principal amount of $400.0 million on the date of issuance thereof~~on March 14, 2011 under the 2011 Senior Notes Indenture.

"2011 Senior Notes Indenture" means that certain Third Supplemental Indenture dated as of March 14, 2011 by and among Borrower, as issuer, and The Bank of New York Mellon Trust Company, N.A., as trustee, and one or more Loan Parties, as guarantors, and all related documentation entered into in connection therewith pursuant to which the 2011 Senior Notes were issued, as the same may be amended, restated, modified or supplemented from time to time in accordance with the terms hereof.

"2012 Senior Notes" means those certain 9 ½% senior unsecured notes due 2020 issued by the Borrower~~ in an aggregate principal amount of $300.0 million on the date of issuance thereof~~ on June 5, 2012 under the 2012 Senior Notes Indenture.

"2012 Senior Notes Indenture" means that certain Fourth Supplemental Indenture dated as of June 5, 2012, by and among Borrower, as issuer, and The Bank of New York Mellon Trust Company, N.A., as trustee, and one or more Loan Parties, as guarantors, and all related documentation entered into in connection therewith pursuant to which the 2012 Senior Notes were issued, as the same may be amended, restated, modified or supplemented from time to time in accordance with the terms hereof.

"2015 Senior~~ Secured~~ Notes" means those certain senior ~~secured~~unsecured notes due 2020 ~~to be ~~issued by the Borrower ~~in an aggregate principal amount of $700.0 million on the date of issuance thereof~~on March 13, 2015 under the 2015 Senior ~~Secured ~~Notes Indenture.

"2015 Senior~~ Secured~~ Notes Indenture" means that certain Indenture ~~to be ~~dated~~,~~ as of ~~the Closing Date,~~March 4, 2015, by and among Borrower, as issuer, and The Bank of New York Mellon Trust Company, N.A., as trustee, and one or more Loan Parties, as guarantors, and all related documentation entered into in connection therewith ~~(excluding Security Documents and the Intercreditor Agreement)~~ pursuant to which the 2015 Senior ~~Secured ~~Notes ~~will be~~were issued, as the same may be amended, restated, modified or supplemented from time to time in accordance with the terms hereof.

"2019 Second Lien Indenture" means that certain Indenture dated as of September 6, 2016 by and among Borrower, as issuer, the 2019 Second Lien Trustee, as trustee, and one or more Loan Parties, as guarantors, and all related documentation entered into in connection therewith (excluding Security Documents and the Intercreditor Agreements) pursuant to which the 2019 Second Lien Indenture Notes are issued, as the same may be amended, restated, modified or supplemented from time to time in accordance with the terms hereof.

"2019 Second Lien Indenture Notes" means those certain 7 1⁄4% Convertible Secured PIK Notes due 2019 issued on September 6, 2016 by the Borrower under the 2019 Second Lien Indenture, together with, additional securities issued in connection with the payment of interest in kind on such notes.

"2019 Second Lien Trustee" means American Stock Transfer & Trust Company, LLC, as trustee under the 2019 Second Lien Indenture.

"2020 Second Lien Indenture" means that certain Indenture dated as of September 6, 2016 by and among Borrower, as issuer, and the 2020 Second Lien Trustee, as trustee, and one or more Loan Parties, as guarantors, and all related documentation entered into in connection therewith (excluding Security Documents and the Intercreditor Agreements) pursuant to which the 2020 Second Lien Indenture Notes are issued, as the same may be amended, restated, modified or supplemented from time to time in accordance with the terms hereof.

"2020 Second Lien Indenture Notes" means those certain 9 1⁄2% Convertible Secured PIK Notes due 2020 issued on September 6, 2016 by the Borrower under the 2020 Second Lien Indenture , together with, additional securities issued in connection with the payment of interest in kind on such notes.

"2020 Second Lien Trustee" means American Stock Transfer & Trust Company, LLC, as trustee under the 2020 Second Lien Indenture.

"Account Control Agreements" shall mean each Account Control Agreement executed and delivered by the Borrower pursuant to this Agreement, in form and substance satisfactory to the parties thereto.

"Adjusted LIBO Rate" means, with respect to each particular Borrowing comprised of LIBO Rate Loans and the associated LIBO Rate and Reserve Percentage, the rate per annum calculated by the Administrative Agent (rounded upwards, if necessary, to the next higher 1/100%) determined on a daily basis pursuant to the following formula:

$$\text{Adjusted LIBO Rate} = \frac{\text{LIBO Rate}}{(1.00\% - \text{Reserve Percentage})}$$

"Administrative Agent" means Bank of Montreal in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"Administrative Agent's Office" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 10.2, or such other address or account as the Administrative Agent may from time to time designate to the Borrower, the Issuing Bank, and the Lenders.

"Advance Payment Contract" means any contract whereby any Loan Party either (a) receives or becomes entitled to receive (either directly or indirectly) any payment (an "Advance Payment") to be applied toward payment of the purchase price of Hydrocarbons produced or to be produced from Oil and Gas Properties owned by any Loan Party and which Advance Payment is, or is to be, paid in advance of actual delivery of such production to or for the account of the purchaser regardless of such production, or (b) grants an option or right of refusal to the purchaser to take delivery of such production in lieu of payment, and, in either of the foregoing instances, the Advance Payment is, or is to be, applied as payment in full for such production when sold and delivered or is, or is to be, applied as payment for a portion only of the purchase price thereof or of a percentage or share of such production; provided that inclusion of the standard "take or pay" provisions in any gas sales or purchase contract or any other similar contract shall not, in and of itself, constitute such contract as an Advance Payment Contract for the purposes hereof.

"Affiliate" means, as to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with, such Person. A Person shall be deemed to be "controlled by" any other Person if such other Person possesses, directly or indirectly, the power (a) to vote 10% or more of the securities (on a fully diluted basis) having ordinary voting power for the election of directors or managing general partners; or (b) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Agent and Arranger Fee Letter" has the meaning set forth in Section 2.8(b).

"Agent-Related Persons" means the Administrative Agent (including any successor administrative agent), together with its Affiliates (including, in the case of BMO in its capacity as the Administrative Agent, the Issuing Bank and the Arranger), and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

"Aggregate Commitments" means, as of any date, the sum of the Commitment Amounts of all the Lenders.

"Agreement" means this Credit Agreement, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Anti-Terrorism Laws" has the meaning set forth in Section 5.14.

"Arranger" means BMO Capital Markets, Inc., in its capacity as sole arranger.

"Asset Coverage Ratio" means, on any date of determination, the ratio of (a) PV-9 to (b) Outstanding Amount. For the purposes of calculating the Asset Coverage Ratio on a pro forma basis, (i) PV-9 at any time shall be calculated to account for dispositions and acquisitions of Oil and Gas Properties consummated by the Borrower or any Restricted Subsidiary and any Hedge Liquidation of any Hedging Agreement, in each case occurring since the date of the Engineering Report most recently delivered pursuant hereto and (ii) the Outstanding Amount shall be calculated to account for the Borrower or any of its Restricted Subsidiaries incurring, assuming, guaranteeing, repaying, repurchasing, redeeming, defeasing or otherwise discharging any such Indebtedness since the end of the most recent fiscal quarter.

"Attorney Costs" means and includes all reasonable fees and disbursements of any law firm or other external counsel.

"Attributable Indebtedness" means, on any date, (a) in respect of any capital lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease.

"Base Rate" means, on any date and with respect to all Base Rate Loans, a fluctuating rate of interest per annum equal to the highest of (a) the rate of interest most recently announced by the Administrative Agent at its domestic Lending Office as its base rate for dollar advances made in the United States, (b) the Federal Funds Rate most recently determined by the Administrative Agent plus ½% (0.5%) per annum and (c) the rate per annum determined by the Administrative Agent to be the offered rate that appears on Reuters Screen LIBOR01 Page (or on any successor or substitute page of such page) for deposits in Dollars for a one month Interest Period in effect on such day determined as of approximately 11:00 a.m. (London, England time) on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus one percent (1.00%). The Base Rate is not necessarily intended to be the lowest rate of interest determined by the Administrative Agent or any Lender in connection with extensions of credit. Changes in the rate of interest on that portion of any Loans maintained as Base Rate Loans will take effect simultaneously with each change in the Base Rate. In no event shall the Base Rate be less than 0%. The Administrative Agent will promptly give notice to the Borrower of changes in the Base Rate.

"Base Rate Loan" means a Loan that bears interest based on the Base Rate.

"Base Rate Spread" means, with respect to any Base Rate Loan for any time prior to the Maturity Date, 1.5% per annum.

"BMO" means Bank of Montreal and its successors and assigns.

"Board" means the Board of Governors of the Federal Reserve System of the United States of America.

"Borrower" has the meaning set forth in the introductory paragraph hereto.

"Borrowing" means a borrowing consisting of simultaneous Loans of the same Type and having the same Interest Period made by Lenders pursuant to Section 2.1.

"Business Day" means any day other than a Saturday, Sunday, or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, Chicago, Illinois or Houston, Texas and, if such day relates to any LIBO Rate Loan, means any such day on which dealings in Dollar deposits are conducted in London, England.

"Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Issuing Bank and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances pursuant to documentation in form and substance satisfactory to the Administrative Agent and the Issuing Bank (which documents are hereby consented to by the Lenders). Derivatives of such term shall have corresponding meaning. The Borrower hereby grants the Administrative Agent, for the benefit of the Issuing Bank and the Lenders, a Lien on all such cash and deposit account balances. Cash collateral shall be maintained in a blocked account at the Administrative Agent or other institutions satisfactory to the Administrative Agent subject to control arrangements satisfactory to the Administrative Agent.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Change of Control" means, with respect to any Person, an event or series of events by which:

(a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such Person or its subsidiaries, or any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person shall be deemed to have "beneficial ownership" of all securities that such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of 50% or more of the equity interests of such Person; or

(b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of such Person cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body.

"Closing Date" means the first date all the conditions precedent in Section 4.1 are satisfied or waived in accordance with Section 4.1 (or, in the case of Section 4.1(b), waived by the Person entitled to receive the applicable payment).

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated thereunder.

"COGI" means Comstock Oil & Gas, LP, a Nevada limited partnership, successor-by-conversion to Comstock Oil & Gas, Inc.

"COGI GP" means Comstock Oil & Gas GP, LLC, a Nevada limited liability company.

"COGI LP" means Comstock Oil & Gas Investments, LLC, a Nevada limited partnership.

"COGH" means Comstock Oil & Gas Holdings, Inc., a Nevada corporation.

"COGLA" means Comstock Oil & Gas – Louisiana, LLC, a Nevada limited liability company, successor-by-conversion to Comstock Oil & Gas – Louisiana, Inc., a Nevada corporation.

"Commitment" means, as to each Lender, its obligation to (a) make Loans to the Borrower pursuant to Section 2.1, and (b) purchase participations in L/C Obligations pursuant to Section 2.3, in an aggregate principal amount at any one time outstanding not to exceed such Lender's Commitment Amount.

"Commitment Amount" means, as to each Lender, the amount set forth opposite such Lender's name on Schedule 2.1, as such amount may be increased, reduced or adjusted from time to time in accordance with this Agreement.

"Commitment Fee Rate" means, for any time prior to the Maturity Date, 0.50% per annum.

"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.

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

"Compliance Certificate" means a certificate substantially in the form of Exhibit C.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Credit Extension" means each of the following: (a) a Borrowing, and (b) an L/C Credit Extension.

"Debt to be Repaid" means Indebtedness outstanding on the Closing Date under the Prior Credit Facility.

"Debtor Relief Laws" means the Bankruptcy Code of the United States of America, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States of America or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Default" means any event that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

"Default Rate" means an interest rate equal to (a) the Base Rate plus (b) the Base Rate Spread, if any, applicable to Base Rate Loans plus (c) 2% per annum; provided, however, that with respect to a LIBO Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any LIBOR Spread) otherwise applicable to such Loan plus 2% per annum, in each case to the fullest extent permitted by applicable Laws.

"Defaulting Lender" means, subject to Section 2.13(f), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, any Issuing Bank, or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit) within two Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or any Issuing Bank in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.13(f)) upon delivery of written notice of such determination to the Borrower, each Issuing Bank and each Lender.

“Disqualified Stock” means any equity interest that, by its terms (or by the terms of any security or other equity interest into which it is convertible or for which it is exchangeable), or upon the happening of any event, (i) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or (ii) is redeemable at the option of the holder thereof, in whole or in part, (iii) provides for scheduled payments or dividends in cash or (iv) is or becomes convertible into or exchangeable for Indebtedness or any other equity interests that would constitute Disqualified Stock.

“Disposition” or “Dispose” means the sale, transfer, license or other disposition (including any sale and leaseback transaction) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Dollar” and “$” means lawful money of the United States of America.

“Eligible Assignee” has the meaning specified in Section 10.7.6.

“Engineering Report” means the Initial Engineering Report and each engineering report delivered pursuant to Section 6.2(g) or 6.2(h).

“Environmental Laws” means all Laws relating to environmental, health, safety and land use matters applicable to any property.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any regulations issued pursuant thereto.

“ERISA Affiliate” means any trade or business (whether or not incorporated) under common control with the Borrower or any Guarantor within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (f) the determination that any Pension Plan is considered an at-risk plan within the meaning of Section 430 of the Code or Section 303 of ERISA; (g) the determination that any Multiemployer Plan is in endangered or critical status within the meaning of Sections 431 and 432 of the Code or

Sections 304 and 305 of ERISA; or (h) the imposition of any liability under Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

"Event of Default" means any of the events or circumstances specified in Article VIII.

"Exchange Offer" means a series of transactions occurring on September 6, 2016 in which the Borrower and one or more of the Loan Parties will (i) exchange up to $700,000,000 in aggregate principal amount of the 2015 Senior Notes for the Priority Lien Indenture Notes, (ii) exchange up to $288,516,000 in aggregate principal amount of the 2011 Senior Notes for the 2019 Second Lien Indenture Notes, and (iii) exchange up to $174,607,000 in aggregate principal of the 2012 Senior Notes for the 2020 Second Lien Indenture Notes, as more fully described in that certain Registration Statement on Form S-4 filed with the Securities and Exchange Commission on August 1, 2016, as amended.

"Excluded Swap Obligation" means, with respect to any Loan Party, any obligation or liability in respect of a Hedging Agreement if, and to the extent that, all or a portion of such obligation or liability of such Loan Party with respect to, or the grant by such Loan Party of a security interest to secure, such obligation or liability (or any guaranty thereof or other agreement or undertaking agreeing to guaranty, repay, indemnify or otherwise be liable therefor) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) (a) by virtue of such Loan Party's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the obligation or other liability of such Loan Party or the grant of such security interest becomes or would become effective with respect to such obligation or other liability or (b) in the case of any obligation or liability in respect of a Hedging Agreement subject to a clearing requirement pursuant to section 2(h) of the Commodity Exchange Act (or any successor provision thereto), because such Loan Party is a "financial entity," as defined in section 2(h)(7)(C)(i) the Commodity Exchange Act (or any successor provision thereto), at the time the obligation or other liability of such Loan Party becomes or would become effective with respect to such obligation or liability. If any obligation or liability in respect of a Hedging Agreement arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such obligation or liability that is attributable to swaps for which such guaranty obligation or other liability or security interest is or becomes illegal.

"Executive Order" has the meaning set forth in Section 5.14.

"FCPA" has the meaning set forth in Section 5.14.

"Federal Funds Rate" means, for any day, the rate per annum (rounded upwards to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate charged to the Administrative Agent on such day on such transactions as determined by the Administrative Agent.

"Foreign Lender" has the meaning specified in Section 3.8.

"GAAP" means generally accepted accounting principles and practices that are recognized as such by the Financial Accounting Standards Board (or any generally recognized successor). If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and the Borrower or the Majority Lenders or the Administrative Agent shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP; provided that, until so amended, (a) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (b) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

"Governmental Requirements" means all judgment, orders, writs, injunctions, decrees, awards, laws, ordinances, statutes, regulations, rules, franchises, permits, certificates, licenses, authorizations and the like and any other requirements of any government or any commission, board, court, agency, instrumentality or political subdivision thereof.

"Guarantors" means each of the Subsidiaries listed in Part (b) of Schedule 5.13 and each other Subsidiary of the Borrower that shall have executed and delivered a Guaranty to the Administrative Agent for the benefit of the Lenders; provided that upon the release of any Subsidiary's Guaranty in accordance with this Agreement, such Subsidiary shall thereafter be excluded from the definition of "Guarantors" (unless and until such Subsidiary shall thereafter deliver another Guaranty).

"Guaranty" means (a) each subsidiary guaranty (including any amended and restated subsidiary guaranty) dated as of the Closing Date made by each of the Guarantors in favor of the Administrative Agent on behalf of the Lenders, in form and substance satisfactory to the parties thereto in favor of the Administrative Agent on behalf of the Lenders delivered in accordance with this Agreement.

"Guaranty Obligation" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guarantying or having the economic effect of guarantying any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct

or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligees in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligees against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person; provided, however, that the term "Guaranty Obligation" shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guaranty Obligation shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guaranty Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guarantying Person in good faith.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Hedge Liquidation" means the sale, assignment, novation, liquidation, unwind, cancellation, modification or termination of all or any part of any Hedging Agreement (other than, in each case, at its scheduled maturity).

"Hedging Agreement" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing 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.

"Hedging Termination Value" means the net effect of any Hedge Liquidation (as reasonably determined by the Administrative Agent.

"Highest Lawful Rate" has the meaning given to it in Section 10.10.

"Honor Date" has the meaning set forth in Section 2.3(c)(i).

"Hydrocarbon Interest" means all rights, titles, interests and estates now or hereafter acquired in and to oil and gas leases, oil, gas and mineral leases or other liquid or gaseous hydrocarbon leases, mineral fee interests, overriding royalty and royalty interests, operating rights, net profit interests, production payment interests and other similar types of interests, including any reserved or residual interest of whatever nature.

"Hydrocarbons" means oil, gas, casinghead gas, drip gasoline, natural gasoline, condensate, distillate, liquid hydrocarbons, gaseous hydrocarbons and all products refined or separated therefrom.

"ICC" has the meaning set forth in Section 2.3(g).

"Indebtedness" means, as to any Person at a particular time, all of the following:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) any direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), banker's acceptances, bank guaranties, surety bonds and similar instruments;

(c) net obligations under any Hedging Agreement in an amount equal to (i) if such Hedging Agreement has been closed out, the termination value thereof, or (ii) if such Hedging Agreement has not been closed out, the mark-to-market value thereof determined on the basis of readily available quotations provided by any recognized dealer in such Hedging Agreement;

(d) whether or not so included as liabilities in accordance with GAAP, (i) all obligations of such Person to pay the deferred purchase price of property or services (but excluding accounts payable incurred in the ordinary course of business that are not more than 90 days past due unless contested in good faith by appropriate proceedings and for which adequate reserves under GAAP have been established therefor, and any guaranties by the Borrower or any Subsidiary of such accounts payable), and (ii) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse, provided that the amount of such indebtedness that constitutes Indebtedness shall be the lesser of the amount so such indebtedness or the fair market value of the property owned or being purchased;

(e) capital leases and Synthetic Lease Obligations;

(f) obligations to deliver commodities, goods or services, including, without limitation, Hydrocarbons, in consideration of one or more advance payments, other than gas balancing arrangements in the ordinary course of business (but only to the extent of such advance payments);

(g) obligations under “take or pay” or similar agreements (other than obligations under firm transportation or drilling contracts);

(h) the undischarged balance of any production payment created by such Person or for the creation of which such Person directly or indirectly received payment;

(i) the payment of interest on any Indebtedness in the form of additional Indebtedness; and

(ij) all Guaranty Obligations of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person except for customary exceptions acceptable to the Majority Lenders. The amount of any capital lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date.

“Indemnified Liabilities” has the meaning set forth in Section 10.5.

“Indemnitees” has the meaning set forth in Section 10.5.

“Indenture Debt Documents” means, individually and collectively, (i) the 2012 Senior Notes Indenture, (ii) the 2011 Senior Notes Indenture, (iii) the 2015 Senior Secured Notes Indenture, (iv) the 2019 Second Lien Indenture, (v) the 2020 Second Lien Indenture, (vi) the Priority Lien Indenture, (vii) any Permitted Additional Notes Indenture and (vviii) any documents related to or delivered in connection with the issuance of any Permitted Refinancing Indebtedness (excluding the Priority Lien Intercreditor Agreement, the Second Lien Intercreditor Agreement and the Security Documents).

“Initial Audited Financial Statements” means each of the audited consolidated balance sheet of the Borrower and its Subsidiaries as of December 31, 2014 and the related consolidated statements of income and cash flows of the Borrower for the fiscal year ended December 31, 2014.

“Initial Engineering Report” means the engineering report dated as of December 31, 2014, prepared by Lee Keeling & Associates, Inc.

“Intercreditor Agreement” references that certainAgreements” shall mean the Priority Lien Intercreditor Agreement dated as of the Closing Date, among the Pari Passu Collateral Agent, the Senior Secured Trustee and the other parties thereto, as amended from time to timeand the Second Lien Intercreditor Agreement.

“Interest Payment Date” means (a) as to any LIBO Rate Loan, the last day of each Interest Period applicable to such Loan; provided, however, that if any Interest Period for a LIBO Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December, and the Maturity Date.

"Interest Period" means as to each LIBO Rate Loan, the period commencing on the date such LIBO Rate Loan is disbursed or (in the case of any Base Rate Loan) converted to or continued as a LIBO Rate Loan and ending on the date one, two, three or six months thereafter, as selected by the Borrower in its Notice of Advance; provided that:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a LIBO Rate Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) any Interest Period pertaining to a LIBO Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the scheduled Maturity Date.

"Investment" means, as to any Person, any acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of capital stock or other securities of another Person, (b) a loan, advance or capital contribution to, guaranty of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"IRS" means the United States Internal Revenue Service.

"Issuing Bank" means Bank of Montreal in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

"Laws" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"L/C Advance" means, with respect to any Lender, such Lender's participation in any L/C Borrowing in accordance with its Percentage Share.

"L/C Borrowing" means an extension of credit resulting from a drawing under any Letter of Credit that has not been either reimbursed on the date when made or refinanced as a Borrowing.

"L/C Collateral" has the meaning set forth in Section 2.3(k)(i).

"L/C Credit Extension" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the renewal or increase of the amount thereof.

"L/C Obligations" means, as at any date of determination, the aggregate undrawn face amount of all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings.

"Lender" has the meaning set forth in the introductory paragraph hereto and, as the context requires, includes the Issuing Bank.

"Lender Assignment" means a Lender Assignment substantially in the form of Exhibit D.

"Lender Provided Hedging Agreement" means any Hedging Agreement between a Loan Party and a Secured Swap Counterparty.

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such on Schedule 10.2, or such other office or offices as a Lender may from time to time designate to the Borrower and the Administrative Agent.

"Letter of Credit" means any standby or commercial letter of credit issued hereunder.

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a letter of credit in the form from time to time in use by the Issuing Bank.

"Letter of Credit Availability Expiration Date" means the day that is seven (7) days prior to the Maturity Date (or, if such day is not a Business Day, the next preceding Business Day).

"Letter of Credit Sublimit" means an amount equal to the lowest of (x) the Aggregate Commitments and (y) $25,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Commitments.

"LIBO Rate" shall mean, with respect to any LIBO Rate Loan within a Borrowing and with respect to the related Interest Period, the rate of interest per annum equal to the offered quotation appearing on Reuters Screen LIBOR01 Page at approximately 11:00 a.m. (London time) on the date which is two Business Days prior to the beginning of the relevant Interest Period (or if such Reuters Screen LIBOR01 Page shall not be available, the rate per annum determined by the Administrative Agent by reference to the British Bankers' Association Interest Settlement Rate for deposits in U.S. dollars as set forth by any service which has been nominated by the British Bankers' Association as an authorized information vendor for the purpose of displaying such rates) for a period most closely approximating such Interest Period, provided that, (i) to the extent that an interest rate is not ascertainable pursuant to the foregoing provision of this definition, the "LIBO Rate" shall be the interest rate per annum, determined by the Administrative Agent to be the average of the rates per annum at which deposits in U.S. dollars are offered for such relevant Interest Period to major banks in the London interbank market in London, England by the Administrative Agent at approximately 11:00 a.m. (London time) on the date which is two Business Days prior to the beginning of such Interest Period and (ii) in no event shall the LIBO Rate be less than 0%.

"LIBO Rate Loan" means a Loan that bears interest at the Adjusted LIBO Rate.

"LIBOR Spread" means with respect to any LIBO Rate Loan for any time prior to the Maturity Date, 2.5% per annum.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the Uniform Commercial Code or comparable Laws of any jurisdiction), including the interest of a purchaser of accounts receivable.

"Loan" has the meaning set forth in Section 2.1.

"Loan Documents" means this Agreement, each Note, the Agent and Arranger Fee Letter, each Notice of Advance, each Letter of Credit Application, each Letter of Credit, each of the Security Documents, each Compliance Certificate, each Guaranty, each Subordination Agreement, the Priority Lien Intercreditor Agreement, the Second Lien Intercreditor Agreement and all other written agreements, certificates, documents, instruments and writings at any time delivered in connection herewith or therewith; provided that for the avoidance of doubt, a Hedging Agreement between a Loan Party and a Lender or Affiliate of a Lender shall not constitute a Loan Document.

"Loan Parties" means, collectively, the Borrower and each Guarantor.

"Majority Lenders" means, as of any date of determination, Non-Defaulting Lenders whose Voting Percentages aggregate to greater than 50.0%.

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, or condition (financial or otherwise) of the Borrower and its Restricted Subsidiaries taken as a whole; (b) a material impairment of the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party or upon the rights and remedies of the Administrative Agent, the Issuing Bank, or any Lender under any Loan Document.

~~"Material Subsidiary" means a direct or indirect Subsidiary of the Borrower with, together with its Subsidiaries, assets having a net book value or fair market value (determined in good faith by a Responsible Officer of the Borrower) in excess of $25,000,000.~~

"Matured L/C Obligations" means all amounts paid by Issuing Bank on drafts or demands for payment drawn or made under or purported to be under any Letter of Credit (or under or in connection with any L/C Application) that have not been repaid to the Issuing Bank (with the proceeds of a Loan or otherwise).

"Maturity Date" means the earlier of (a) the date that is the fourth anniversary of the Closing Date, and (b) the date six (6) months prior to the earliest date on which the payment of principal is scheduled to be paid on any Indebtedness described in clause (f) or (~~i~~k) of Section 7.3 and (c) such earlier date upon which the Commitments may be terminated in accordance with the terms hereof.

"Maximum Loan Amount" means $50,000,000 as such amount may be reduced from time to time pursuant to Section 2.5.

"Mortgage" means each mortgage, deed of trust or similar document delivered pursuant to this Agreement, in each case, as amended, supplemented, restated or otherwise modified from time to time, in form and substance satisfactory to the Administrative Agent and the Borrower.

"Mortgaged Property" has the meaning set forth in the Mortgage.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding three calendar years, has made or been obligated to make contributions.

"Net Sale Proceeds" means, with respect to any Disposition of any asset by the Borrower or any Restricted Subsidiary, the aggregate amount of cash or cash equivalents received by or paid to or for the account of the Borrower or such Restricted Subsidiary from time to time (whether as initial consideration or through payment or disposition of deferred consideration) by or on behalf of such Person in connection with such transaction after deducting therefrom only (without duplication) (a) reasonable out-of-pocket costs and fees, (b) the amount of taxes payable in connection with or as a result of such transaction and (c) the amount of any Indebtedness permitted by Section 7.3 hereof secured by a Lien on such asset permitted by Section 7.1 hereof that, by the terms of the agreement or instrument governing such Indebtedness, is required to be repaid or may be prepaid upon such disposition, in each case, to the extent, but only to the extent, that the amounts so deducted are, at the time of receipt of such cash, actually paid to a Person that is not an Affiliate of the Borrower or such Restricted Subsidiary and are properly attributable to such transaction or to the asset that is the subject thereof.

"Non-Defaulting Lender" means, at any time, any Lender that is not a Defaulting Lender at such time.

"Non-Recourse Debt" means Indebtedness:

(a) as to which neither the Borrower nor any of its Restricted Subsidiaries constitutes the lender;

(b) no default with respect to which (including any rights that the holders thereof may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Borrower or any of its Restricted Subsidiaries 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) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Borrower or any of its Restricted Subsidiaries.

"Note" means a promissory note made by the Borrower in favor of a Lender evidencing Loans made by such Lender, substantially in the form of Exhibit B.

"Notice of Advance" means a notice, which, if in writing, shall be substantially in the form of Exhibit A, of (a) a Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Loans as the same Type, pursuant to Section 2.2(a).

"Obligations" means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest that accrues after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding.

"OFAC" has the meaning set forth in Section 5.14.

"Off-Balance Sheet Liability" of a Person means (a) any repurchase obligation or liability of such Person with respect to accounts or notes receivable sold by such Person, (b) any liability under any sale and leaseback transaction which is not a capital lease obligation, (c) any indebtedness, liability or obligation under any so-called "synthetic lease" transaction entered into by such Person, (d) any Advance Payment Contract, or (e) any indebtedness, liability or obligation arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the balance sheets of such Person, but excluding from the foregoing clauses (c) through (e) operating leases and usual and customary oil, gas and mineral leases.

"Oil and Gas Properties" means Hydrocarbon Interests; the properties now or hereafter pooled or unitized with Hydrocarbon Interests; all presently existing or future unitization, pooling agreements and declarations of pooled units and the units created thereby (including without limitation all units created under orders, regulations and rules of any Governmental Authority have jurisdiction) that may affect all or any portion of the Hydrocarbon Interests; all operating agreements, contracts and other agreements that relate to any of the Hydrocarbon Interests or the production, sale, purchase, exchange or processing of Hydrocarbons from or attributable to such Hydrocarbon Interest; all Hydrocarbons in and under and which may be produced and saved or attributable to the Hydrocarbon Interests, the lands covered thereby and all oil in tanks and all rents, issues, profits, proceeds, products, revenues and other income from or attributable to the Hydrocarbon Interests; all tenements, hereditaments, appurtenances and properties in any manner appertaining, belonging, affixed or incidental to the Hydrocarbon Interests, properties, rights, titles, interests and estates described or referred to above, including any and all property, real or personal, now owned or hereinafter acquired and situated upon, used, held for use or useful in connection with the operating, working or development of any of such Hydrocarbon Interests or property (excluding drilling rigs, automotive equipment or other personal property which may be on such premises for the purpose of drilling a well or for other similar temporary uses) and including any and all oil wells, gas wells, injection wells or other wells, buildings, structures, fuel separators, liquid extraction plants, plant compressors, pumps, pumping units, field gathering systems, tanks and tank batteries, fixtures, valves, fittings, machinery and parts, engines, boilers, meters, apparatus, equipment, appliances, tools, implements, cables, wires, towers, casing, tubing and rods, surface leases, rights-of-way, easements and servitudes together with all additions, substitutions, replacements, accessions and attachments to any and all of the foregoing.

"Optional Indebtedness Payment" has the meaning set forth in Section 7.12.

"Organization Documents" means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws; (b) with respect to any limited liability company, the articles of formation and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation with the secretary of state or other department in the state of its formation, in each case as amended from time to time.

"Outstanding Amount" means (i) with respect to Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any Borrowings and prepayments or repayments of Loans occurring on such date; and (ii) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements of outstanding unpaid drawings under any Letters of Credit or any reductions in the maximum amount available for drawing under Letters of Credit taking effect on such date.

"Pari Passu Collateral Agent" has the meaning set forth in the Priority Lien Intercreditor Agreement.

"Pari Passu Obligations" has the meaning set forth in the Priority Lien Intercreditor Agreement.

"Pari Passu Secured Parties" has the meaning set forth in the Priority Lien Intercreditor Agreement.

"Participant" has the meaning set forth in Section 10.7(c).

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Act" means the Pension Protection Act of 2006.

"Pension Funding Rules" means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Sections 412, 430, 431, 432 and 436 of the Code and Sections 302,303,304 and 305 of ERISA.

"Pension Plan" means any "employee pension benefit plan" (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer plan (as described in Section 4064(a) of ERISA) has made contributions at any time during the immediately preceding five plan years, or with respect to which the Borrower or any ERISA Affiliate otherwise has liability or contingent liability.

“Percentage Share” means, with respect to each Lender, the percentage (carried out to the ninth decimal place) set forth opposite the name of such Lender on Schedule 2.1 (as amended or modified from time to time) or on the relevant Lender Assignment, as the case may be, as such percentage share may be adjusted as provided herein (including pursuant to Section 2.15).

“Permitted Additional Notes” means senior unsecured notes issued by the Borrower from time to time after ~~the Closing Date~~September 6, 2016; provided that (a) the final maturity date of such senior unsecured notes shall not be earlier than 91 days after the Maturity Date (as in effect on the date of issuance of such senior unsecured notes); (b) such senior unsecured notes and any Permitted Additional Notes Indenture under which such senior unsecured notes are issued contain customary terms and conditions for senior unsecured notes of like tenor and amount and do not contain any covenants, events or default or other provisions (other than interest rate and redemption premiums) that, on the whole, are materially more onerous to the Borrower and its Subsidiaries than those imposed by the ~~2012~~2015 Senior Notes Indenture (c) at the time of and immediately after giving effect to each incurrence of such Indebtedness, no Default or Event of Default shall have occurred and be continuing; (d) such Indebtedness does not have any scheduled per annum principal amortization prior to the date which is 91 days after the Maturity Date as in effect on the date such Indebtedness is incurred; (e) if such Indebtedness is senior subordinated Indebtedness, such Indebtedness is expressly subordinate to the payment in full of all of the Secured Obligations on terms and conditions reasonably satisfactory to the Administrative Agent; (f) such Indebtedness does not have any mandatory prepayment, defeasance, tender, repurchase, sinking fund or redemption provisions (other than customary change of control or asset sale tender offer provisions, in each case to the extent required to be applied first to the Secured Obligations to the extent required by this Agreement); and (g) the stated interest or coupon rate of such new Indebtedness is reasonably acceptable to the Administrative Agent.

“Permitted Additional Notes Indenture” means any indenture, by and between Borrower and a trustee, and related documentation entered into in connection therewith pursuant to which the Permitted Additional Notes shall have been issued, as the same may be amended, restated, modified or supplemented from time to time.

“Permitted Lien” has the meaning set forth in Section 7.1.

“Permitted Refinancing Indebtedness” means Indebtedness of the Borrower (for purposes of this definition, “new Indebtedness”) incurred in exchange for, or proceeds of which are used to refinance, all or any portion of the 2012 Senior Notes, the 2011 Senior Notes, the 2015 Senior ~~Secured~~Notes, the 2019 Second Lien Indenture Notes, the 2020 Second Lien Indenture Notes, the Priority Lien Indenture Notes or any Permitted Additional Notes (the portion refinanced, the “Refinanced Indebtedness”); provided that (a) such new Indebtedness is in an aggregate principal amount not in excess of the sum of (i) the aggregate principal amount of the Refinanced Indebtedness and (ii) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing; (b) such new Indebtedness has a stated maturity no shorter than the date that is 91 days after the Maturity Date and weighted average life to maturity equal to or greater than that of the Refinanced Indebtedness; (c) such new Indebtedness does not contain any

covenants, events of default or other terms (other than interest rate and redemption premiums) that, on the whole, are materially more onerous to the Borrower and its Subsidiaries than those imposed by the Refinanced Indebtedness; (d) the stated interest or coupon rate of such new Indebtedness is reasonably acceptable to the Administrative Agent; (e) no Default or Event of Default shall exist at the time of, or result from, the issuance of such new Indebtedness; (f) if the Refinanced Indebtedness is subordinated in right of payment to the Secured Obligations, such new Indebtedness is subordinated in right of payment to the Secured Obligations at least to the same extent as the Refinanced Indebtedness; (g) such Indebtedness does not have any scheduled per annum principal amortization prior to the date which is 91 days after the Maturity Date as in effect on the date such Indebtedness is incurred; (h) if such Indebtedness is senior subordinated Indebtedness, such Indebtedness is expressly subordinate to the payment in full of all of the Secured Obligations on terms and conditions reasonably satisfactory to the Administrative Agent; (i) such Indebtedness does not have any mandatory prepayment, defeasance, tender, repurchase, sinking fund or redemption provisions (other than customary change of control or asset sale tender offer provisions, in each case to the extent required to be applied first to the Secured Obligations to the extent required by this Agreement); and (j) in connection with any refinancing of the 2015 Senior Secured2019 Second Lien Indenture Notes, the 2020 Second Lien Indenture Notes or the Priority Lien Indenture Notes (or any refinancing of any refinancing thereof), any Liens securing any such new Indebtedness shall be subject to the Priority Lien Intercreditor Agreement or the Second Lien Intercreditor Agreement, as applicable.

"Person" means any individual, trustee, corporation, general partnership, limited partnership, limited liability company, joint stock company, trust, unincorporated organization, bank, business association, firm, joint venture or Governmental Authority.

"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.

"Plan" means any "employee benefit plan" (as such term is defined in Section 3(3) of ERISA) established by the Borrower or any ERISA Affiliate, or with respect to which the Borrower or any ERISA Affiliate otherwise has liability or contingent liability.

"Platform" has the meaning set forth in Section 10.2(d).

"Pledge Agreement" means each Pledge Agreement and Irrevocable Proxy dated as of the Closing Date in favor of the Pari Passu Collateral Agent for the benefit of the Pari Passu Secured Parties in form and substance satisfactory to the Administrative Agent and the Borrower and each other pledge agreement in substantially the same form delivered in accordance with this Agreement.

"Pledged Note" means each Pledged Note described in a Pledge Agreement pledged to the Pari Passu Collateral Agent for the benefit of the Pari Passu Secured Parties.

"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 Closing Date, including, without limitation, all classes and series of preferred or preference stock of such person.

"Prior Credit Facility" means the Fourth Amended and Restated Credit Agreement dated as of November 22, 2013, among Borrower, Bank of Montreal, as administrative agent and as issuing bank and certain lenders party thereto (as amended, modified or supplemented prior to the date hereof).

"Priority Collateral Agent" has the meaning set forth in the Priority Lien Intercreditor Agreement.

"Priority Lien Indenture" means that certain Indenture dated as of September 6, 2016 by and among Borrower, as issuer, and the Priority Lien Trustee, as trustee, and one or more Loan Parties, as guarantors, and all related documentation entered into in connection therewith (excluding Security Documents and the Intercreditor Agreements) pursuant to which the Priority Lien Indenture Notes are issued, as the same may be amended, restated, modified or supplemented from time to time in accordance with the terms hereof.

"Priority Lien Indenture Notes" means those certain 10% Senior Secured Toggle Notes due 2020 issued by the Borrower on September 6, 2016 under the Priority Lien Indenture.

"Priority Lien Intercreditor Agreement" references that certain Amended and Restated Priority Lien Intercreditor Agreement dated as of September 6, 2016 among the Pari Passu Collateral Agent, the Administrative Agent, the Priority Lien Trustee, and acknowledged by the Borrower and the Guarantors, as amended, restated, supplemented or otherwise modified from time to time.

"Priority Lien Obligations" has the meaning set forth in the Priority Lien Intercreditor Agreement.

"Priority Lien Secured Parties" has the meaning set forth in the Priority Lien Intercreditor Agreement.

"Priority Lien Trustee" shall mean American Stock Transfer & Trust Company, LLC, as trustee under the Priority Lien Indenture.

"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: (a) "Developed Producing Reserves" or (b) "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: (a) "Developed Producing Reserves", (b) "Developed Non-Producing Reserves" or (c) "Undeveloped Reserves".

"Probable Undeveloped Reserves" shall mean oil and gas reserves that, in accordance with Petroleum Industry Standards, are classified as "Probable Reserves" and "Unproved Reserves"; provided that, for purposes of this Agreement, the definition of "Probable Undeveloped Reserves" shall only include Oil and Gas Properties of the Borrower and the Guarantors that are (a) operated by either the Borrower or a Guarantor and (b) located in the Haynesville shale or Bossier shale formations in Texas and Louisiana.

"PV-9" shall mean, with respect to any Proved ~~Developed~~Reserves or Probable Undeveloped Reserves expected to be produced, the net present value, discounted at 9% per annum, of the future net revenues expected to accrue to the Borrower's and the Guarantors' collective interests in such reserves during the remaining expected economic lives of such reserves, calculated by the Administrative Agent in its sole and absolute discretion; provided that (a) the PV-9 associated with Proved Developed Non-Producing Reserves shall comprise no more than 25% of total PV-~~9.~~9, and (b) for purposes of calculating the Asset Coverage Ratio under this Agreement or any other Loan Document, PV-9 shall not include the net revenues of any Probable Undeveloped Reserves.

"Qualified ECP Obligor" means, in respect of any obligation or liability in respect of a Hedging Agreement, each Loan Party that has total assets exceeding $10,000,000 at the time the relevant guaranty obligation or other liability or grant of the relevant security interest becomes or would become effective with respect to such any obligation or liability or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an "eligible contract participant" at such time by entering into a keepwell under section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

"Register" has the meaning set forth in Section 10.7(b)(ii).

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30-day notice period has been waived.

"Reserve Percentage" means, on any day with respect to each particular Borrowing comprised of LIBO Rate Loans, the maximum reserve requirement as determined by the Administrative Agent (including without limitation any basic, supplemental, marginal, emergency or similar reserves and taking into account any transitional adjustments or other scheduled changes in reserve requirements), expressed as a percentage, which would then apply under Regulation D with respect to "Eurocurrency liabilities" (as such term is defined in Regulation D) equal in amount to each Lender's LIBO Rate Loan in such Borrowing, were such Lender to have any such "Eurocurrency liabilities". If such reserve requirement shall change after the date hereof, the Reserve Percentage shall be automatically increased or decreased, as the case may be, from time to time as of the effective time of each such change in such reserve requirement.

“Responsible Officer” means the president, chief financial officer, treasurer or assistant treasurer of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any equity interest of the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such equity interest or of any option, warrant or other right to acquire any such equity interest.

“Restricted Subsidiary” means (a) each of COGI GP, COGI LP, COGI, COGH and COGLA and (b) each other Subsidiary of the Borrower that is not designated as an Unrestricted Subsidiary pursuant to Section 1.6.

“Second Lien Collateral Agent” has the meaning set forth in the Second Lien Intercreditor Agreement.

“Second Lien Intercreditor Agreement” references that certain Junior Lien Intercreditor Agreement dated as of September 6, 2016 among the Bank of Montreal, as administrative agent for the Priority Lien Secured Parties (defined therein), Bank of Montreal, as collateral agent for the Second Lien Secured Parties (defined therein), and acknowledged by the Borrower and the Guarantors, as amended, restated, supplemented or otherwise modified from time to time.

“Second Lien Obligations” has the meaning set forth in the Second Lien Intercreditor Agreement.

“Second Lien Secured Parties” has the meaning set forth in the Second Lien Intercreditor Agreement.

“Secured Obligations” means, collectively, the Obligations and all Secured Swap Obligations; provided, however, that the definition of “Secured Obligations” shall not create any guarantee by any Loan Party of (or grant of security interest by any Loan Party to support, as applicable) any Excluded Swap Obligations of such Loan Party for purposes of determining any obligations of any Loan Party.

“Secured Swap Counterparty” means, with respect to any Hedging Agreement, a counterparty that at the time such Hedging Agreement is entered into is a Lender 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 any Loan Party under any Lender Provided Hedging Agreement.

"Security Agreement" means (a) each Security Agreement dated as of the Closing Date in favor of the Pari Passu Collateral Agent for the benefit of the Pari Passu Secured Parties in form and substance satisfactory to the Administrative Agent and the Borrower, and (b) each other security agreement (which shall also be substantially in the form of the agreement referred to in clause (a)) in favor of the Pari Passu Collateral Agent on behalf of the Pari Passu Secured Parties delivered in accordance with this Agreement.

"Security Documents" means any security agreements, deeds of trust, mortgages, chattel mortgages, pledges, guaranties, financing statements, continuation statements, extension agreements and other agreements or instruments now, heretofore, or hereafter delivered by any Person to the Pari Passu Collateral Agent or the Administrative Agent in connection with this Agreement or any transaction contemplated hereby to secure or guarantee the payment of all or any part of the Secured Obligations.

"Senior Secured Noteholders" means the "Holders", as defined in the ~~2015 Senior Secured~~2019 Second Lien Notes Indenture~~."Senior Secured Trustee" means the "Trustee", as defined in the 2015 Senior Secured~~, the 2020 Second Lien Notes Indenture~~.~~ and the Priority Lien Indenture.

"Subordination Agreement" means the Intercompany Subordination Agreement dated as of the Closing Date in form and substance satisfactory to the Administrative Agent and the Borrower, as the same may be amended, modified, supplemented or restated from time to time.

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Borrower.

"Synthetic Lease Obligation" means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

"Trustees" shall mean collectively, the 2019 Second Lien Trustee, the 2020 Second Lien Trustee and the Priority Lien Trustee, and each individually, a "Trustee".

"Type" means with respect to a Loan, its character as a Base Rate Loan or a LIBO Rate Loan.

"Unreimbursed Amount" has the meaning set forth in Section 2.3(c)(i).

"Unrestricted Subsidiary" means each Subsidiary of the Borrower designated by the Borrower as an Unrestricted Subsidiary in accordance with, and subject to the satisfaction of the conditions set forth in, Section 1.6.

"Voting Percentage" means, as to any Non-Defaulting Lender, (a) at any time when the Commitments are in effect, the percentage of all Non-Defaulting Lenders' Commitment Amounts (including such Non-Defaulting Lender) held by such Non-Defaulting Lender and (b) at any time after the termination of the Commitments, the percentage (carried out to the ninth decimal place) which (i) the sum of (A) the Outstanding Amount of such Non-Defaulting Lender's Loans, plus (B) such Non-Defaulting Lender's Percentage Share of the Outstanding Amount of L/C Obligations, then constitutes of (ii) the sum of Outstanding Amount of all Non-Defaulting Lenders' Loans and L/C Obligations (including such Non-Defaulting Lender's Loans and L/C Obligations).

SECTION 1.2 Other Interpretive Provisions.

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) (i) The words "herein" and "hereunder" and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

(ii) Unless otherwise specified herein, Article, Section, Exhibit and Schedule references are to this Agreement.

(iii) The term "including" is by way of example and not limitation.

(iv) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced.

(c) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(d) Section headings herein and the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(e) Pronouns in masculine, feminine and neuter genders shall be construed to include any other gender, and words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

SECTION 1.3 Accounting Terms. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Initial Audited Financial Statements, except as otherwise specifically prescribed herein.

SECTION 1.4 Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 1.5 References to Agreements and Laws. Unless otherwise expressly provided herein, (a) references to agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

SECTION 1.6 Designation and Conversion of Restricted and Unrestricted Subsidiaries.

(a) Unless designated in writing to the Administrative Agent by the Borrower and approved by the Administrative Agent and the Majority Lenders in accordance with clause (b) below, any Person that becomes a Subsidiary of the Borrower or any of its Restricted Subsidiaries (whether by formation, acquisition or merger) shall be classified as a Restricted Subsidiary.

(b) Any Subsidiary of the Borrower (including a newly formed or newly acquired Subsidiary), excluding any Guarantor, may be designated (or redesignated) as an Unrestricted Subsidiary if (i) the Administrative Agent shall have received (1) a written request from the Borrower specifying the applicable Subsidiary and such other information as the Administrative Agent may reasonably request, (2) the written consent of the Administrative Agent and the Majority Lenders approving such designation, and (3) a certificate of a Responsible Officer of the Borrower certifying that no Default or Event of Default shall then exist or would result from such designation (after giving effect to such designation), and (ii) such designation is deemed to be an Investment in an amount equal to the fair market value of Borrower’s direct and indirect ownership interest in such Subsidiary and such Investment would be permitted under Section 7.2 to be made at the time of such designation. Except as provided in this Section 1.6(b), no Subsidiary may be designated (and no Restricted Subsidiary may be redesignated) as an Unrestricted Subsidiary.

(c) If, at any time, any Unrestricted Subsidiary would fail to meet the requirements for an Unrestricted Subsidiary set forth in Section 6.18, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Agreement and any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of the Borrower as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 7.3, the Borrower shall be in default of such covenant.

(d) Borrower may designate any Unrestricted Subsidiary to be a Restricted Subsidiary if after giving effect to such designation, (i) the representations and warranties of Borrower and its

Restricted Subsidiaries contained in each of the Loan Documents are true and correct on and as of such date as if made on and as of the date of such redesignation (or, if stated to have been made expressly as of an earlier date, were true and correct as of such date), (ii) the designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness or Liens of such Subsidiary existing at such time, and the Borrower is in compliance with Sections 7.1 and 7.3 after giving effect to such designation, (iii) no Default or Event of Default then exists or would result from such redesignation (after giving effect to such redesignation), and (iv) the Borrower complies, or causes such Subsidiary to comply, with the requirements of Sections 6.16 and 6.18. Any such designation shall be evidenced by a certificate of a Responsible Officer of the Borrower delivered to the Administrative Agent prior to such designation certifying that the conditions of this Section 1.6(c) are satisfied as of the date of such designation (and, as a condition precedent to the effectiveness of any such designation, the Borrower shall deliver to the Administrative Agent a certificate setting forth in reasonable detail the calculations demonstrating compliance on a pro forma basis with the covenants set forth in Section 7.13).

(e) No Subsidiary may be designated as an Unrestricted Subsidiary hereunder unless it is also designated as an “Unrestricted Subsidiary” for purposes of any Indenture Debt Documents and (ii) no Subsidiary designated as an Unrestricted Subsidiary may be designated as a Restricted Subsidiary hereunder unless it is also designated as a “Restricted Subsidiary” for purposes of any Indenture Debt Documents.

ARTICLE II.

THE COMMITMENTS AND CREDIT EXTENSIONS

SECTION 2.1 Loans. Subject to the terms and conditions set forth herein, each Lender severally agrees to make loans (each such loan, a “Loan”) to the Borrower from time to time on any Business Day during the period from the Closing Date to the Maturity Date, in an aggregate amount not to exceed at any time outstanding the lesser of (x) such Lender’s Percentage Share of the aggregate amount of the Loans requested by the Borrower on such day and (y) such Lender’s Commitment Amount; provided, however, that after giving effect to any borrowing, (i) the aggregate Outstanding Amount of all Loans and L/C Obligations shall not exceed the Aggregate Commitments on such date, and (ii) the aggregate Outstanding Amount of the Loans of any Lender, plus such Lender’s Percentage Share of the Outstanding Amount of all L/C Obligations shall not exceed such Lender’s Commitment Amount. Within the limits of each Lender’s Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.1, prepay under Section 2.4 and reborrow under this Section 2.1.

SECTION 2.2 Borrowings, Conversions and Continuations of Loans.

(a) Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Loans as the same Type shall be made upon the Borrower’s irrevocable prior written notice to the Administrative Agent in the form of a Notice of Advance. Each such notice must be received by the Administrative Agent not later than 12:00 p.m., central time, (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of LIBO Rate Loans or of any conversion of LIBO Rate Loans to Base Rate Loans, and (ii) on the

requested date of any Borrowing of Base Rate Loans. Each Notice of Advance shall be appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of, conversion to or continuation of LIBO Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $1,000,000 in excess thereof. Each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each Notice of Advance shall specify (i) whether the Borrower is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Loans as the same Type, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Loan in a Notice of Advance or if the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made or continued as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable LIBO Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of LIBO Rate Loans in any such Notice of Advance, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Notice of Advance, the Administrative Agent shall promptly notify each Lender of its Percentage Share of the applicable Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in the preceding subsection. Each Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 2:00 p.m. central time, on the Business Day specified in the applicable Notice of Advance. Upon satisfaction of the applicable conditions set forth in Section 4.2 (and, if such Borrowing is the initial Credit Extension, Section 4.1), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of the Administrative Agent with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to the Administrative Agent by the Borrower; provided, however, that if, on the date of the Borrowing there are L/C Borrowings outstanding, then the proceeds of such Borrowing shall be applied, first, to the payment in full of any such L/C Borrowings, and second, to the Borrower as provided above. Unless the Administrative Agent shall have received prompt notice from a Lender that such Lender will not make available to the Administrative Agent such Lender's Loans, the Administrative Agent may in its discretion assume that such Lender has made such Loans available to the Administrative Agent in accordance with this section and the Administrative Agent may if it chooses, in reliance upon such assumption, make such Loan available to the Borrower. If and to the extent such Lender shall not so make its Loan available to the Administrative Agent, such Lender and the Borrower severally agree to pay or repay to the Administrative Agent within two Business Days after demand the amount of such Loan together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is paid or repaid to the Administrative Agent, to be calculated as to such Lender at the Federal Funds Rate, and to be calculated as to the Borrower at the interest rate applicable at the time to the other Loans made on such date. If any Lender fails to make such payment to the Administrative Agent within such two Business Day period, such Lender shall in

addition to such amount pay interest thereon, for each day from the date such Loan is made available to the Borrower until the date such amount is paid or repaid to the Administrative Agent, at the interest rate applicable at the time to the other Loans made on such date. The failure of any Lender to make any Loan to be made by it hereunder shall not relieve any other Lender of its obligation hereunder, if any, to make its Loan, but no Lender shall be responsible for the failure of any other Lender to make any Loan to be made by such other Lender.

(c) Except as otherwise provided herein, a LIBO Rate Loan may be continued or converted only on the last day of the Interest Period for such LIBO Rate Loan. During the existence of a Default, or Event of Default, no Loans may be requested as, converted to or continued as LIBO Rate Loans.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any LIBO Rate Loan upon determination of such interest rate. The determination of the LIBO Rate by the Administrative Agent shall be conclusive in the absence of manifest error. The Administrative Agent shall notify the Borrower and the Lenders of any change in Administrative Agent’s prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten (10) LIBO Interest Periods in effect with respect to Loans.

SECTION 2.3 Letters of Credit.

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) the Issuing Bank agrees, in reliance upon the agreements of the other Lenders set forth in this Section 2.3, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Availability Expiration Date, to issue Letters of Credit for the account of the Borrower and in the name of the Borrower or any of its Restricted Subsidiaries, and to amend or renew Letters of Credit previously issued by it, in accordance with Section 2.3(b) below, and (2) to honor drafts under the Letters of Credit; and (B) the Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower; provided that the Issuing Bank shall not be obligated to make any L/C Credit Extension with respect to any Letter of Credit, and no Lender shall be obligated to participate in, any Letter of Credit if as of the date of such L/C Credit Extension, (w) with respect to any renewal, extension or amendment to any previously issued Letter of Credit, the Restricted Subsidiary in whose name such Letter of Credit was originally issued (or was most recently renewed, extended or amended, if applicable) has become, or been redesignated as, an Unrestricted Subsidiary, (x) the Outstanding Amount of all L/C Obligations and all Loans would exceed the Aggregate Commitments on such date, (y) the aggregate Outstanding Amount of the Loans of any Lender, plus such Lender’s Percentage Share of the Outstanding Amount of all L/C Obligations would exceed such Lender’s Commitment Amount, or (z) the Outstanding Amount of the L/C Obligations would exceed the Letter of Credit Sublimit. Within the foregoing limits, and subject to the terms and conditions

hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(ii) The Issuing Bank shall be under no obligation to issue any Letter of Credit if:

(A) the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last renewal, unless the Majority Lenders acting in their sole discretion have approved in writing such expiry date;

(B) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Availability Expiration Date, unless all the Lenders acting in their sole discretion have approved in writing such expiry date;

(C) the issuance of such Letter of Credit would violate one or more policies of the Issuing Bank;

(D) such Letter of Credit is in a face amount less than $100,000, or denominated in a currency other than Dollars, unless all the Lenders acting in their sole discretion have approved in writing the issuance of Letters of Credit denominated in a currency other than Dollars; or

(E) such Letter of Credit is to be used directly or indirectly to assure payment of or otherwise support any Person's Indebtedness for borrowed money;

(F) the issuance of such Letter of Credit is not in compliance with all applicable governmental restrictions, policies, and guidelines (whether or not having the force of law) or it subjects the Issuing Bank to any cost not anticipated by the Issuing Bank on the date hereof;

(G) the form and terms of such Letter of Credit are not acceptable to the Administrative Agent and Issuing Bank in their sole and absolute discretion; and

(H) any other condition in this Agreement to the issuance of such Letter of Credit has not been satisfied.

(iii) The Issuing Bank shall be under no obligation to amend any Letter of Credit if (A) the Issuing Bank would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(b) Procedures for Issuance and Amendment of Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the Issuing Bank (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit

Application must be received by the Issuing Bank and the Administrative Agent not later than 12:00 p.m., central time at least two Business Days (or such later date and time as the Issuing Bank may agree in a particular instance in its sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the Issuing Bank: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; and (G) such other matters as the Issuing Bank may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the Issuing Bank (w) the Letter of Credit to be amended; (x) the proposed date of amendment thereof (which shall be a Business Day); (y) the nature of the proposed amendment; and (z) such other matters as the Issuing Bank may require.

(ii) Promptly after receipt of any Letter of Credit Application, the Issuing Bank will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the Issuing Bank will provide the Administrative Agent with a copy thereof. Upon receipt by the Issuing Bank of confirmation from the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof, then, subject to the terms and conditions hereof, the Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be, in each case in accordance with the Issuing Bank's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to and hereby does, purchase from the Issuing Bank a participation in such Letter of Credit in an amount equal to the product of such Lender's Percentage Share times the amount of such Letter of Credit.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon any drawing under any Letter of Credit, the Issuing Bank shall notify the Borrower and the Administrative Agent thereof. Not later than 12:00 p.m., central time, on the date of any payment by the Issuing Bank under a Letter of Credit (each such date, an "Honor Date"), the Borrower shall reimburse the Issuing Bank through the Administrative Agent in an amount equal to the amount of such drawing. If the Borrower fails to so reimburse the Issuing Bank by such time, the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and such Lender's Percentage Share thereof. In such event, the Borrower shall be deemed to have requested a Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.2 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Aggregate Commitments in effect and the conditions set forth in Section 4.2 (other than the delivery

of a Notice of Advance). Any notice given by the Issuing Bank or the Administrative Agent pursuant to this Section 2.3(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender (including the Lender acting as Issuing Bank) shall upon any notice from the Administrative Agent pursuant to Section 2.3(c)(i) make funds available to the Administrative Agent for the account of the Issuing Bank at the Administrative Agent's Office in an amount equal to such Lender's Percentage Share of the Unreimbursed Amount not later than 1:00 p.m., central time, on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.3(c)(iii), each Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the Issuing Bank.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Borrowing of Base Rate Loans because the conditions set forth in Section 4.2 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the Issuing Bank an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Lender's payment to the Administrative Agent for the account of the Issuing Bank pursuant to Section 2.3(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.3(c).

(iv) Until each Lender funds its Loan or L/C Advance pursuant to this Section 2.3(c) to reimburse the Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender's Percentage Share of such amount shall be solely for the account of the Issuing Bank.

(v) Each Lender's obligation to make Loans or L/C Advances to reimburse the Issuing Bank for amounts drawn under Letters of Credit, as contemplated by this Section 2.3(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against the Issuing Bank, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default or Event of Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing. Any such reimbursement shall not relieve or otherwise impair the obligation of the Borrower to reimburse the Issuing Bank for the amount of any payment made by the Issuing Bank under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Administrative Agent for the account of the Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.3(c) by the time specified in Section 2.3(c)(ii), the Issuing Bank shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from

the date such payment is required to the date on which such payment is immediately available to the Issuing Bank at a rate per annum equal to (1) for the first two Business Days immediately following the date such payment is required, the Federal Funds Rate from time to time in effect, and (2) for each day thereafter, the Base Rate from time to time in effect. A certificate of the Issuing Bank submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after the Issuing Bank has made a payment under any Letter of Credit and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.3(c), if the Administrative Agent receives for the account of the Issuing Bank any payment related to such Letter of Credit (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), or any payment of interest thereon, the Administrative Agent will distribute to such Lender its Percentage Share thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the Issuing Bank pursuant to Section 2.3(c) is required to be returned, each Lender shall pay to the Administrative Agent for the account of the Issuing Bank its Percentage Share thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to (1) with respect to the first two Business Days immediately following such demand, the Federal Funds Rate from time to time in effect, and (2) with respect to each day thereafter, the Base Rate from time to time in effect.

(e) Obligations Absolute. The obligation of the Borrower to reimburse the Issuing Bank for each drawing under each Letter of Credit, and to repay each L/C Borrowing and each drawing under a Letter of Credit that is refinanced by a Borrowing of Loans, shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;

(ii) the existence of any claim, counterclaim, set-off, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the Issuing Bank or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the Issuing Bank under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the Issuing Bank under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will promptly notify the Issuing Bank. The Borrower shall be conclusively deemed to have waived any such claim against the Issuing Bank and its correspondents unless such notice is given as aforesaid.

(f) Role of Issuing Bank; Indemnity. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the Issuing Bank shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. No Agent-Related Person nor any of the respective correspondents, participants or assignees of the Issuing Bank shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Majority Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Letter of Credit Application. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit. No Agent-Related Person, nor any of the respective correspondents, participants or assignees of the Issuing Bank, shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.3(e). The Borrower agrees to hold Issuing Bank and each Lender harmless and indemnified against any liability or claim in connection with or arising out of the subject matter of this section, WHICH INDEMNITY SHALL APPLY WHETHER OR NOT ANY SUCH LIABILITY OR CLAIM IS IN ANY WAY OR TO ANY EXTENT CAUSED, IN WHOLE OR IN PART, BY ANY NEGLIGENT ACT OR OMISSION OF ANY KIND BY ISSUING BANK OR ANY LENDER, provided only that the Issuing Bank or such Lender shall not be entitled to indemnification for that portion, if any, of any liability or claim which is proximately caused by its own individual gross negligence or willful misconduct as determined in a final judgment. In furtherance and not in limitation of the foregoing, the Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the Issuing Bank shall not be responsible for the

validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. If any Letter of Credit provides that it is transferable, the Issuing Bank shall have no duty to determine the proper identity of anyone appearing as transferee of such Letter of Credit, nor shall the Issuing Bank be charged with responsibility of any nature or character for the validity or correctness of any transfer or successive transfers, and payment by the Issuing Bank to any purported transferee or transferees as determined by the Issuing Bank is hereby authorized and approved, and the Borrower further agrees to hold the Issuing Bank and each Lender harmless and indemnified against any liability or claim in connection with or arising out of the foregoing, WHICH INDEMNITY SHALL APPLY WHETHER OR NOT ANY SUCH LIABILITY OR CLAIM IS IN ANY WAY OR TO ANY EXTENT CAUSED, IN WHOLE OR IN PART, BY ANY NEGLIGENT ACT OR OMISSION OF ANY KIND BY THE ISSUING BANK OR ANY LENDER, provided only that the Issuing Bank or such Lender shall not be entitled to indemnification for that portion, if any, of any liability or claim which is caused by its own individual gross negligence or willful misconduct as determined by a court of competent jurisdiction by a final and non-appealable ~~judgement~~judgment. All of Borrower's Obligations under this Section 2.3.6 shall survive termination of the Commitments or of this Agreement and repayment in full of the Obligations.

(g) Applicability of ISP98 and UCP. Unless otherwise expressly agreed by the Issuing Bank and the Borrower when a Letter of Credit is issued, (i) the rules of the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance) shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce (the "ICC") at the time of issuance (including the ICC decision published by the Commission on Banking Technique and Practice on April 6, 1998 regarding the European single currency (euro)) shall apply to each commercial Letter of Credit.

(h) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Percentage Share a Letter of Credit fee for each Letter of Credit equal to the LIBOR Spread then in effect with respect to Loans after giving effect to the L/C Obligations incurred with respect to such Letter of Credit times the actual daily maximum amount available to be drawn under such Letter of Credit. Such fee for each Letter of Credit shall be due and payable on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, and on the Letter of Credit Availability Expiration Date. If there is any change in the LIBOR Spread during any quarter, the actual daily amount of each Letter of Credit shall be computed and multiplied by the LIBOR Spread with respect to Letters of Credit separately for each period during such quarter that such LIBOR Spread was in effect.

(i) Letter of Credit Fronting Fee and Documentary and Processing Charges Payable to Issuing Bank. The Borrower shall pay directly to the Issuing Bank for its own account a fronting fee in an amount equal to 0.1875% per annum on the daily maximum amount available to be drawn thereunder, due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, and on the Letter of Credit Availability Expiration Date; provided that all such

fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. In addition, the Borrower shall pay directly to the Issuing Bank for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the Issuing Bank relating to letters of credit as from time to time in effect. Such fees and charges are due and payable on demand and are nonrefundable. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(j) Conflict with Letter of Credit Application. In the event of any conflict between the terms hereof and the terms of any Letter of Credit Application, the terms hereof shall control.

(k) L/C Collateral.

(i) L/C Obligations in Excess of Indebtedness Permitted by Asset Coverage Ratio. (i) If, after the making of all mandatory prepayments required under Section 2.4(b), the Borrower is not in compliance with the Asset Coverage Ratio, then the Borrower will immediately pay to the Issuing Bank an amount in cash equal to 105% of any L/C Obligations outstanding (excluding L/C Obligations secured by cash collateral pursuant to this Section 2.3(k)) required to be in compliance with the Asset Coverage Ratio, or (ii) should any L/C Obligations remain outstanding on the Maturity Date, then the Borrower will immediately pay the Issuing Bank an amount in cash equal to 105% of the aggregate amount of such Issuing Bank's L/C Obligations. The Issuing Bank will hold such amount as security for the remaining L/C Obligations ("L/C Collateral") until such L/C Obligations become Matured L/C Obligations, at which time such L/C Collateral may be applied to such Matured L/C Obligations. Neither this subsection nor the following subsection shall, however, limit or impair any rights which the Issuing Bank may have under any other document or agreement relating to any Letter of Credit or L/C Obligation, including any Letter of Credit Application, or any rights which the Issuing Bank or Lenders may have to otherwise apply any payments by the Borrower and L/C Collateral under Section 2.3(k).

(ii) Acceleration of L/C Obligations. If the Obligations or any part thereof become immediately due and payable pursuant to Section 8.2 then, unless the Majority Lenders otherwise specifically elect to the contrary (which election may thereafter be retracted by the Majority Lenders at any time), all L/C Obligations shall become immediately due and payable without regard to whether or not actual drawings or payments on the Letters of Credit have occurred, and the Borrower shall be obligated to pay to the Issuing Bank immediately an amount equal to 105% of the aggregate L/C Obligations which are then outstanding. All amounts so paid shall first be applied to Matured L/C Obligations and then held by the Issuing Bank as L/C Collateral until such L/C Obligations become Matured L/C Obligations, at which time such L/C Collateral shall be applied to such Matured L/C Obligations.

(iii) Investment of L/C Collateral. Pending application thereof, all L/C Collateral shall be invested by the Issuing Bank in such blocked account as the Issuing Bank may choose in its sole discretion reasonably exercised. All interest on such

investments shall be reinvested or applied to Matured L/C Obligations. When all Obligations have been satisfied in full, including all L/C Obligations, all Letters of Credit have expired or been terminated, and all of the Borrower's reimbursement obligations in connection therewith have been satisfied in full, the Issuing Bank shall release any remaining L/C Collateral. The Borrower hereby assigns and grants to the Issuing Bank a continuing security interest in all L/C Collateral paid by it to the Issuing Bank, all investments purchased with such L/C Collateral, and all proceeds thereof to secure its Matured L/C Obligations and its Obligations under this Agreement, the Notes, and the other Loan Documents, and the Borrower agrees that such L/C Collateral and investments shall be subject to all of the terms and conditions of the Borrower's Security Agreement. The Borrower further agrees that the Issuing Bank shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State of New York with respect to such security interest and that an Event of Default under this Agreement shall constitute a default for purposes of such security interest.

(iv) Calculations. A written advice setting forth in reasonable detail the amounts owing under this section, submitted by the Issuing Bank to the Borrower or any Lender from time to time, shall be conclusive, absent manifest error, as to the amounts thereof.

SECTION 2.4 Prepayments.

(a) Voluntary Prepayments. The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Administrative Agent not later than 12:00 p.m., central time, (A) three Business Days prior to any date of prepayment of LIBO Rate Loans, and (B) on the date of prepayment of Base Rate Loans; (ii) any prepayment of LIBO Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $1,000,000 in excess thereof; and (iii) any prepayment of Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of such Lender's Percentage Share of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a LIBO Rate Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to Section 3.5. Each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Percentage Shares, provided that at the Borrower's election in connection with any prepayment pursuant to this Section 2.4(a), such prepayment shall not be applied to any Loans of a Defaulting Lender.

(b) Mandatory Prepayments. The Borrower shall make the following prepayments of the Loans:

(i) Asset Coverage Ratio Deficiency. If, at any time, the Borrower is not in compliance with ~~the Asset Coverage Ratio~~Section 7.13(b), the Borrower shall immediately prepay the Borrowings in an aggregate principal amount equal to an amount necessary to be in compliance, and, to the extent necessary to be in compliance, Cash Collateralize the L/C Obligations as provided in Section 2.3(k).

(ii) Mandatory Prepayments. If for any reason the Outstanding Amount of all Loans and L/C Obligations at any time exceeds the Aggregate Commitments then in effect, the Borrower shall first immediately prepay Loans and second following repayment of the Loans, Cash Collateralize the L/C Obligations in an aggregate amount equal to 105% of such excess as provided in Section 2.3(k).

SECTION 2.5 Reduction or Termination of Commitments and Maximum Loan Amount. The Borrower may, upon notice to the Administrative Agent, terminate the Aggregate Commitments and the Maximum Loan Amount, or permanently reduce the Aggregate Commitments and the Maximum Loan Amount to an amount not less than the then Outstanding Amount of all Loans and L/C Obligations; provided that (i) any such notice shall be received by the Administrative Agent not later than 12:00p.m., central time three (3) Business Days prior to the date of termination or reduction, and (ii) any such partial reduction shall be in an aggregate amount of $5,000,000 or any whole multiple of $1,000,000 in excess thereof. The Administrative Agent shall promptly notify the Lenders of any such notice of reduction or termination of the Aggregate Commitments and the Maximum Loan Amount. Once reduced in accordance with this Section, the Commitments may not be increased. Any reduction of the Aggregate Commitments shall be applied to the Commitment Amount of each Lender according to its Percentage Share. All commitment fees accrued until the effective date of any termination of the Aggregate Commitments shall be paid on the effective date of such termination.

SECTION 2.6 Repayment of Loans. The Borrower hereby promises to repay to the Lenders on the Maturity Date the aggregate principal amount of Loans outstanding on such date.

SECTION 2.7 Interest.

(a) Subject to the provisions of subsection(b) below, (i) each LIBO Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Adjusted LIBO Rate for such Interest Period plus the LIBOR Spread; and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Base Rate Spread.

(b) While any Default or Event of Default exists or after acceleration, the Borrower shall pay interest on the principal amount of all outstanding Obligations at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Law. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

SECTION 2.8 Fees. In addition to certain fees described in Sections 2.3(h) and 2.3(i):

(a) Commitment Fee. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Percentage Share, a commitment fee equal to the Commitment Fee Rate times the actual daily amount by which the Aggregate Commitments exceed the sum of (i) the Outstanding Amount of Loans and (ii) the Outstanding Amount of L/C Obligations. The commitment fee shall accrue at all times from the Closing Date until the Maturity Date and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the Maturity Date. The commitment fee shall be calculated quarterly in arrears, and if there is any change in the Commitment Fee Rate with respect to commitment fees during any quarter, the actual daily amount shall be computed and multiplied by the Commitment Fee Rate with respect to commitment fees separately for each period during such quarter that such Commitment Fee Rate was in effect. The commitment fee shall accrue at all times, including at any time during which one or more of the conditions in Article IV is not met.

(b) Arrangement and Agency Fees. The Borrower shall pay an arrangement fee to the Arranger for the Arranger's own account, and shall pay an agency fee to the Administrative Agent for the Administrative Agent's own account, in the amounts and at the times specified in the letter agreement, dated February 25, 2015 (the "Agent and Arranger Fee Letter"), among the Borrower, the Arranger and the Administrative Agent. Such fees shall be fully earned when paid and shall be nonrefundable for any reason whatsoever.

SECTION 2.9 Computation of Interest and Fees. Computation of interest on Base Rate Loans and commitment fees shall be calculated on the basis of a year of 365 or 366 days, as the case may be, and the actual number of days elapsed. Computation of all other types of interest and all fees shall be calculated on the basis of a year of 360 days and the actual number of days elapsed, which results in a higher yield to the payee thereof than a method based on a year of 365 or 366 days. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall bear interest for one day.

SECTION 2.10 Notes and Other Evidence of Debt.

(a) Each Lender may record the date, Type (if applicable), amount and maturity of the applicable Loans and payments with respect thereto on one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business or on one or more schedules to its Note (if applicable). The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure so to record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Loans and L/C Obligations.

(b) If requested by a Lender, the obligation of the Borrower to repay to such Lender the aggregate amount of all Loans made by such Lender, together with interest accruing in connection therewith, shall be evidenced by a single Note made by the Borrower in the amount of such Lender's Commitment Amount payable to the order of such Lender, which Note shall be substantially in the form of Exhibit B with appropriate insertions.

(c) In addition to the accounts and records referred to in subsection (a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control.

SECTION 2.11 Payments Generally.

(a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 12:00noon, central time, on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Percentage Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 12:00noon, central time, shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) Subject to the definition of "Interest Period," if any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(c) Unless the Borrower or any Lender has notified the Administrative Agent prior to the date any payment is required to be made by it to the Administrative Agent hereunder, that the Borrower or such Lender, as the case may be, will not make such payment, the Administrative Agent may assume that the Borrower or such Lender, as the case may be, has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to the Person entitled thereto. If and to the extent that such payment was not in fact made to the Administrative Agent in immediately available funds, then:

(i) if the Borrower failed to make such payment, each Lender shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender in immediately available funds, together with interest thereon (1) in respect of each of the first two Business Days from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in immediately available funds, at the Federal Funds Rate from time to time in effect, and (2) in respect of each day after the first two Business Days from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in immediately available funds, at the Base Rate from time to time in effect; and

(ii) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in immediately available funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrower to the date such amount is recovered by the Administrative Agent (the "Compensation Period") at a rate per annum equal to (1) for the first two Business Days of any Compensation Period, the Federal Funds Rate from time to time in effect, and (2) for each other day of any Compensation Period, the interest rate applicable to the applicable Borrowing. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent may make a demand therefor upon the Borrower, and the Borrower shall pay such amount to the Administrative Agent, together with interest thereon for the Compensation Period at a rate per annum equal to the rate of interest applicable to the applicable Borrowing. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights that the Administrative Agent or the Borrower may have against any Lender as a result of any default by such Lender hereunder.

A notice of the Administrative Agent to any Lender with respect to any amount owing under this subsection (c) shall be conclusive, absent manifest error.

(d) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) The obligations of the Lenders hereunder to make Loans and to fund participations in Letters of Credit are several and not joint. The failure of any Lender to make any Loan or to fund any such participation on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

(f) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

SECTION 2.12 Sharing of Payments. If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Loans made by it, or the participations in L/C Obligations held by it, any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a)notify the Administrative Agent of such fact, and (b)purchase from the other Lenders such participations in the Loans made by them and/or such subparticipations in the participations in L/C Obligations held by them, as the case may be, as shall

be necessary to cause such purchasing Lender to share the excess payment in respect of such Loan or such participations, as the case may be, pro rata with each of them; provided, however, that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender, such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by law, exercise all its rights of payment (including the right of set-off, but subject to Section 10.9) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

SECTION 2.13 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) Commitment fees shall cease to accrue on the unfunded portion of the Commitment of such Defaulting Lender pursuant to Section 2.8(a);

(b) the Commitment and Outstanding Amount of all Loans and L/C Obligations of such Defaulting Lender shall not be included in determining whether all Lenders or the Majority Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 10.1); provided that (i) any waiver, amendment or modification requiring the consent of each affected Lender pursuant to Section 10.1(a), (b) or (c), shall require the consent of such Defaulting Lender (which for the avoidance of doubt would include any change to the Maturity Date applicable to such Defaulting Lender, decreasing or forgiving any principal or interest due to such Defaulting Lender, any decrease of any interest rate applicable to Loans made by such Defaulting Lender (other than the waiving of post-default interest rates) and any increase in such Defaulting Lender's Commitment) and (ii) the effective Commitment of a Defaulting Lender may not be increased without the consent of such Defaulting Lender;

(c) if any L/C Obligations exists at the time a Lender becomes a Defaulting Lender, then (i) all or any part of such L/C Obligations of such Defaulting Lender will, subject to the limitation in the first proviso below and subject to the requirement that there is no Default or Event of Default then existing at such time, automatically be reallocated (effective on the day such Lender becomes a Defaulting Lender) among the Non-Defaulting Lenders pro rata in accordance with their respective Voting Percentages; provided that (A) each Non-Defaulting Lender's L/C Obligations plus the aggregate outstanding amount of the Loans of such Non-Defaulting Lender may not in any event exceed the Commitment of such Non-Defaulting Lender as in effect at the

time of such reallocation and (B) neither such reallocation nor any payment by a Non-Defaulting Lender pursuant thereto will constitute a waiver or release of any claim the Borrower, the Administrative Agent, the Issuing Bank or any other Lender may have against such Defaulting Lender or cause such Defaulting Lender to be a Non-Defaulting Lender, (ii) to the extent that all or any portion (the "unreallocated portion") of the Defaulting Lender's L/C Obligations cannot, or can only partially, be so reallocated to Non-Defaulting Lenders, whether by reason of the first proviso in this Section 2.13(c)(i) or otherwise, the Borrower shall within two Business Days following notice by the Administrative Agent Cash Collateralize such Defaulting Lender's unreallocated portion of the L/C Obligations in accordance with the procedures set forth in Section 2.3(k) for so long as such L/C Obligations are outstanding, (iii) if the Borrower Cash Collateralizes any portion of such Defaulting Lender's L/C Obligations pursuant to this Section 2.13(c), the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.3(h) with respect to such Defaulting Lender's L/C Obligations during the period such Defaulting Lender's L/C Obligations is Cash Collateralized, (iv) if the L/C Obligations of the non-Defaulting Lenders are reallocated pursuant to this Section 2.13(c), then the Letter of Credit fees payable for the account of the Lenders pursuant to Section 2.3(h) shall be adjusted in accordance with such non-Defaulting Lenders' Voting Percentages and the Borrower shall not be required to pay any Letter of Credit fees to the Defaulting Lender pursuant to Section 2.3(h) with respect to such Defaulting Lender's L/C Obligations during the period that such Defaulting Lender's L/C Obligations is reallocated, or (v)if any Defaulting Lender's L/C Obligations is neither Cash Collateralized nor reallocated pursuant to this Section 2.13(c), then, without prejudice to any rights or remedies of the Issuing Bank or any Lender hereunder, all Letter of Credit fees payable under Section 2.3(h) with respect to such Defaulting Lender's L/C Obligations shall be payable to the Issuing Bank until such L/C Obligations is Cash Collateralized and/or reallocated;

(d) the Issuing Bank will not be required to issue any new Letter of Credit or amend any outstanding Letter of Credit to increase the stated amount thereof, alter the drawing terms thereunder or extend the expiry date thereof, unless the Issuing Bank is reasonably satisfied that any exposure that would result from the exposure to such Defaulting Lender is eliminated or fully covered by the Commitments of the Non-Defaulting Lenders or by L/C Collateral or a combination thereof in accordance with clause (c) above or otherwise in a manner reasonably satisfactory to the Issuing Bank;

(e) the Borrower shall have the right to remove or replace a Defaulting Lender in accordance with Section 3.9 hereof; and

(f) if the Borrower, the Administrative Agent and the Issuing Bank agree in writing in their discretion that a Lender that is a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon, as of the effective date specified in such notice and subject to any conditions set forth therein, such Lender will cease to be a Defaulting Lender and will be a Non-Defaulting Lender and any applicable L/C Collateral shall be promptly returned to the Borrower and any L/C Obligations of such Lender reallocated pursuant to Section 2.13(c) shall be reallocated back to such Lender; provided that, except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Non-Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender's having been a Defaulting Lender.

ARTICLE III.

TAXES, YIELD PROTECTION AND ILLEGALITY

SECTION 3.1 Taxes.

(a) Any and all payments by the Borrower to or for the account of the Administrative Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and all liabilities with respect thereto, excluding, in the case of the Administrative Agent and each Lender, taxes imposed on or measured by its net income, and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the Laws of which the Administrative Agent or such Lender, as the case may be, is organized or maintains a lending office (all such non-excluded taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and liabilities being hereinafter referred to as "Taxes"). If the Borrower shall be required by any Laws to deduct any Taxes from or in respect of any sum payable under any Loan Document to the Administrative Agent or any Lender, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section), the Administrative Agent and such Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions, (iii) the Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable Laws, and (iv) within 30 days after the date of such payment, the Borrower shall furnish to the Administrative Agent (which shall forward the same to such Lender) the original or a certified copy of a receipt evidencing payment thereof.

(b) In addition, the Borrower agrees to pay any and all present or future stamp, court or documentary taxes and any other excise or property taxes or charges or similar levies that arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document (hereinafter referred to as "Other Taxes").

(c) If the Borrower shall be required to deduct or pay any Taxes or Other Taxes from or in respect of any sum payable under any Loan Document to the Administrative Agent or any Lender, the Borrower shall also pay to the Administrative Agent (for the account of such Lender) or to such Lender, at the time interest is paid, such additional amount that such Lender specifies as necessary to preserve the after-tax yield (after factoring in all taxes, including taxes imposed on or measured by net income) such Lender would have received if such Taxes or Other Taxes had not been imposed.

(d) The Borrower agrees to indemnify the Administrative Agent and each Lender for (i) the full amount of Taxes and Other Taxes (including any Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable under this Section) paid by the Administrative Agent and such Lender, (ii) amounts payable under Section 3.1(c) and (iii) any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, in each case whether or not such Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Payment under this subsection (d) shall be made within 30 days after the date the Lender or the Administrative Agent makes a demand therefor.

SECTION 3.2 Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund LIBO Rate Loans, or materially restricts the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the applicable offshore Dollar market, or to determine or charge interest rates based upon the LIBO Rate, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender to make or continue LIBO Rate Loans or to convert Base Rate Loans to LIBO Rate Loans shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all LIBO Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period thereof, if such Lender may lawfully continue to maintain such LIBO Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such LIBO Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay interest on the amount so prepaid or converted. Each Lender agrees to designate a different Lending Office if such designation will avoid the need for such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender.

SECTION 3.3 Inability to Determine Rates. If the Administrative Agent determines in connection with any request for a LIBO Rate Loan or a conversion to or continuation thereof that (a) Dollar deposits are not being offered to banks in the applicable offshore Dollar market for the applicable amount and Interest Period of such LIBO Rate Loan, (b) adequate and reasonable means do not exist for determining the LIBO Rate for such LIBO Rate Loan, or (c) the Adjusted LIBO Rate for such LIBO Rate Loan does not adequately and fairly reflect the cost to the Lenders of funding such LIBO Rate Loan, the Administrative Agent will promptly notify the Borrower and all Lenders. Thereafter, the obligation of the Lenders to make or maintain LIBO Rate Loans shall be suspended until the Administrative Agent revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing, conversion or continuation of LIBO Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

SECTION 3.4 Increased Cost and Reduced Return; Capital Adequacy.

(a) If any Lender determines that, as a result of any Change in Law, there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining LIBO Rate Loans or (as the case may be) issuing or participating in Letters of Credit, or a reduction in the amount received or receivable by such Lender in connection with any of the foregoing (excluding for purposes of this subsection (a) any such increased costs or reduction in amount resulting from (i) Taxes or Other Taxes (as to which Section 3.1 shall govern), (ii) changes in the basis of taxation of overall net income or overall gross income by the United States or any foreign jurisdiction or any political subdivision of either thereof under the Laws of which such Lender is organized or has its Lending Office, and (iii) reserve requirements utilized, as to LIBO Rate Loans, in the determination of the Adjusted LIBO Rate), then from time to time upon demand of such Lender (with a copy of such demand to the Administrative Agent), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such increased cost or reduction.

(b) If any Lender determines that any Change in Law affecting such Lender or any lending office of such Lender or such Lender's holding company, if any regarding capital adequacy or liquidity, has the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of such Lender's obligations hereunder (taking into consideration its policies with respect to capital adequacy and liquidity and such Lender's desired return on capital), then from time to time upon demand of such Lender (with a copy of such demand to the Administrative Agent), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such reduction.

SECTION 3.5 Funding Losses. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise); or

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a LIBO Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 3.9;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.5, each Lender shall be deemed to have funded each LIBO Rate Loan made by it at the LIBO Rate for such Loan by a matching deposit or other borrowing in the applicable offshore Dollar interbank market for a comparable amount and for a comparable period, whether or not such LIBO Rate Loan was in fact so funded.

SECTION 3.6 Matters Applicable to all Requests for Compensation.

(a) A certificate of the Administrative Agent or any Lender claiming compensation under this Article III and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error. In determining such amount, the Administrative Agent or such Lender may use any reasonable averaging and attribution methods.

(b) Upon any Lender's making a claim for compensation under Section 3.1 or 3.4, the Borrower may remove or replace such Lender in accordance with Section 3.9; provided that the Borrower shall have the right to replace such Lender only if they also replace any other Lender who has made or is making a similar claim for compensation under Section 3.1 or 3.4.

SECTION 3.7 Survival. All of the Borrower's obligations under this Article III shall survive termination of the Commitments and of this Agreement and payment in full of all the other Obligations.

SECTION 3.8 Foreign Lenders. Each Lender that is a "foreign corporation, partnership or trust" within the meaning of the Code (a "Foreign Lender") shall deliver to the Administrative Agent, prior to receipt of any payment subject to withholding under the Code (or after accepting an assignment of an interest herein), two duly signed completed copies of either IRS Form W-8BEN or any successor thereto (relating to such Person and, where applicable, entitling it to an exemption from, or reduction of, withholding tax on all payments to be made to such Person by the Borrower pursuant to this Agreement) or IRS Form W-8ECI or any successor thereto (relating to all payments to be made to such Person by the Borrower pursuant to this Agreement) or such other evidence satisfactory to the Borrower and the Administrative Agent that, where applicable, such Person is entitled to an exemption from, or reduction of, U.S. withholding tax. Thereafter and from time to time, each such Person shall (i) promptly submit to the Administrative Agent such additional duly completed and signed copies of one of such forms (or such successor forms as shall be adopted from time to time by the relevant United States taxing authorities) as may then be available under then current United States laws and regulations to avoid, or such evidence as is satisfactory to the Borrower and the Administrative Agent of any available exemption from or reduction of, United States withholding taxes in respect of all payments to be made to such Person by the Borrower pursuant to this Agreement, (ii) promptly notify the Administrative Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction, and (iii) take such steps as shall not be materially disadvantageous to it, in the reasonable judgment of such Lender, and as may be reasonably necessary (including the re-designation of its Lending Office) to avoid any requirement of applicable Laws that the Borrower make any deduction or withholding for taxes from amounts payable to such Person. If such Person fails to deliver the above forms or other documentation, then the Administrative Agent may withhold from any interest payment to such Person an amount equivalent to the applicable withholding tax imposed by Sections 1441 and 1442 of the Code, without reduction. If any Governmental Authority asserts that the Administrative Agent did not properly withhold any tax or other amount from payments made in respect of such Person, such Person shall indemnify the Administrative Agent therefor, including all penalties and interest, any taxes imposed by any jurisdiction on the amounts payable to the Administrative Agent under this Section, and costs and expenses (including Attorney Costs) of the Administrative Agent. The obligation of the Lenders under this Section shall survive the payment of all Obligations and the resignation or replacement of the Administrative Agent.

SECTION 3.9 Removal and Replacement of Lenders.

(a) Under any circumstances set forth herein providing that the Borrower shall have the right to remove or replace a Lender as a party to this Agreement, the Borrower may, upon notice to such Lender and the Administrative Agent, (i) remove such Lender by terminating such Lender's Commitment or (ii) replace such Lender by causing such Lender to assign its Commitment (and Commitment Amount) (without payment of any assignment fee) pursuant to

Section 10.7(b)(i) to one or more other Lenders or Eligible Assignees procured by the Borrower; provided, however, that if the Borrower elects to exercise such right with respect to any Lender pursuant to Section 3.6(b), it shall be obligated to remove or replace, as the case may be, all Lenders that have made similar requests for compensation pursuant to Section 3.1 or 3.4. The Borrower shall (x) pay in full all principal, interest, fees and other amounts owing to such Lender through the date of termination or assignment (including any amounts payable pursuant to Section 3.5), (y) provide appropriate assurances and indemnities (which may include letters of credit) to the Issuing Bank as may reasonably be required with respect to any continuing obligation to purchase participation interests in any L/C Obligations then outstanding, and (z) release such Lender from its obligations under the Loan Documents. Any Lender being replaced shall execute and deliver an Lender Assignment with respect to such Lender's Commitment, Commitment Amount and outstanding Credit Extensions. The Administrative Agent shall distribute an amended Schedule2.1, which shall be deemed incorporated into this Agreement, to reflect changes in the identities of the Lenders and adjustments of their respective Commitment Amounts and/or Percentage Shares resulting from any such removal or replacement.

(b) In order to make all the Lenders' interests in any outstanding Credit Extensions ratable in accordance with any revised Percentage Shares after giving effect to the removal or replacement of a Lender, the Borrower shall pay or prepay, if necessary, on the effective date thereof, all outstanding Loans of all Lenders, together with any amounts due under Section 3.5. The Borrower may then request Loans from the Lenders in accordance with their revised Percentage Shares. The Borrower may net any payments required hereunder against any funds being provided by any Lender or Eligible Assignee replacing a terminating Lender. The effect for purposes of this Agreement shall be the same as if separate transfers of funds had been made with respect thereto.

(c) This section shall supersede any provision in Section 10.1 to the contrary.

ARTICLE IV.

CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

SECTION 4.1 Conditions of Initial Credit Extension. The obligation of each Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(a) Unless waived by all the Lenders (or by the Administrative Agent with respect to immaterial matters or items specified in clause (v) or (vi) below with respect to which the Borrower has given assurances satisfactory to the Administrative Agent that such items shall be delivered promptly following the Closing Date), the Administrative Agent's receipt of the following, each of which shall be originals or facsimiles (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to the Administrative Agent and its legal counsel:

(i) executed counterparts of this Agreement, a Guaranty from each of the Guarantors, the Subordination Agreement from each of the Guarantors, a Security Agreement from each of the Loan Parties, and a Pledge Agreement and Irrevocable Proxy from each Loan Party, sufficient in number for distribution to the Administrative Agent, each Lender and the Borrower, and, in the case of the Security Documents (excluding the Mortgages), in form and in sufficient number of counterparts for the prompt completion of all recording and filing of the Security Documents (excluding the Mortgages) as may be necessary or, in the opinion of the Administrative Agent, desirable to create or continue, as appropriate, a valid perfected first Lien against the collateral covered by such Security Documents (excluding the Mortgages), and together with stock certificates, membership interest certificates or such other certificated security as may be part of the collateral covered by the Security Documents and with stock powers or other transfer powers or instruments executed in blank for each such certificate, interest or security;

(ii) Notes executed by the Borrower in favor of each Lender that has requested a Note at least two Business Days prior to the Closing Date, each in a principal amount equal to such Lender's Commitment Amount;

(iii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require to establish the identities of and verify the authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;

(iv) such evidence as the Administrative Agent may reasonably require to verify that each Loan Party is duly organized or formed, validly existing, in good standing and qualified to engage in business in each jurisdiction in which it is required to be qualified to engage in business, including certified copies of each Loan Party's Organization Documents (unless previously delivered pursuant to the Prior Credit Facility), certificates of good standing and/or qualification to engage in business and tax clearance certificates;

(v) a certificate signed by a Responsible Officer of the Borrower certifying (A) that the conditions specified in Sections 4.2(a) and (b) have been satisfied, and (B) that there has been no event or circumstance since the date of the Initial Audited Financial Statements that has or could be reasonably expected to have a Material Adverse Effect;

(vi) an opinion of counsel to each Loan Party, in form and substance satisfactory to the Administrative Agent (which opinion will exclude the Mortgages);

(vii) a certificate of insurance of the Borrower and its Restricted Subsidiaries evidencing that the Borrower and its Restricted Subsidiaries are carrying insurance in accordance with Section 6.7 and that such insurance is in full force and effect;

(viii) the Initial Engineering Report;

(ix) the Initial Audited Financial Statements;

(x) proper financing statements (form UCC-1) or amendments to existing financing statements (form UCC-3), as appropriate, to be filed on or promptly after the date of the initial Borrowing, and, in the case of form UCC-1, naming the Borrower as debtor and the Administrative Agent as secured party, describing all of the Collateral in which the Borrower has granted or purported to grant an interest, filed in the appropriate jurisdictions; proper financing statements (form UCC-1) or amendments to existing financing statements (form UCC-3), as appropriate, to be filed on or promptly after the date of the initial Borrowing, and, in the case of form UCC-1, naming one or more of the Guarantors as debtor(s) and the Administrative Agent as secured party, describing all of the Collateral in which the Guarantor or Guarantors have granted or purported to grant an interest, filed in the appropriate jurisdictions; together with copies of search reports in such jurisdictions as the Administrative Agent may reasonably request, listing all effective financing statements that name any of the Borrower or the Guarantors as debtor and any other documents or instruments as may be necessary or desirable (in the opinion of the Administrative Agent) to perfect or continue the perfection of the Administrative Agent's interest in the Collateral;

(xi) evidence, reasonably satisfactory to it, that (i) all Debt to be Repaid has been (or on the Closing Date will be) paid in full, and that all agreements and instruments governing the Debt to be Repaid and that all Liens securing such Debt to be Repaid have been (or on the Closing Date will be) terminated and (ii) concurrently with the initial credit extension hereunder the offering and purchase of the Senior Secured Notes will be completed in accordance with the terms of the Senior Secured Indenture Documents (without any amendment thereto or waiver thereunder unless consented to by the Majority Lenders);

(xii) evidence, reasonably satisfactory to it, that the Borrower has received proceeds of not less than at least $600,000,000 from the issuance of Senior Secured Notes;

(xiii) copies of the Senior Secured Indenture Documents, certified by an authorized representative of the Borrower as being true, accurate and complete;

(xiv) a counterpart of the Intercreditor Agreement executed by each party thereto;

(xv) title information as the Administrative Agent may reasonably require satisfactory to the Administrative Agent setting forth the status of title to the Oil and Gas Properties evaluated in the Initial Engineering Report;

(xvi) a Compliance Certificate, evidencing pro forma compliance with Section 7.13; and

(xvii) such other assurances, certificates, documents, consents or opinions as the Administrative Agent, the Issuing Bank or the Majority Lenders reasonably may require.

(b) Any fees required to be paid on or before the Closing Date pursuant to any of the Loan Documents shall have been paid.

(c) On the Closing Date and after giving effect to the initial Borrowing and the other transactions to occur on or before the initial Borrowing, including the matters described in Section 4.1(a)(xi), the Borrower and its Restricted Subsidiaries will have cash, together with borrowing availability under this Agreement, of at least $200,000,000 and a positive working capital balance.

(d) The Agents and the Lenders shall have received, and be reasonably satisfied in form and substance with, such documentation and information as is reasonably requested in writing at least five days prior to the Closing Date by the Administrative Agent about the Borrower and the Guarantors in respect of applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Patriot Act.

(e) Unless waived by the Administrative Agent, the Borrower shall have paid all costs and expenses payable to the Administrative Agent pursuant to Section 10.4 to the extent invoiced prior to or on the Closing Date, plus such additional amounts of costs and expenses as shall constitute the Administrative Agent's reasonable estimate of the costs and expenses described in Section 10.4 incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

(f) The Closing Date shall have occurred on or before March 18, 2015.

SECTION 4.2 Conditions to all Credit Extensions. The obligation of each Lender to honor any Notice of Advance or Letter of Credit Application (other than a Notice of Advance requesting only a conversion of Loans to the other Type, or a continuation of Loans as the same Type) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower contained in Article V, or which are contained in any document furnished at any time under or in connection herewith, shall be true and correct on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date.

(b) No Default or Event of Default shall exist, or would result from such proposed Credit Extension.

(c) The Administrative Agent or, if applicable, the Issuing Bank shall have received a Notice of Advance or Letter of Credit Application in accordance with the requirements hereof.

(d) The Administrative Agent shall have received, in form and substance satisfactory to it, such other assurances, certificates, documents or consents related to the foregoing as the Administrative Agent or the Majority Lenders reasonably may require.

(e) The satisfaction of the conditions precedent set forth in Section 4.3.

SECTION 4.3 Post-Closing Obligations. Within 60 days after the Closing Date (or such longer period of time as the Majority Lenders may agree in writing) the Borrower will deliver to the Administrative Agent (i) each fully executed Mortgage, in form and in sufficient number of counterparts for the prompt completion of all filing thereof as may be necessary and (ii) the fully

executed Account Control Agreements. Together therewith, the Borrower shall deliver opinions of counsel relating to the Mortgage and the Account Control Agreements as reasonably requested by the Administrative Agent. Failure to comply with this Section 4.3 shall be an Event of Default.

Each Notice of Advance or Letter of Credit Application (other than a Notice of Advance requesting only a conversion of Loans to the other Type or a continuation of Loans as the same Type) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Section 4.2 have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V.

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

SECTION 5.1 Existence, Qualification and Power; Compliance with Laws. Each Loan Party (a) is a corporation, partnership or limited liability company duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all governmental licenses, authorizations, consents and approvals to own its assets, carry on its business and to execute, deliver, and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and is licensed and in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license, and (d) is in compliance with all Laws, except in each case referred to in clause (c) or this clause (d), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

SECTION 5.2 Authorization; No Contravention. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien, or give rise to a right thereunder to require any payment to be made by the Borrower or any Subsidiary, under, any Contractual Obligation to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its property is subject (other than the Liens purportedly created under the Loan Documents); or (c) violate any Law.

SECTION 5.3 Governmental Authorization; Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person or entity (including, without limitation, any creditor or stockholder of the Borrower or any Guarantor) is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document.

SECTION 5.4 Binding Effect. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan

Party that is a party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is a party thereto in accordance with its terms except as such enforceability may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally and by general principles of equity.

SECTION 5.5 Financial Statements; No Material Adverse Effect.

(a) The Initial Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness in accordance with GAAP consistently applied throughout the period covered thereby.

(b) Since the date of the Initial Audited Financial Statements, there has been no event or circumstance that has or could reasonably be expected to have a Material Adverse Effect.

SECTION 5.6 Litigation. Except as specifically disclosed in Schedule5.6, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of its Restricted Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) if determined adversely, could reasonably be expected to have a Material Adverse Effect.

SECTION 5.7 No Default. Neither the Borrower nor any Subsidiary is in default under or with respect to any Contractual Obligation that could be reasonably expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

SECTION 5.8 Ownership of Property; Liens. The Borrower and each Restricted Subsidiary has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as would not, individually or in the aggregate, have a Material Adverse Effect. As of the Closing Date, the property of the Borrower and its Restricted Subsidiaries is subject to no Liens, other than Liens permitted by Section 7.1.

SECTION 5.9 Environmental Matters. The Borrower and its Subsidiaries conduct in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and as a result thereof the Borrower has reasonably concluded that, except as would not have a Material Adverse Effect (or with respect to clause (c), (d) and (e) below, where the failure to take such actions would not have a Material Adverse Effect):

(a) neither any property of any Loan Party or any Subsidiary, nor the operations conducted thereon violate any Environmental Laws;

(b) without limitation of clause (a) above, no property of any Loan Party or any Subsidiary, nor the operations currently conducted thereon or, to the best knowledge of the Borrower, by any prior owner or operator of such property or operation, are in violation of or subject to any existing, pending or, to the Borrower’s knowledge, threatened action, suit, investigation, inquiry or proceeding by or before any Governmental Authority or to any remedial obligations under Environmental Laws;

(c) all notices, permits, licenses or similar authorizations, if any, required pursuant to Environmental Laws to be obtained or filed in connection with the operation or use of the property of any Loan Party and each Subsidiary have been duly obtained or filed, and the Loan Party and each Subsidiary are in compliance with the terms and conditions of all such notices, permits, licenses and similar authorizations;

(d) all Hazardous Materials, solid waste, and oil and gas exploration and production wastes, if any, generated at the property of any Loan Party or any Subsidiary have in the past been transported, treated and disposed of in accordance with Environmental Laws and so as not to pose an imminent and substantial endangerment to public health or welfare or the environment, and, to the best knowledge of the Borrower, all such transport carriers and treatment and disposal facilities have been and are operating in compliance with Environmental Laws and so as not to pose an imminent and substantial endangerment to public health or welfare or the environment, and are not the subject of any existing, pending or, to the Borrower’s knowledge, threatened action, investigation or inquiry by any Governmental Authority in connection with any Environmental Laws;

(e) the Loan Parties and their Subsidiaries have taken all steps reasonably necessary to determine and have determined that no Hazardous Materials, solid waste, or oil and gas exploration and production wastes, have been disposed of or otherwise released and there has been no threatened release of any Hazardous Materials on or to any property of the Loan Parties or any Subsidiary except, in each case, in compliance with Environmental Laws and so as not to pose an imminent and substantial endangerment to public health or welfare or the environment; and

(f) none of the Loan Parties nor any Subsidiary has any known contingent liability in connection with any release or threatened release of any oil, Hazardous Materials or solid waste into the environment.

SECTION 5.10 Insurance. The properties of the Borrower and its Restricted Subsidiaries are insured with financially sound and reputable insurance companies that are not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or its Restricted Subsidiaries operate.

SECTION 5.11 Taxes. The Borrower, its Restricted Subsidiaries and each of the Borrower's other Subsidiaries that is a member of Borrower's consolidated U.S. federal income tax group, have filed all Federal, state and other material tax returns and reports required to be filed, and have paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the Borrower, any Restricted Subsidiary or any of the Borrower's other Subsidiaries that is a member of Borrower's consolidated U.S. federal income tax group, that would, if made, have a Material Adverse Effect.

SECTION 5.12 ERISA Compliance.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state Laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter is currently being processed by the IRS with respect thereto, all amendments to any such Plan for which the remedial amendment period (within the meaning of Section 401(b) of the Code and applicable regulations) has expired are covered by a favorable determination letter from the IRS, and, to the best knowledge of the Borrower, nothing has occurred which would prevent, or cause the loss of, such qualification. The Borrower and each ERISA Affiliate of the Borrower has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained with respect to any Pension Plan.

(b) There are no pending or, to the best knowledge of the Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is at least 60%; (iii) neither the Borrower nor any ERISA Affiliate of the Borrower has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) neither the Borrower nor any ERISA Affiliate of the Borrower has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (v) neither the Borrower nor any ERISA Affiliate of the Borrower has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA.

SECTION 5.13 Subsidiaries.

(a) The Borrower has no Subsidiaries other than those specifically disclosed in Part (a) of Schedule5.13. All Restricted Subsidiaries of Borrower are duly organized, validly existing and

in good standing under the laws of their respective jurisdictions of organization and are duly qualified to do business in each jurisdiction where failure to so qualify would have an Material Adverse Effect. All outstanding shares of stock of each class of each Restricted Subsidiary of Borrower have been and will be validly issued and are and will be fully paid and nonassessable. Except as otherwise set forth on Schedule5.13, all outstanding shares of stock of each class of each Restricted Subsidiary of Borrower are and will be owned, beneficially and of record, by Borrower or a wholly-owned Restricted Subsidiary of Borrower. All outstanding shares of stock of each class of each Restricted Subsidiary of Borrower, are and will be free and clear of any Liens.

(b) Part (b) of Schedule5.13 sets forth each of the Subsidiaries of the Borrower that shall have delivered a Guaranty on the Closing Date. Each such Guarantor is and will remain a wholly-owned Subsidiary of the Borrower.

(c) The Borrower has no equity investments in any other corporation or entity other than those specifically disclosed in Part (c) of Schedule5.13.

(d) The Borrower has no Unrestricted Subsidiary except as set forth in Part (d) of Schedule 5.13.

(e) Each reference to Schedule 5.13 herein shall mean such schedule as most recently supplemented in accordance with Section 6.2(b).

SECTION 5.14 Margin Regulations; Investment Company Act, Anti-Money Laundering and Anti-Terrorism Finance Laws.

(a) Neither the Borrower nor any of its Subsidiaries is engaged, and will engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board), or extending credit for the purpose of purchasing or carrying margin stock.

(b) None of the Borrower, any Person controlling the Borrower, or any Subsidiary is or is required to be registered as an “investment company” under the Investment Company Act of 1940.

(c) To the extent applicable, the Borrower and each Subsidiary is in compliance with anti-money laundering laws and anti-terrorism finance laws including the Bank Secrecy Act and the PATRIOT Act (the “Anti-Terrorism Laws”) and the United States Foreign Corrupt Practices Act of 1977 (“FCPA”). Neither the Borrower nor any of its Subsidiaries is any of the following (a “Restricted Person”): (i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the “Executive Order”); (ii) a Person that is named as a “specially designated national and blocked person” on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control (“OFAC”) at its official website or any replacement website or other replacement official publication of such list or similarly named by any similar foreign governmental authority; (iii) an agency of the government of a country, an organization controlled by a country, or a Person resident in a country that is subject to a sanctions program identified on the lists maintained by OFAC; or (iv) a Person that derives more than any of its assets or operating income from investments in or transactions with any such country, agency, organization or person.

SECTION 5.15 Disclosure. No statement, information, report, representation, or warranty made in writing by any Loan Party in any Loan Document or furnished to the Administrative Agent or any Lender by or on behalf of any Loan Party in connection with any Loan Document contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. There is no fact known to the Borrower which has caused, or which likely would in the future in the reasonable judgment of the Borrower cause, a Material Adverse Effect (except for any economic conditions which affect generally the industry in which the Borrower and its Restricted Subsidiaries conduct business), that has not been set forth in this Agreement or in the other documents, certificates, statements, reports and other information furnished in writing to the Lenders by or on behalf of the Borrower or any other Loan Party in connection with the transactions contemplated hereby.

SECTION 5.16 Intellectual Property; Licenses, Etc. The Borrower and its Restricted Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other rights that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person. To the best knowledge of the Borrower, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Borrower or any Restricted Subsidiary infringes upon any rights held by any other Person. No claim or litigation regarding any of the foregoing is pending or, to the best knowledge of the Borrower, threatened, and no patent, invention, device, application, principle or any statute, law, rule, regulation, standard or code is pending or, to the knowledge of the Borrower, proposed, which, in either case, could reasonably be expected to have a Material Adverse Effect.

SECTION 5.17 Direct Benefit. The Loans and Letters of Credit hereunder are for the direct benefit of the Borrower or one or more of the Restricted Subsidiaries of the Borrower, and the initial Loans and Letters of Credit hereunder are used to refinance and replace indebtedness owing, directly or indirectly, by the Borrower and certain of the Guarantors to the Lenders under the Prior Credit Facility. The Borrower and the Guarantors are engaged as an integrated group in the business of oil and gas exploration and related fields, and any benefits to the Borrower or any Guarantor is a benefit to all of them, both directly or indirectly, inasmuch as the successful operation and condition of the Borrower and the Guarantors is dependent upon the continued successful performance of the functions of the integrated group as a whole.

SECTION 5.18 Solvency. Each of the following is true for the Borrower, each Guarantor and the Borrower and the Guarantors on a consolidated basis: (a) the fair saleable value of its or their property is (i) greater than the total amount of its liabilities (including contingent liabilities), and (ii) greater than the amount that would be required to pay its probable aggregate liability on its then existing debts as they become absolute and matured; (b) its or their property is not unreasonable in relation to its business or any contemplated or undertaken transaction; and (c) it or they do not intend to incur, or believe that it or they will incur, debts beyond its or their ability to pay such debts as they become due.

SECTION 5.19 Indenture Debt Documents. Before and after giving effect to all the Credit Extensions contemplated hereunder, all representations and warranties of the Borrower or any Guarantor contained in any Indenture Debt Document are true and correct in all material

respects (except to the extent such representations or warranties relate or refer to a specified, earlier date). Before and after giving effect to all the Credit Extensions contemplated hereunder, there is no event of default or event or condition that could become an event of default with notice or lapse of time or both, under the Indenture Debt Documents, the Priority Lien Intercreditor Agreement or the Second Lien Intercreditor Agreement and each of the Indenture Debt Documents and ~~the~~each Intercreditor Agreement is in full force and effect.

SECTION 5.20 Hedging Agreements. Schedule 5.20, as of the date hereof, and after the date hereof, each report required to be delivered by the Borrower pursuant to Section 6.2(k), sets forth, a true and complete list of all Hedging Agreements of the Borrower 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 thereof, all credit support agreements relating thereto (including any margin required or supplied) and the counterparty to each such agreement.

SECTION 5.21 Location of Business and Offices. The Borrower's jurisdiction of organization is the State of Nevada; the name of the Borrower as listed in the public records of the State of Nevada is Comstock Resources, Inc.; and the organizational identification number of the Borrower in the State of Nevada is NV19831014871 (or, in each case, as set forth in a notice delivered to the Administrative Agent pursuant to Section 6.2(l)). The Borrower's principal place of business and chief executive offices are located at the address specified in Schedule 10.2 (or as set forth in a notice delivered pursuant to Section 6.2(l)). Each Loan Party's jurisdiction of organization, name as listed in the public records of its jurisdiction of organization, organizational identification number in its jurisdiction of organization, and the location of its principal place of business and chief executive office is stated on Schedule 5.21 (or as set forth in a notice delivered pursuant to Section 6.2(l)).

ARTICLE VI.

AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.1, 6.2, 6.3 and 6.11) cause each of its Restricted Subsidiaries to:

SECTION 6.1 Financial Statements. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Majority Lenders:

(a) as soon as available, but in any event within 90 days after the end of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail, audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Majority Lenders, which report and opinion shall be prepared in accordance with GAAP and shall not be subject to any qualifications or exceptions as to the scope of the audit nor to any qualifications and exceptions not reasonably acceptable to the Majority Lenders; and

(b) as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income and cash flows for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Officer of the Borrower as fairly presenting the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.

If the Borrower has designated any of its Subsidiaries as Unrestricted Subsidiaries, then, to the extent material, the quarterly and annual financial information required by Section 6.1(a) and (b) 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 Borrower and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Borrower.

SECTION 6.2 Certificates; Other Information. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Majority Lenders:

(a) concurrently with the delivery of the financial statements referred to in Section 6.1(a), a certificate of its independent certified public accountants certifying such financial statements and stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default or, if any such Default or Event of Default shall exist, stating the nature and status of such event;

(b) concurrently with the delivery of the financial statements referred to in Sections 6.1(a) and (b), a duly completed Compliance Certificate signed by a Responsible Officer of the Borrower and, if the Borrower or any Subsidiary has (subject to the requirements and limitations of this Agreement and the other Loan Documents) formed or acquired a new Subsidiary or Disposed or dissolved a Subsidiary, or redesignated an Unrestricted Subsidiary as a Restricted Subsidiary or a Restricted Subsidiary as an Unrestricted Subsidiary (in each case, in accordance with Section 1.6), or made any additional equity investment in any Person or Disposed of any equity investment in any Person, in each case, since the date of the most recently delivered Subsidiary, a substitute (or supplement to) Schedule 5.13;

(c) promptly after requested by the Administrative Agent or any Lender, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of the Borrower by independent accountants in connection with the accounts or books of the Borrower or any Subsidiary, or any audit of any of them;

(d) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of the Borrower, and copies of all annual, regular, periodic and special reports and registration statements which the Borrower may file or be required to file with the Securities and Exchange Commission under Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(e) upon the reasonable request of the Majority Lenders or the Administrative Agent, a schedule of all oil, gas, and other mineral production attributable to all material Oil and Gas Properties of the Borrower and the Guarantors, and in any event all such Oil and Gas Properties included in the most recent Engineering Report;

(f) promptly, all title or other information received after the Closing Date by the Borrower or any Guarantor which discloses any material defect in the title to any material asset included in the most recent Engineering Report;

(g) (A) 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 the December 31 immediately preceding such January 1 with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Borrower and the Guarantors prepared by an independent engineering firm of recognized standing acceptable to the Majority Lenders in accordance with accepted industry practices and otherwise acceptable and in form and substance satisfactory to the Majority Lenders, and (B) within ~~90~~45 days after each July 1, April 1 and October 1 commencing with July 1, ~~2015,~~2016, a reserve report as of the March 31, June 30 and September 30 immediately preceding such ~~July 1,~~date, respectively, with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Borrower and the Guarantors prepared by the Borrower in accordance with accepted industry practices at prices approved by the Administrative Agent, and otherwise acceptable and in form and substance satisfactory to the Majority Lenders;

(h) on or within 30 days after the request of the Administrative Agent or the Majority Lenders an updated reserve report with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Borrower and the Guarantors prepared by an independent engineering firm of recognized standing acceptable to the Majority Lenders in accordance with accepted industry practices and otherwise acceptable and in form and substance satisfactory to the Majority Lenders;

(i) promptly, any management letter from the auditors for the Borrower or any Guarantor and all other information respecting the business, properties or the condition or operations, financial or otherwise, including, without limitation, geological and engineering data of the Borrower or an Guarantor and any title work with respect to any Oil and Gas Properties of the Borrower or any Guarantor as any Bank may from time to time reasonably request;

(j) if requested by the Majority Lenders, title opinions (or other title reports or title information acceptable to the Majority Lenders) and other opinions of counsel, in each case in form and substance acceptable to the Majority Lenders, 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 Administrative Agent, if any;

(k) concurrently with the delivery of each Engineering Report hereunder:

(i) a certificate of a Responsible Officer, in form and substance reasonably satisfactory to the Administrative Agent:

(A) setting forth as of a recent date, a true and complete list of all Hedging Agreements of the Borrower 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 not listed on Schedule 5.20, 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 Borrower 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, in a form satisfactory to the Administrative Agent, prepared by or on behalf of the Borrower detailing on a monthly basis for the next twelve month period (i) the projected production of Hydrocarbons by the Borrower and the Restricted Subsidiaries and the assumptions used in calculating such projections, (ii) an annual operating budget for the Borrower and the Restricted Subsidiaries, and (iii) such other information as may be reasonably requested by the Administrative Agent;

(iii) a certificate of a Responsible Officer, in a form and substance reasonably satisfactory to the Administration Agent, certifying whether the Borrower is in compliance with the mortgage and title requirements set forth in Section 6.16(b) and setting forth the actual percentages as to which compliance has been achieved and if the Borrower is not in compliance the Borrower shall identify which Oil and Gas Properties are required to be mortgaged and/or as to which adequate title information has not been delivered.

(l) prompt written notice (and in any event within thirty (30) days prior thereto) of any change (i) in any Loan Party'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 Loan Party's chief executive office or principal place of business, (iii) in any Loan Party's identity or corporate structure or in the jurisdiction in which such Person is incorporated or formed, (iv) in any Loan Party's jurisdiction of organization or such Person's organizational identification number in such jurisdiction of organization, and (v) in any Loan Party's federal taxpayer identification number;

(m) promptly following the giving or receipt of any statement, notice or report delivered under the terms of any Indenture Debt Document (to the extent not otherwise furnished or made available hereunder) copies of such notice or report and promptly following the execution

of any amendment, modification or supplement to the Priority Lien Intercreditor Agreement or the Second Lien Intercreditor Agreement any Indenture Debt Document, a copy of any such amendment, modification or supplement;

(n) in the event the Borrower or any Restricted Subsidiary intends to Dispose of any Oil or Gas Properties or any Equity Interests in any Subsidiary with a fair market value in excess of $10,000,000 in accordance with Section 7.5, at least 15 days prior written notice of such Disposition, the price thereof and the anticipated date of closing; and

(o) promptly, such additional information regarding the business, financial or corporate affairs of the Borrower or any Subsidiary as the Administrative Agent, at the request of any Lender, may from time to time reasonably request.; and

(p) together with the financial statements delivered pursuant to Section 6.1(b), a listing of the Borrower's and each Subsidiaries' trade payables, specifying the trade creditor and balance due, and a detailed trade payable aging, all in form satisfactory to the Administrative Agent.

SECTION 6.3 Notices. Promptly notify the Administrative Agent and each Lender:

(a) of the occurrence of any Default or Event of Default;

(b) of any matter that has resulted or may reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of the Borrower or any Restricted Subsidiary; (ii) any dispute, litigation, investigation, proceeding or suspension between the Borrower or any Restricted Subsidiary and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting any of the Borrower or any Restricted Subsidiary, including pursuant to any applicable Environmental Laws;

(c) of any litigation, investigation or proceeding affecting any Loan Party in which the amount involved exceeds $10,000,000 or in which injunctive relief or similar relief is sought, which relief, if granted, could be reasonably expected to have a Material Adverse Effect;

(d) of the occurrence of any ERISA Event; and

(e) of any material change in accounting policies or financial reporting practices by the Borrower or any Subsidiary.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower or the relevant Subsidiary has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.3(a) shall describe with particularity any and all provisions of this Agreement or other Loan Document that have been breached.

SECTION 6.4 Payment of Obligations. Pay and discharge as the same shall become due and payable, all its obligations and liabilities, including (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, (b) all lawful claims which, if unpaid, would by law become a Lien upon its property; and (c) all Indebtedness, as and when due

and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness; unless, in the case of clause (a) and (b), same are being contested in good faith by appropriate proceedings which operate to suspend collection of the contested obligation and enforcement of any Lien and adequate reserves in accordance with GAAP are being maintained by the Borrower or such Restricted Subsidiary, and the failure to pay could not readily be expected to have a Material Adverse Effect.

SECTION 6.5 Preservation of Existence, Etc. Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization; take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except in a transaction permitted by Section 7.4 or 7.5; and preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

SECTION 6.6 Maintenance of Properties. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) use the standard of care typical in the industry in the operation and maintenance of its facilities.

SECTION 6.7 Maintenance of Insurance. Maintain with financially sound and reputable insurance companies not Affiliates of the Borrower, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons.

SECTION 6.8 Compliance with Laws. Comply with the requirements of all Laws applicable to it or to its business or property, except in such instances in which (i) such requirement of Law is being contested in good faith or a bona fide dispute exists with respect thereto; or (ii) the failure to comply therewith could not be reasonably expected to have a Material Adverse Effect (provided, that compliance with Laws applicable to Tax, ERISA, Anti-Terrorism Laws, the FCPA, Margin Requirements and the Investment Company Act shall be subject to the other specific relevant provisions of this Agreement).

SECTION 6.9 Books and Records. (a) Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Borrower or its Subsidiaries, as the case may be; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over the Borrower or any Subsidiary, as the case may be.

SECTION 6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public

accountants, all at the expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, however, that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice. The Borrower hereby authorizes and instructs its independent accountants to discuss the Borrower's and its Subsidiaries affairs, finances and condition with the Administrative Agent and any Lender, at the Administrative Agent's or such Lender's request.

SECTION 6.11 Compliance with ERISA. Do, and cause each of its ERISA Affiliates to do, each of the following: (a) maintain each Plan in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state law; (b) cause each Plan which is qualified under Section 401(a) of the Code to maintain such qualification; and (c) make all required contributions to any Plan subject to the Pension Funding Rules.

SECTION 6.12 Use of Proceeds. Use the proceeds of the Credit Extensions for working capital and other general corporate purposes, in each case, in compliance with, and not in contravention of, Section 7.11, any Law, any Loan Document, or any other Contractual Obligation.

SECTION 6.13 [intentionally omitted]

SECTION 6.14 Additional Covenants Upon Issuance of Additional Permitted Notes or Permitted Refinancing Indebtedness. If the Borrower issues (or proposes to issue) any Additional Permitted Notes or any Permitted Refinancing Indebtedness under Section 7.3(f) or (~~i~~k) hereof, the Borrower shall:

(a) Deliver, or cause to be delivered, to the Administrative Agent not later than five (5) Business Days following the date on which any prospectus or offering memorandum prepared in connection therewith is delivered to the prospective or actual holders thereof, a final, true and correct copy of such prospectus or offering memorandum;

(b) Deliver to the Administrative Agent not more than ten (10) Business Days after the date of issuance of any Permitted Additional Notes or any Permitted Refinancing Indebtedness, by the Borrower, a true and correct copy of the Indenture Debt Documents entered into by the Borrower or any other Loan Party in connection therewith;

(c) Deliver to the Administrative Agent concurrently with the issuance of any Permitted Additional Notes or any Permitted Refinancing Indebtedness, a certificate of ~~an Authorized~~a Responsible Officer of the Borrower confirming such issuance and setting forth the aggregate principal amount of Permitted Additional Notes or any Permitted Refinancing Indebtedness issued; and

(d) Deliver to the Administrative Agent and the Lenders promptly following any request from the Administrative Agent in its sole discretion, such other related materials evidencing the issuance of the Permitted Additional Notes or any Permitted Refinancing Indebtedness as the Administrative Agent or the Majority Lenders may reasonably request.

SECTION 6.15 [intentionally omitted]

SECTION 6.16 Security.

(a) The Security. The Secured Obligations will be secured by the Security Documents delivered pursuant to Article IV and any additional Security Documents hereafter delivered by any Loan Party or any Affiliate of any Loan Party.

(b) Agreement to Deliver Security Documents.

(i) The Borrower shall promptly deliver, and to cause each of the Guarantors to deliver, to further secure the Secured Obligations, (A) from and after a date not later than 60 days following the Closing Date, deeds of trust, mortgages, chattel mortgages, security agreements, financing statements and other Security Documents in form and substance satisfactory to the Administrative Agent for the purpose of granting, confirming, and perfecting first and prior liens or security interests in (x) prior to the occurrence of a Default, at least ~~eighty~~ninety percent (~~80~~90%) of the PV-9 of the Borrower's and the Guarantors' Oil and Gas Properties constituting Proved Reserves and Probable Undeveloped Reserves, (y) after the occurrence of a Default, at least ninety-five percent (95%) of the PV-9 of the Borrower's and the Guarantors' Oil and Gas Properties constituting Proved Reserves and Probable Undeveloped Reserves, and (B) from and after the Closing Date, all of the equity interests of the Borrower or any Guarantor in any other Guarantor now owned or hereafter acquired by the Borrower or any Guarantor, and all property of the Borrower or any Guarantor of the type described in the Security Agreement.

(ii) In connection with each delivery of an Engineering Report, the Borrower shall review the Engineering Report and the list of current Mortgaged Properties to ascertain whether the Mortgaged Properties represent at least ~~eighty~~ninety percent (~~80~~90%) of the PV-9 of the Oil and Gas Properties constituting Proved Reserves and Probable Undeveloped 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 Borrower shall, and shall cause its Restricted Subsidiaries to, promptly grant to the Pari Passu Collateral Agent as security for the Pari Passu Obligations a first-priority Lien interest (subject only to Liens permitted by Section 7.1) on additional Oil and Gas Properties not already subject to a Lien of the Security Documents 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 Security Documents, all in form and substance reasonably satisfactory to the Administrative 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 Guarantor, then it shall become a Guarantor and comply with Section 6.16(d).

(iii) The Borrower also agrees to promptly deliver, or to cause to be promptly delivered, to the extent not already delivered, whenever requested by the Administrative Agent in its sole and absolute discretion (a) favorable title information (including, if reasonably requested by the Administrative Agent, title opinions) acceptable to the Administrative Agent with respect to the Borrower's or any Guarantor's Oil and Gas Properties constituting at least eighty percent (80%) of the PV-9, of the Borrower's and the Guarantors' Oil and Gas Properties constituting Proved Reserves, and demonstrating that the Borrower or a Guarantor, as applicable, have good and defensible title to such properties and interests, free and clear of all Liens (other than those permitted by Section 7.1) and covering such other matters as the Administrative Agent may reasonably request and (b) favorable opinions of counsel satisfactory to the Administrative Agent in its sole discretion opining that the forms of Mortgage are sufficient to create valid first deed of trust or mortgage liens in such properties and interests and first priority assignments of and security interests in the Hydrocarbons attributable to such properties and interests and proceeds thereof.

(iv) In addition and not by way of limitation of the foregoing, in the case of the Borrower or any Guarantor granting a Lien in favor of the Administrative Agent upon any assets having a present value in excess of $10,000,000 located in a new jurisdiction, the Borrower or Guarantor will at its own expense, promptly obtain and furnish to the Administrative Agent all such opinions of legal counsel as the Administrative Agent may reasonably request in connection with any such security or instrument.

(v) Commencing on a date no later than 60 days after the Closing Date, the Borrower and its Restricted Subsidiaries shall keep and maintain each deposit account and each securities account with a financial institution reasonably acceptable to the Administrative Agent and subject to an Account Control Agreement, other than deposit accounts holding in the aggregate less than $~~10~~3 million.

(c) Perfection and Protection of Security Interests and Liens. In addition and not by way of limitation of the foregoing, the Borrower will from time to time promptly deliver, or cause to be promptly delivered, to the Administrative Agent any financing statements, continuation statements, extension agreements and other documents, properly completed (and executed and acknowledged when required) by the Borrower or appropriate Guarantor in form and substance satisfactory to the Administrative Agent, which the Administrative Agent requests for the purpose of perfecting, confirming, or protecting any Liens or other rights in the collateral securing any Secured Obligations. In addition to the foregoing, the Borrower hereby authorizes, and shall cause each Guarantor to authorize, the Pari Passu Collateral Agent, on behalf of the Issuing Bank and the Lenders, to file in the appropriate filing office pursuant to applicable Law such financing statements, assignments and continuation statements as the Administrative Agent shall deem necessary or desirable for the purpose of perfecting, confirming, or protecting any Liens or other rights in the collateral securing any Pari Passu Obligations without the signature of the Borrower or any Guarantor.

(d) Additional Restricted Subsidiaries. Within 30 Business Days after the Borrower or any Loan Party creates, acquires or otherwise forms any other ~~Material~~ Subsidiary (other than a Subsidiary designated as an Unrestricted Subsidiary in accordance with Section 1.6(b)), the Borrower shall:

(i) execute and deliver, or cause each such Loan Party owning any of the outstanding equity interests in such ~~Material~~ Subsidiary to execute and deliver, as applicable, to the Pari Passu Collateral Agent on behalf of the Pari Passu Secured Parties, a Pledge Agreement, or an amendment or supplement to an existing Pledge Agreement, if appropriate, pursuant to which all of the outstanding equity interests in such ~~Material~~ Subsidiary owned by the Borrower or such Loan Party shall be pledged to the Pari Passu Collateral Agent on behalf of the Pari Passu Secured Parties, together with any certificates representing all equity interests so pledged, if any, and for each such certificate representing shares of stock, a stock power executed in blank;

(ii) cause such ~~Material~~ Subsidiary to execute and deliver to the Administrative Agent on behalf of the Lenders (i) a Guaranty, (ii) a ratification and acceptance of the Subordination Agreement, (iii) an agreement substantially similar to the Security Documents executed and delivered on the Closing Date and (iv) to the extent required by Section 6.16(b), a Mortgage as to all Oil and Gas Properties containing any proved Hydrocarbon reserves owned or leased by such ~~Material~~ Subsidiary;

(iii) cause such ~~Material~~ Subsidiary to execute and deliver to the Pari Passu Collateral Agent on behalf of the Pari Passu Secured Parties, or to authorize the Pari Passu Collateral Agent to file or record without such ~~Material~~ Subsidiary's signature, appropriate financing statements covering the collateral of such ~~Material~~ Subsidiary described in the Security Documents required to be delivered pursuant to the foregoing clauses (i) or (ii);

(iv) deliver or cause to be delivered to the Administrative Agent on behalf of the Lenders and the Issuing Bank all agreements, documents, instruments and other writings of the type described in Section 4.1(a)(iii), (iv) and (vi) with respect to such ~~Material~~ Subsidiary and opinions of counsel acceptable to the Administrative Agent and in form and substance satisfactory to the Administrative Agent covering the matters covered by the opinions delivered on the Closing Date with respect to such ~~Material~~ Subsidiary; and

(v) deliver or cause to be delivered to the Administrative Agent on behalf of the Lenders all such information regarding the condition (financial or otherwise), business and operations of such ~~Material~~ Subsidiary as the Administrative Agent, or the Issuing Bank or any Lender through the Administrative Agent, may reasonably request.

(e) Production Proceeds. Notwithstanding that, by the terms of the various Security Documents, the Loan Parties are and will be assigning to the Pari Passu Collateral Agent and the Pari Passu Secured Parties all of the "Production" (as defined therein) and the proceeds therefrom accruing to the properties covered thereby, so long as no Event of Default has occurred, the Loan Parties may continue to receive from the purchasers of production all such Production Proceeds, subject, however, to the Liens created under the Security Documents, which Liens are hereby affirmed and ratified. Upon the occurrence of an Event of Default, the Pari Passu Collateral Agent and the Pari Passu Secured Parties may exercise all rights and remedies granted under the Security Documents, including the right to obtain possession of all Production Proceeds then held by any

Loan Party or to receive directly from the purchasers of production all other Production Proceeds. In no case shall any failure, whether purposeful or inadvertent, by the Pari Passu Collateral Agent or the Pari Passu Secured Parties to collect directly any such Production Proceeds constitute in any way a waiver, remission or release of any of its or their rights under the Security Documents, nor shall any release of any Production Proceeds by the Pari Passu Collateral Agent or Pari Passu Secured Parties to any Loan Party constitute a waiver, remission, or release of any other Production Proceeds or of any rights of the Pari Passu Collateral Agent or the Pari Passu Secured Parties to collect other Production Proceeds thereafter.

SECTION 6.17 Keepwell. The Borrower hereby absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of its obligations under any Hedging Agreement with a Lender or Affiliate of a Lender or any Guaranty in respect of any obligations or other liabilities under a Hedging Agreement with a Lender or Affiliate of a Lender (provided, however, that the Borrower shall only be liable under this Section 6.17 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 6.17 or otherwise voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of the Borrower under this Section 6.17 shall remain in full force and effect until payment in full of the Secured Obligations and the termination of this Agreement. The Borrower intends that this Section 6.17 constitute, and this Section 6.17 shall be deemed to constitute, a “keepwell, support, or other agreement” for the benefit of each other Credit Party for all purposes of section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

SECTION 6.18 Unrestricted Subsidiaries. The Borrower:

(a) will cause the management, business and affairs of each of Borrower and its Subsidiaries to be conducted in such a manner (including, without limitation, by keeping separate books of account, maintaining separate policies of insurance and by not permitting Properties of Borrower and its respective Subsidiaries to be commingled) so that each Unrestricted Subsidiary will be treated as an entity separate and distinct from Borrower and the Restricted Subsidiaries (except (i) with respect to the treatment for tax purposes of the Borrower or any Restricted Subsidiary holding any interest in an Unrestricted Subsidiary that is regarded as a partnership and (ii) for the common management/directorship between the Borrower and any Unrestricted Subsidiary);

(b) will not, and will not permit any of the Restricted Subsidiaries to, incur, assume or suffer to exist Guaranty Obligations or be or become liable for any Indebtedness of any Unrestricted Subsidiary;

(c) will not permit any Unrestricted Subsidiary to hold any equity interest in, or any Indebtedness of, the Borrower or any Restricted Subsidiary;

(d) will not permit any Unrestricted Subsidiary to have any Indebtedness other than Non-Recourse Debt;

(e) will not permit any Unrestricted Subsidiary to be a party to any agreement, contract, arrangement or understanding with the Borrower or any Restricted Subsidiary of the

Borrower unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Borrower or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Borrower;

(f) will not, nor will it permit any of its Restricted Subsidiaries to, have any direct or indirect obligation (i) to subscribe for additional equity interests of such Person or (ii) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; and

(g) will not permit any Unrestricted Subsidiary to Guarantee or otherwise directly or indirectly provide credit support for, or grant a Lien on any of its property to secure, any Indebtedness of the Borrower or any of its Restricted Subsidiaries.

SECTION 6.19 Title Information.

(a) On or before the delivery to the Administrative Agent and the Lenders of each Engineering Report required by Section 6.2(g), the Borrower will deliver title information in form and substance reasonably acceptable to the Administrative Agent covering enough of the Oil and Gas Properties evaluated by such Engineering Report that were not included in the immediately preceding Engineering Report, so that the Administrative Agent shall have received together with title information previously delivered to the Administrative Agent, reasonably satisfactory title information on at least eighty percent (80%) of the PV-9 of the Oil and Gas Properties constituting Proved Reserves, evaluated by such Engineering Report.

(b) If the Borrower has provided title information for additional Properties under Section 6.19(a), the Borrower shall, within 60 days of notice from the Administrative Agent that title defects or exceptions exist with respect to such additional Properties, either (1) cure any such title defects or exceptions (including defects or exceptions as to priority) which are not permitted by Section 7.1 raised by such information, (2) substitute acceptable Mortgaged Properties (with no title defects or exceptions except for Liens permitted by Section 7.1) having an equivalent value or (3) deliver title information in form and substance reasonably acceptable to the Administrative Agent so that the Administrative Agent shall have received, together with title information previously delivered to the Administrative Agent, reasonably satisfactory title information on at least eighty percent (80%) of the PV-9 of the Oil and Gas Properties constituting Proved Reserves, evaluated by such Engineering Report.

ARTICLE VII.

NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Borrower shall not, and the Borrower shall not permit any Restricted Subsidiary to, directly or indirectly:

SECTION 7.1 Liens. Create, incur, assume or suffer to exist, any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, or any income or profits therefrom, or assign or convey any right to receive income thereon, other than the following (each, a "Permitted Lien"):

(a) (i) Liens existing pursuant to any Loan Document securing the Secured Obligations and the Notes Obligations (as defined in the ~~Intercreditor Agreement)~~Priority Lien Intercreditor Agreement) and (ii) Liens existing pursuant to any Second Lien Document (as defined in the Second Lien Intercreditor Agreement) securing the Second Lien Obligations (as defined in the Second Lien Intercreditor Agreement); provided that, in the case of clauses (i) and (ii) above, any Liens securing such Note Obligations shall be subject to the terms of the Priority Lien Intercreditor Agreement and any Liens securing such Second Lien Obligations shall be subject to the terms of the Second Lien Intercreditor Agreement;

(b) Liens existing on the date hereof and listed on Schedule 7.1 and any renewals or extensions thereof, provided that the property covered thereby is not increased and any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.3(b);

(c) Liens for taxes not yet due or which are being contested in good faith and by appropriate proceedings which have the effect of preventing the forfeiture or sale of the property subject to such Lien, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(d) carriers', warehousemen's, mechanics', materialmen's, repairmen's, operator's, statutory, royalty owner's or other like Liens arising in the ordinary course of business that are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings which have the effect of preventing the forfeiture or sale of the property subject to such Lien, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP, and which do not secure Indebtedness and do not individually or in the aggregate have a Material Adverse Effect;

(e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;

(f) deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(g) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person and which do not secure Indebtedness;

(h) Liens on fixed or capital assets (excluding Hydrocarbon Interests) acquired, constructed or improved by any Borrower or any Guarantor; provided that (i) such Liens secure Indebtedness permitted by clause (e) of Section 7.3, (ii) such Liens and the Indebtedness secured thereby are incurred prior to or within 90days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such Liens shall not apply to any other property or assets of any Borrower or any other Restricted Subsidiaries;

provided, further that no intention to subordinate the first priority Lien granted in favor of the Administrative Agent and the Lenders is to be hereby implied or expressed by the permitted existence of any Permitted Liens.

SECTION 7.2 Investments. Make any Investments, except:

(a) Investments (other than those permitted by clauses (b) through (h)) existing on the date hereof and listed on Schedule 7.2;

(b) Investments held by the Borrower or such Restricted Subsidiary in the form of cash or cash equivalents;

(c) advances to officers, directors and employees of the Borrower or any Restricted Subsidiary in an aggregate amount not to exceed $50,000 at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;

(d) Investments constituting (1) contributions of capital (but not loans or advances) made by the Borrower in any then existing Guarantor or by any Guarantor in any other then existing Guarantor, and (2) loans or advances by the Borrower to any then existing Guarantor, provided that such Investment constituting a loan or advance shall be evidenced by a Pledged Note pledged to the Administrative Agent pursuant to a Pledge Agreement;

(e) Guaranty Obligations permitted by Section 7.3(c), (e), (f) and (ik);

(f) Investments permitted by Section 7.4 (other than Section 7.4(d));

(g) Investments in Unrestricted Subsidiaries or joint ventures in an aggregate amount not to exceed at any one time outstanding $15,000,000; and

(h) Investments by the Borrower or any Guarantor in any Person other than the Borrower or any then existing Restricted Subsidiary, provided that (1) all such Investments made after the Closing Date do not exceed $25,000,000 in the aggregate at any time; (2) such Investment shall not violate Section 7.8 or Section 7.11, (3) that the Borrower shall, or shall cause such other Person to, comply with the provisions of Section 6.16(d) in accordance therewith; (4) both before and after giving effect to such Investment (on a pro forma basis acceptable to the Administrative Agent) no Default or Event of Default shall have occurred and be continuing and all representations and warranties contained in Article V hereof shall be true and correct in all material respects as if made both immediately before and immediately after the time of such Investment and (5) this Section 7.2(h) shall not apply to the Disposition of any Oil and Gas Properties.

SECTION 7.3 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness outstanding on the date hereof and listed on Schedule 7.3 and any refinancings, refundings, renewals or extensions thereof; provided that the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing;

(c) Guaranty Obligations of the Borrower or any Restricted Subsidiary in respect of Indebtedness otherwise permitted hereunder of the Borrower or any wholly-owned Restricted Subsidiary; provided no Subsidiary other than a Guarantor shall guarantee Indebtedness permitted by Section 7.3(f) or Section 7.3(ik), and provided further, that if the Indebtedness being guaranteed under this Section 7.3(c) is subordinated to the Obligations, such Guarantee Obligations shall be subordinated to the Obligations on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness;

(d) obligations (contingent or otherwise) of the Borrower or any Restricted Subsidiary existing or arising under any Hedging Agreement with any Lender (or any Affiliate of any Lender) or any Person with an investment grade debt rating acceptable to the Administrative Agent at the time such Hedging Agreement is entered into or any other Person acceptable to the Administrative Agent, provided that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person and not for purposes of speculation or taking a "market view"; and (ii) such Hedging Agreement does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party;

(e) Indebtedness of the Borrower or any Guarantors (excluding Indebtedness of the type otherwise permitted by this Section 7.3) in an aggregate principal amount not to exceed $25,000,000 at any time outstanding, provided that (i) such Indebtedness shall either be unsecured or secured only by Liens satisfying all of the conditions set forth in Section 7.1(h); and (ii) the proceeds of such Indebtedness shall not be used to refinance, replace, collateralize, defease, redeem or repay any Indebtedness permitted by Section 7.3(f) or Section 7.3(ik).

(f) unsecured Indebtedness of Borrower (and related unsecured Guaranty Obligations of the Guarantors) outstanding under (i) the 2012 Senior Notes (together with any permitted Refinancing Indebtedness thereof), provided that after giving effect to the Exchange Offer the aggregate principal amount of any Indebtedness outstanding thereunder (together with any Permitted Refinancing Indebtedness thereof) shall not exceed $300,000,000169,747,000 at any time, (ii) the 2011 Senior Notes (together with any permitted Refinancing Indebtedness thereof), provided that after giving effect to the Exchange Offer the aggregate principal amount of any Indebtedness outstanding thereunder (together with any Permitted Refinancing Indebtedness thereof) shall not exceed $400,000,000 at any time,270,557,000 at any time, (iii) the 2015 Senior Notes (together with any permitted Refinancing Indebtedness thereof), provided that after giving effect to the Exchange Offer the aggregate principal amount of any Indebtedness outstanding thereunder (together with any Permitted Refinancing Indebtedness thereof) shall not exceed $697,195,000 at any time (iii) any Permitted Additional Notes (together with any permitted Refinancing Indebtedness thereof), provided that the aggregate principal amount of any

Indebtedness outstanding under such Permitted Additional Notes (together with any Permitted Refinancing Indebtedness thereof), not including any amount used to call, redeem or repurchase 2012 Senior Notes or, 2011 Senior Notes or 2105 Senior Notes (which, to the extent meeting the requirements of such definition, shall constitute Permitted Refinancing Indebtedness) shall not exceed $300,000,000 at any time, and (iv) any Permitted Refinancing Indebtedness of items (i), (ii) or (iii)1,137,499,00 at any time, in each case *less* the amount of principal payments, redemptions or defeasance thereof;

(g) Indebtedness constituting intercompany loans or advances owing by a Guarantor to the Borrower pursuant to Section 7.2(d)(2) evidenced by a Pledged Note;

(h) unsecured insurance premium financing in the ordinary course of business;

(i) [Intentionally Omitted];

(j) the Debt to be Repaid (so long as such Indebtedness is repaid on the Closing Date); and

(k) (i) secured Indebtedness of Borrower (and related Guaranty Obligations of the Guarantors) outstanding under (i) the 2015 Senior Secured Notes2019 Second Lien Indenture Notes (together with any Permitted Refinancing Indebtedness thereof), provided that the initial aggregate principal amount of any such Indebtednesssuch 2019 Second Lien Indenture Notes issued on September 6, 2016 shall not exceed $700,000,000, and (ii)270,570,000, (ii) the 2020 Second Lien Indenture Notes (together with any Permitted Refinancing Indebtedness thereof; and), provided that the initial aggregate principal amount of such 2020 Second Lien Indenture Notes issued on September 6, 2016 shall not exceed $169,747,000; (iii) the Priority Lien Indenture Notes (together with any Permitted Refinancing Indebtedness thereof), provided that the initial aggregate principal amount of such Priority Indenture Notes issued on September 6, 2016 shall not exceed $697,195,000, and the aggregate principal amount of the 2020 First Lien Indenture Notes issued after September 6, 2016 in connection with the payment of interest in kind under the 2020 First Lien Indenture shall not exceed $91,875,000 at any time, in each case *less* the amount of principal payments, redemptions or defeasance thereof;

(j) the Debt to be Repaid (so long as such Indebtedness is repaid on the Closing Date).

SECTION 7.4 Fundamental Changes. Merge, consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of related transactions) all or substantially all of its assets, or all or substantially all of the equity interests of any Restricted Subsidiary (whether now owned or hereafter acquired) to or in favor of any Person, or liquidate or dissolve, or permit any Restricted Subsidiary to issue any equity interests, except that, so long as no Default or Event of Default exists or would result therefrom:

(a) any Restricted Subsidiary may merge with (i) the Borrower, provided that the Borrower shall be the continuing or surviving Person, or (ii) any one or more Restricted Subsidiaries, provided that when any wholly-owned Subsidiary is merging with another Restricted Subsidiary, the wholly-owned Subsidiary shall be the continuing or surviving Person;

(b) any Restricted Subsidiary may sell all or substantially all of its assets to the Borrower or to another Restricted Subsidiary; provided that if the seller in such a transaction is a wholly-owned Restricted Subsidiary, then the purchaser must also be a wholly-owned Restricted Subsidiary;

(c) any Restricted Subsidiary may liquidate or dissolve if (i) the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders and (ii) to the extent such Restricted Subsidiary is a Guarantor, any assets or business of such Guarantor shall be transferred to, or otherwise owned or conducted by, a Loan Party after giving effect to such liquidation or dissolution;

(d) the Borrower or any Restricted Subsidiary may make any Investment permitted by Section 7.2 (other than Section 7.2(f));

(e) the Borrower or any Restricted Subsidiary may make any Disposition permitted by Section 7.5 (other than Section 7.5(d)); and

(f) any Restricted Subsidiary may issue equity interests to the Borrower or other Restricted Subsidiary; provided that a wholly-owned Restricted Subsidiary may only issue equity interests to the Borrower or another wholly-owned Restricted Subsidiary;

provided, however, each Guarantor shall remain a wholly-owned Subsidiary of the Borrower.

SECTION 7.5 Dispositions. Make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions of inventory in the ordinary course of business;

(c) Dispositions of property by any Restricted Subsidiary to the Borrower or to a wholly-owned Restricted Subsidiary;

(d) Dispositions permitted by Section 7.4 (other than Section 7.4(d));

(e) if no Default or Event of Default exists either before or after such Disposition or would result therefrom, Dispositions of Oil and Gas Properties constituting Proved Reserves included in the most recently delivered Engineering Report that, when aggregated with any other Disposition made pursuant to this Section 7.5(e) during any calendar year, together with the Hedging Termination Value of any Hedge Liquidations during such period, have a fair market value not exceeding $25,000,000;

(f) if no Default or Event of Default exists either before or after such Disposition or would result therefrom, Dispositions of Hydrocarbon Interests that do not constitute Proved Reserves in the most recently delivered Engineering Report; and

(g) if no Default or Event of Default exists either before or after such Disposition or would result therefrom, Dispositions of any other assets (excluding Oil and Gas Properties and equity interests in Subsidiaries owning Oil and Gas Properties) provided that the aggregate fair market value of all such assets shall not exceed $25,000,000 in any calendar year;

provided, however, that notwithstanding anything in this Agreement to the contrary, (i) any Disposition pursuant to this Section 7.5 (other than clauses (a) and (c)) shall be for at least fair market value, (ii) each Guarantor shall remain a wholly-owned Subsidiary of the Borrower, (iii) the Borrower shall not permit the Disposition of any asset to any Subsidiary that is not a Guarantor, (iv) the Borrower shall use the Net Sales Proceeds, if any, of any Disposition made while the Borrower is not, prior to or after giving effect to such Disposition, in compliance with ~~the Asset Coverage Ratio~~Section 7.13(b), to make a mandatory payment as provided in Section 2.4(b); (v) if any such Disposition is of a Restricted Subsidiary owning Oil and Gas Properties, such Disposition shall include all the Equity Interests of such Restricted Subsidiary; and (vi) both before and after giving effect to such Disposition, the Borrower shall be in pro forma compliance with Section 7.13(b) (and, if requested by the Administrative Agent, the Borrower shall deliver to the Administrative Agent concurrently therewith a certificate of a Responsible Officer setting forth reasonably detailed calculations demonstrating pro forma compliance with Section 7.13);

SECTION 7.6 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

(a) each Restricted Subsidiary may make Restricted Payments, directly or indirectly, to the Borrower or a Guarantor;

(b) the Borrower may declare and make dividend payments or other distributions payable solely in the common stock of the Borrower;

(c) the Borrower and each Restricted Subsidiary may purchase, redeem or otherwise acquire shares of its common stock or warrants or options to acquire any such shares with the proceeds received from the substantially concurrent issue of new shares of its common stock (other than shares issued or sold to a Subsidiary of the Borrower);

provided, however, that notwithstanding the foregoing, no Restricted Payment pursuant to clause (c) shall be made at any time when the Outstanding Amount exceeds, or would exceed after giving effect to any Credit Extension the proceeds of which are used (or are intended to be used) to fund any portion of such Restricted Payment made pursuant to any such clause, 50% of the Aggregate Commitments then in effect; and further provided, however, that neither the Borrower nor any Subsidiary shall issue any Disqualified Stock.

SECTION 7.7 ERISA. At any time engage in a transaction which could be subject to Section 4069 or 4212(c) of ERISA, or permit any Plan to (a) engage in any non-exempt “prohibited transaction” (as defined in Section 4975 of the Code); (b) fail to comply with ERISA or any other applicable Laws; (c) fail to maintain the qualified status of any Plan that is intended to qualify under Section 401(a) of the Code; or (d) incur any material “waived funding deficiency” (as defined in Section 412 of the Code), which, with respect to each event listed above, could be reasonably expected to have a Material Adverse Effect.

SECTION 7.8 Change in Nature of Business. Engage in any material line of business substantially different from those lines of business conducted by the Borrower and its Restricted Subsidiaries on the date hereof.

SECTION 7.9 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrower (including without limitation, the purchase from, sale to, or exchange of property with, or the rendering of any service by or from, any Affiliate), except in the ordinary course of, and pursuant to the reasonable requirements of, the Borrower's or any Guarantor's business and upon fair and reasonable terms no less favorable to the Borrower or such Guarantor than would be obtained in a comparable arms-length transaction with a Person other than an Affiliate provided such transactions are otherwise permitted hereunder.

SECTION 7.10 Burdensome Agreements. Enter into any Contractual Obligation (other than this Agreement and the other Loan Documents) that (i) requires the grant of any Lien for any obligations if a Lien is granted to secure the Secured Obligations (other than as provided in the Priority Lien Intercreditor Agreement or the Second Lien Intercreditor Agreement), or (ii) that limits the ability of (a) any Restricted Subsidiary to make Restricted Payments or loans or advances to the Borrower or any Guarantor or to otherwise transfer property to the Borrower or any Guarantor, (b) any Restricted Subsidiary to Guarantee the Secured Obligations, (c) the Borrower or any Restricted Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person, other than in the case of this clause (c), Contractual Obligations pursuant to the Indenture Debt Documents as described in Schedule7.10; provided that no such Contractual Obligation shall restrict any Lien securing the Secured Obligations, provided, further, that this clause (c) shall not prohibit any negative pledge incurred or provided in favor of any holder of any Lien permitted under Section 7.1(h) solely to the extent any such negative pledge relates to the property encumbered by such Lien, (d) any Restricted Subsidiary to repay Indebtedness owed to the Borrower or any Guarantor or (e) the ability of any Loan Party to amend or otherwise modify this Agreement or any other Loan Document.

SECTION 7.11 Use of Proceeds. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the Board) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

SECTION 7.12 Payments and Modification of Indenture Debt Documents. Make, or permit any Restricted Subsidiary to make (or give any notice to make), any optional redemption, optional repurchase, optional payment or optional prepayment of principal of, or make any optional payment of interest on, any Indebtedness under any Indenture Debt Document on any day other than the stated, scheduled date for such payment set forth in the documents and instruments memorializing such Indebtedness, or defease (whether a covenant defeasance, legal defeasance or other defeasance), or enter into any agreement or arrangement providing for any defeasance of any kind of any Indebtedness under any Indenture Debt Document, or make any deposit for any of the foregoing purposes (all of the foregoing defined herein as "Optional Indebtedness Payments"), or amend or modify, or consent or agree to any amendment or modification of, any Indenture Debt Document, except:

(a) On September 6, 2016, (i) the exchange of at least an aggregate principal amount of $270,557,000 of the 2011 Senior Notes for the 2019 Second Lien Indenture Notes pursuant to the Exchange Offer, and (ii) the exchange of at least an aggregate principal amount of $169,747,000 of the 2012 Senior Notes for the 2020 Second Lien Indenture Notes pursuant to the Exchange Offer;

(b) On September 6, 2016, the exchange of at least an aggregate principal amount of $697,195,000 of the 2015 Senior Notes for the Priority Lien Indenture Notes pursuant to the Exchange Offer;

(c)(a) From and after March 4, 2015,September 6, 2016, Optional Indebtedness Payments to repurchase Indebtedness under the Indenture Debt Documents in an aggregate cash payment amount2019 Second Lien Indenture, the 2020 Second Lien Indenture and the Priority Lien Indenture in an aggregate amount not to exceed an amount equal to twenty-five percent (25%) of the net cash proceeds of, a substantially simultaneous issuance of common stock of the Borrower (excluding any issuance to any Subsidiary), or an amount equal to twenty-five percent (25%) of the Net Sale Proceeds of a substantially simultaneous Disposition, provided that (i) such aggregate cash payment amount for all such Optional Indebtedness Payments (excluding any accrued interest thereon) shall not toin any event exceed $50,000,000, provided that (i10,000,000, (ii) both before and after giving effect to such payment, (on a pro forma basis acceptable to the Administrative Agent) (A) no Default or Event of Default shall have occurred and be continuing and all representations and warranties contained in Article V hereof shall be true and correct in all material respects as if made at the time of such payment and (B) the sum of cash held in depository accounts under control of the Administrative Agent and available unfunded Aggregate Commitments then in effect shall not be less than $50,000,000 and (ii, (iii) prior to any such payment the Borrower delivers to the Administrative Agent a certificate of a Responsible Officer certifying as to the foregoing; in addition, the Borrower may make any Optional Indebtedness Payment with the proceeds of, or in exchange for, a substantially simultaneous issuance of common stock of the Borrower, provided that both before and after giving effect to such Optional Indebtedness Payment (i) no Default or Event of Default shall have occurred and be continuing and (ii) the Outstanding Amount shall not exceed 50% of the Aggregate Commitments then in effect;, (iv) any such repurchase shall be at or below par, and (v) such Disposition and use of such asset sale proceeds is permitted by Section 7.5;

(d) (c) repurchases with the proceeds of Permitted Refinancing Indebtedness;

provided, however, that the foregoing shall not (i) permit any Optional Indebtedness Payments otherwise prohibited by the terms of any applicable subordination or intercreditor agreement or (ii) prohibit the execution of supplemental agreements in connection with the issuance of Permitted Refinancing Indebtedness or Permitted Additional Notes or the addition of guarantors if required by the terms thereof (provided such guarantor complies with Section 6.16(d), whether or not a Material Subsidiary).

SECTION 7.13 Financial Covenants.

(a) Current Ratio. The Borrower will not permit, at any time, the ratio of (i) consolidated current assets of the Borrower and the Restricted Subsidiaries (including the unused amount of the Aggregate Commitments, but excluding non-cash assets under ASC Topic 815, formerly FAS 133) to (ii) consolidated current liabilities of the Borrower and the Restricted Subsidiaries (excluding non-cash obligations under ASC Topic 815, formerly FAS 133, that may be classified as current liabilities and current maturities under this Agreement) to be less than 1.0 to 1.0.

(b) Asset Coverage Ratio. The Borrower will not, at any time, permit the Asset Coverage Ratio to be less than 2.5 to 1.0.

SECTION 7.14 Limitation on Hedges. Enter into any commodity hedging or derivative transactions except Hedging Agreements related to bona fide hedging activities of the Borrower or any of its Restricted Subsidiaries in an aggregate notional amount not to exceed, with respect to any calendar quarter, 80% of the Borrower's and its Restricted Subsidiaries' projected production of oil (for oil related transactions) and 80% of the Borrower's and its Restricted Subsidiaries' projected production of natural gas (for natural gas related transactions), in each case, during such future calendar quarter, but in no event in excess of actual production in such calendar quarter.

SECTION 7.15 Hedging Agreement Termination. Effect or permit a Hedge Liquidation of any Hedging Agreement unless the Borrower is in compliance with Section 7.13 on a pro forma basis (and the Borrower shall deliver to the Administrative Agent concurrently therewith a certificate of a Responsible Officer setting forth reasonably detailed calculations demonstrating pro forma compliance with Section 7.13 to (i) remove the Hedging Agreement that is the subject of such Hedge Liquidation, (ii) take into account any new Hedging Agreement entered into at or about the same time, and (iii) recalculate Indebtedness on a pro forma basis to give effect to any concurrent repayment of Indebtedness); provided that (i) the Hedging Termination Value of any Hedge Liquidations during any calendar year, together with the fair market value of any Dispositions pursuant to Section 7.5(e) during such period, shall not exceed $25,000,000.

SECTION 7.16 Sanction Laws. Engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any prohibition set forth in any Anti-Terrorism Law, (ii) cause or permit any of the funds that are used to repay the Loans to be derived from any unlawful activity with the result that the making of the Loans would be in violation of any applicable Laws, (iii) use any part of the proceeds of the Loans, directly or indirectly, for any payment to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the FCPA or (iv) use any of the proceeds from the Loans to finance any operations, investments or activities in, or make any payments to, any Restricted Person or other Person with the result that the Lender would be in violation of any applicable Laws.

SECTION 7.17 Sale and Leaseback Transactions and other Off-Balance Sheet Liabilities. The Borrower will not, nor will the Borrower permit any of its Restricted Subsidiaries to, enter into or suffer to exist any (i) sale and leaseback transaction or (ii)

any other transaction pursuant to which it incurs or has incurred Off-Balance Sheet Liabilities, except for (x) Hedging Agreements to the extent permitted under the terms of Section 7.3(d) and (y) Advance Payment Contracts to the extent permitted under the terms of Section 7.22.

SECTION 7.18 Sale or Discount of Receivables. Except for receivables obtained by the Borrower or any Restricted Subsidiary that are outside the ordinary course of business or the settlement of joint interest billing accounts in the ordinary course of business or discounts granted to settle collection of accounts receivable or the sale of defaulted accounts arising in the ordinary course of business in connection with the compromise or collection thereof and not in connection with any financing transaction, neither the Borrower nor any Restricted Subsidiary will discount or sell (with or without recourse) any of its notes receivable or accounts receivable.

SECTION 7.19 Additional Collateral for ~~2015 Senior Secured~~ Notes. The Borrower will not, and will not permit its Subsidiaries to, grant a Lien on any property or asset to secure the ~~Senior Secured~~2019 Second Lien Indenture Notes, the 2020 Second Lien Indenture Notes, the Priority Lien Indenture Notes or Permitted Refinancing Indebtedness in respect thereof, or provide any additional guaranty or other credit enhancement in favor of the ~~Senior Secured Notes~~any Trustee or any Senior Secured ~~Noteholders~~Noteholder in connection with the ~~2015 Senior Secured~~2019 Second Indenture Notes, the 2020 Second Lien Indenture Notes, or the Priority Lien Indenture Notes or any Permitted Refinancing Indebtedness in respect thereof except (i) in compliance with the Priority Lien Intercreditor Agreement and the Second Lien Intercreditor Agreement, and (ii) providing the same guaranty or other credit enhancement in favor of the Administrative Agent in connection with the Obligations~~.~~

SECTION 7.20 Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries. The Borrower (a) shall not permit any Restricted Subsidiary to issue or sell any Preferred Stock to any Person other than to the Borrower or one of its wholly owned Restricted Subsidiaries and (b) shall not permit any Person other than the Borrower 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 Borrower or its Subsidiaries effected in accordance with Section 7.5 hereof.

SECTION 7.21 Gas Imbalances, Take-or-Pay or Other Prepayments. The Borrower will not allow gas imbalances, take-or-pay or other prepayments (including pursuant to an Advance Payment Contract) with respect to the Oil and Gas Properties of the Borrower or any Restricted Subsidiary that would require the Borrower or such Restricted Subsidiary to deliver Hydrocarbons at some future time without then or thereafter receiving full payment therefor to exceed the greater of (a) 1 Bcf of gas or (b) 2% of the annual production of gas of the Borrower and its Restricted Subsidiaries for the most recent calendar year, each on an Mcf equivalent basis, in the aggregate.

ARTICLE VIII.

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1 Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrower fails to pay after the same becomes due any amount of principal of any Loan or any L/C Obligation, or any interest on any Loan or on any L/C Obligation, or any commitment fee or other fee due hereunder, or any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. The Borrower fails to perform or observe any term, covenant or agreement contained in any of Sections 6.3, 6.5, 6.7, 6.10, 6.12, 6.14, 6.16, 6.17, 6.18, or Article VII; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in clauses (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after the earlier of (i) written notice to the Borrower from the Administrative Agent or (ii) the date a Responsible Officer of the Borrower or such other Loan Party had actual knowledge of such failure; or

(d) Representations and Warranties. Any representation or warranty made or deemed made by the Borrower or any other Loan Party herein, in any other Loan Document, or in any certificate or document delivered in connection herewith or therewith proves to have been incorrect in any material respect when made or deemed made; or

(e) Cross-Default. The Borrower or any Restricted Subsidiary (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guaranty Obligation having an aggregate principal amount (including undrawn or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than $25,000,000, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guaranty Obligation or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guaranty Obligation (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause (with or without the actual giving of notice, the lapse of time, or both), such Indebtedness to be demanded or to become due or to be repurchased, defeased, prepaid or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness or Guaranty Obligations to be made, prior to its stated maturity, or such Guaranty Obligation to become payable or cash collateral in respect thereof to be demanded; or

(f) Insolvency Proceedings, Etc. The Borrower or any Restricted Subsidiary institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all

or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 30 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 30 calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) The Borrower or any Restricted Subsidiary becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Loan Party and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) Judgments. There is entered against the Borrower or any Restricted Subsidiary (i) one or more final judgments or orders for the payment of money which together with other such judgments or orders exceeds the aggregate amount of $25,000,000 (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any non-monetary final judgment that has, or would reasonably be expected to have, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 30 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Borrower or any Restricted Subsidiary under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC, or (ii) the Borrower or any Restricted Subsidiary or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan; or

(j) Event of Default Under Other Loan Document. Any event of default described in any Security Document or any other Loan Document shall have occurred and be continuing, or any material provision of any Security Agreement or any other Loan Document shall at any time for any reason cease to be valid, binding and enforceable against any Loan Party that is an obligor thereunder; or

(k) Invalidity of Loan Documents. Any Loan Document, at any time after its execution and delivery and for any reason other than the agreement of all the Lenders or satisfaction in full of all the Obligations or as permitted by Section 9.11, ceases to be in full force and effect, or is declared by a court of competent jurisdiction to be null and void, invalid or unenforceable in any respect; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any Loan Document; or

(l) Change of Control. There occurs any Change of Control with respect to any of the Borrower or, except as permitted by Section 7.4, any Restricted Subsidiary; or there occurs any “Change of Control Triggering Event” or any comparable event under any Indenture Debt Document; or

(m) Material Adverse Effect. There occurs any event or circumstance that has a Material Adverse Effect which Material Adverse Effect shall not have been cured within 30days following notice from the Administrative Agent; or

(n) The Intercreditor ~~Agreement~~Agreements. After delivery thereof shall for any reason, except to the extent permitted by the terms thereof, the Priority Lien Intercreditor Agreement or the Second Lien Intercreditor Agreement shall cease to be in full force and effect and valid, binding and enforceable in accordance with its respective terms against the Borrower, any other Loan Party, the ~~Senior Secured Notes Trustee~~Trustees, the Senior Secured Noteholders or any other party thereto or shall be repudiated by any of them, or cease to establish the relative lien priorities required or purported thereby, or the Borrower, any other Loan Party, the ~~Senior Secured Notes Trustee~~Trustees, the Senior Secured Noteholders or any of their Affiliates shall so state in writing.

SECTION 8.2 Remedies Upon Event of Default. If any Event of Default occurs, the Administrative Agent may, or shall at the request of the Majority Lenders,

(a) declare the commitment of each Lender to make Loans and any obligation of the Issuing Bank to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(c) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to 105% of the then Outstanding Amount thereof); and

(d) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable law, including, without limitation, the enforcement of the Administrative Agent's and the Lenders' rights either by suit in equity, or by action at law, or by other appropriate proceedings, whether for the specific performance (to the extent permitted by law) of any covenant or agreement contained in this Agreement or in any then outstanding Note or any Security Document or in aid of the exercise of any power granted in this Agreement or in any then outstanding Note or any Security Document;

provided, however, that upon the occurrence of any event specified in clause (f) of Section 8.1, the obligation of each Lender to make Loans and any obligation of the Issuing Bank to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

SECTION 8.3 Distribution of Proceeds. All proceeds of any realization on the Collateral received by the Administrative Agent pursuant to the Security Documents or any payments on any of the liabilities secured by the Security Documents received by the

Administrative Agent or any Lender upon and during the continuance of any Event of Default shall be allocated and distributed as follows (and with respect to any contingent obligation shall be held as cash collateral for application as follows):

(a) First, to the payment of all costs and expenses, including without limitation all attorneys' fees, of the Administrative Agent in connection with the enforcement of the Security Documents and otherwise administering this Agreement;

(b) Second, to the payment of all costs, expenses and fees, including without limitation, commitment fees, letter of credit fees and attorneys' fees, owing to the Issuing Bank and the Lenders pursuant to the Obligations on a pro rata basis in accordance with the Obligations consisting of fees, costs and expenses owing to the Issuing Bank and the Lenders under the Obligations for application to payment of such liabilities;

(c) Third, to the Issuing Bank, the Lenders or any Affiliate of a Lender on a pro rata basis in accordance with (i) the Obligations consisting of interest and principal owing to the Lenders under the Obligations, (ii) any obligations owing pursuant to any Lender Provided Hedging Agreement (whether pursuant to a termination thereof or otherwise) and (iii) any reimbursement obligations or other liabilities owing to the Issuing Bank or any Lender with respect to any Letter of Credit or any application for a Letter of Credit, for application to payment of such liabilities;

(d) Fourth, to the payment of any and all other amounts owing to the Administrative Agent, the Issuing Bank and the Lenders on a pro rata basis in accordance with the total amount of such Indebtedness owing to each of the Lenders, for application to payment of such liabilities; and

(e) Fifth, to the Borrower or such other Person as may be legally entitled thereto.

Notwithstanding the foregoing, (i) amounts received from the Borrower or any other Credit Party that is not an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder shall not be applied to any Excluded Swap Obligations; provided, however, appropriate adjustments shall be made with respect to payments from other Credit Parties to preserve the allocation of Secured Obligations otherwise set forth above in this Section, and (ii) Secured Obligations arising from Lender Provided Hedging Agreements shall be excluded from the application described above if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may request, from the applicable Lender or Lender Affiliate, as the case may be.

ARTICLE IX.

ADMINISTRATIVE AGENT

SECTION 9.1 Appointment and Authorization of Administrative Agent.

(a) Each Lender hereby irrevocably (subject to Section 9.9) appoints, designates and authorizes the Administrative Agent to take such action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together

with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Loan Document, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" herein and in the other Loan Documents with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. Each Lender hereby agrees to assert no claim against the Administrative Agent on any agency theory or any other theory of liability for breach of fiduciary duty, all of which claims are hereby expressly waived by each Lender.

(b) The Issuing Bank shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith until such time (and except for so long) as the Administrative Agent may agree at the request of the Majority Lenders to act for the Issuing Bank with respect thereto; provided, however, that the Issuing Bank shall have all of the benefits and immunities (i) provided to the Administrative Agent in this Article IX with respect to any acts taken or omissions suffered by the Issuing Bank in connection with Letters of Credit issued by it or proposed to be issued by it and the application and agreements for letters of credit pertaining to the Letters of Credit as fully as if the term "Administrative Agent" as used in this Article IX included the Issuing Bank with respect to such acts or omissions, and (ii) as additionally provided herein with respect to the Issuing Bank.

SECTION 9.2 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel and other consultants or experts concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects in the absence of gross negligence or willful misconduct.

SECTION 9.3 Liability of Administrative Agent. No Agent-Related Person shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct in connection with its duties expressly set forth herein as determined by a court of competent jurisdiction by a final and non-appealable judgment), or (b) be responsible in any manner to any Lender or participant for any recital, preliminary statement, statement, representation or warranty made by the Borrower or any Subsidiary or any Affiliate thereof or any officer thereof, contained herein or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or for any failure of any Loan Party or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender or participant to ascertain or to inquire as to the observance or

performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of the Borrower or any Subsidiary or any Affiliate thereof. The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of any Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

SECTION 9.4 Reliance by Administrative Agent.

(a) The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to any Loan Party), independent accountants and other experts selected by the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of the Majority Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Majority Lenders or all the Lenders, if required hereunder, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and participants. Where this Agreement expressly permits or prohibits an action unless the Majority Lenders otherwise determine, the Administrative Agent shall, and in all other instances, the Administrative Agent may, but shall not be required to, initiate any solicitation for the consent or a vote of the Lenders.

(b) For purposes of determining compliance with the conditions specified in Section 4.1, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter either sent by the Administrative Agent to such Lender for consent, approval, acceptance or satisfaction, or required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender.

SECTION 9.5 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to the Administrative Agent for the account of the Lenders, unless the Administrative Agent shall have received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." The Administrative Agent will notify the Lenders of its receipt of any such notice. The Administrative Agent shall take such action with respect to such Default or Event of Default as may be directed by the Majority Lenders in accordance with Article VIII; provided, however, that unless and until the Administrative Agent has received any such direction, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interest of the Lenders.

SECTION 9.6 Credit Decision; Disclosure of Information by Administrative Agent. Each Lender acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by the Administrative Agent hereinafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to the Administrative Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties and their respective Affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

SECTION 9.7 Indemnification of Administrative Agent. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand each Agent-Related Person (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless each Agent-Related Person from and against any and all Indemnified Liabilities incurred by it (**INCLUDING ANY AND ALL INDEMNIFIED LIABILITIES ARISING OUT OF, IN ANY WAY RELATING TO, OR RESULTING FROM SUCH AGENT-RELATED PARTY'S OWN NEGLIGENCE**); provided, however, that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person's gross negligence or willful misconduct as determined by a court of competent jurisdiction by a final and non-appealable judgment; provided, however, that no action taken in accordance with the directions of the Majority Lenders shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any

other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower. In the case of any investigation, litigation or proceeding giving rise to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time occur (including at any time following the payment of the Loans), this Section 9.7 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. The undertaking in this Section shall survive termination of the Commitments, the payment of all Obligations hereunder and the resignation or replacement of the Administrative Agent.

SECTION 9.8 Administrative Agent in its Individual Capacity. BMO and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with each of the Loan Parties and their respective Affiliates as though BMO were not the Administrative Agent or the Issuing Bank hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, BMO or its Affiliates may receive information regarding any Loan Party or its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. With respect to its Loans, BMO shall have the same rights and powers under this Agreement as any other Lender and may exercise such rights and powers as though it were not the Administrative Agent or the Issuing Bank, and the terms "Lender" and "Lenders" include BMO in its individual capacity.

SECTION 9.9 Successor Administrative Agent. The Administrative Agent may resign as Administrative Agent upon 30 days' notice to the Lenders. If the Administrative Agent resigns under this Agreement, the Majority Lenders shall appoint from among the Lenders a successor administrative agent for the Lenders. If no successor administrative agent is appointed prior to the effective date of the resignation of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Lenders, a successor administrative agent from among the Lenders. Upon the acceptance of its appointment as successor administrative agent hereunder, such successor administrative agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and the term "Administrative Agent" shall mean such successor administrative agent and the retiring Administrative Agent's appointment, powers and duties as Administrative Agent shall be terminated. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Article IX and Sections 10.4 and 10.5 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement. If no successor administrative agent has accepted appointment as Administrative Agent by the date which is 30 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Majority Lenders appoint a successor agent as provided for above.

SECTION 9.10 Administrative Agent May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Borrower or any of its

Subsidiaries, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower or any other Loan Party) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Bank and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Bank and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Bank and the Administrative Agent under Sections 10.4 or 10.5) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the Issuing Bank to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders or the Issuing Bank, as applicable, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 10.4 and 10.5. Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or the Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or the Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or the Issuing Bank in any such proceeding.

SECTION 9.11 Authority of Administrative Agent to Release Collateral Property, Liens and Guarantees.

(a) Each Lender, on behalf of itself and each of such Lender's Affiliates that is a counterparty to a Hedging Agreement with a Loan Party, and the Issuer hereby authorizes the Administrative Agent to (i) release or subordinate (and execute and deliver to the Borrower (or its designee), at the Borrower's sole cost and expense, any and all releases or subordination agreements with respect to Liens, termination statements, assignments or other documents reasonably requested by the Borrower in connection therewith) any collateral that is permitted to be sold or released pursuant to the terms of the Loan Documents or that is the subject of a farmout agreement, participation agreement or other similar agreement into which the Borrower or its Restricted Subsidiaries are permitted to enter and (ii) release any Guarantor from its obligations under the Loan Documents if such Person ceases to be a Restricted Subsidiary as a result of a transaction permitted under the Loan Documents. Any such release or subordination agreement shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Loan Parties in respect

of) all assets or properties retained by the Loan Parties, including the proceeds of any Disposition, all of which shall continue to constitute part of the collateral except to the extent otherwise released in accordance with the provisions of the Loan Documents.

(b) Each Lender, for itself and on behalf of its Affiliates party to a Hedge Agreement with a Loan Party, irrevocably authorizes Administrative Agent to release any Lien granted to or held by the Administrative Agent upon any collateral: (i) upon termination of the Commitments, termination or expiration of all Letters of Credit (other than Letters of Credit as to which other arrangements satisfactory to the Administrative Agent and the Issuing Bank have been made), and payment in full of all Obligations (without regard to whether any obligations remain outstanding under any Hedging Agreement between a Lender or Affiliate of a Lender and any Loan Party); (ii) constituting Oil and Gas Property leased to the Borrower or any Loan Party under a lease that has expired or has been terminated in a transaction permitted under this Agreement or is about to expire and which has not been, and is not intended by the Borrower or such Loan Party to be, renewed or extended; or (iii) if approved, authorized or ratified in writing by the applicable Majority Lenders or all the Lenders, as the case may be, as required by Section 10.1.

(c) Upon the request of the Administrative Agent at any time, the Lenders will confirm in writing the Administrative Agent's authority to release or subordinate particular types or items of collateral, or to release any Guarantor from its obligations under the Loan Documents, pursuant to this Section 9.11.

SECTION 9.12 Other Agents; Lead Managers. None of the Lenders identified on the facing page or signature pages of this Agreement as a "syndication agent," "documentation agent," "co-agent" or "lead manager" shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of the Lenders so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

ARTICLE X.

MISCELLANEOUS

SECTION 10.1 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Majority Lenders and the Borrower and acknowledged and agreed by each other Loan Party, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall, unless in writing and signed by each of the Lenders directly affected thereby and by the Borrower, and acknowledged and agreed by each other Loan Party and acknowledged by the Administrative Agent, do any of the following:

(a) extend or increase the Commitment Amount of any Lender (or reinstate any Commitment terminated pursuant to Section 8.2); or

(b) postpone any date fixed by this Agreement or any other Loan Document for any payment or mandatory prepayment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document; or

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or any fees or other amounts payable hereunder or under any other Loan Document, or change the manner of computation of any financial covenant used in determining the Base Rate Spread, LIBOR Spread or Commitment Fee Rate that would result in a reduction of any interest rate on any Loan; provided, however, that only the consent of the Majority Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the rate specified in Section 2.9(b); or

(d) change the required approval level that is required for the Lenders or any of them to take any action hereunder or change the definition of "Majority Lenders"; or

(e) take any other action which requires the signing of all the Lenders pursuant to the terms of this Agreement or of any other Loan Document, or change the Percentage Share of any Lender or Voting Percentage of any Non-Defaulting Lender; or

(f) amend this Section, or Section 2.14, or any provision herein providing for consent or other action by all the Lenders; or

(g) except as provided in Section 9.11, permit any termination, amendment, modification, waiver, or release of any Guaranty or any provision thereof; or

(h) release all or substantially all collateral under any of the Security Documents, or permit any termination or release of any Security Document, provided that, notwithstanding the foregoing, the consent of the Lenders shall not be required for any release of any collateral under any of the Security Documents in connection with a Disposition by the Borrower or any Restricted Subsidiary if such Disposition is permitted by Section 7.5; or

(i) waive, amend or otherwise modify the provisions of Section 5.14(a) or Section 7.11, or any condition set forth therein;

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the Issuing Bank in addition to the Majority Lenders or all the Lenders, as the case may be, affect the rights or duties of the Issuing Bank under this Agreement or any Letter of Credit Application relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Majority Lenders or all the Lenders, as the case may be, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; and (iii) the Agent and Arranger Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto.

SECTION 10.2 Notices and Other Communications; Facsimile Copies.

(a) General. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder shall be in writing (including by facsimile transmission)

and mailed, faxed or delivered, to the address, facsimile number or (subject to subsection (c) below) electronic mail address specified for notices on Schedule 10.2; or, in the case of the Borrower, the Administrative Agent, or the Issuing Bank, to such other address as shall be designated by such party in a notice to the other parties, and in the case of any other party, to such other address as shall be designated by such party in a notice to the Borrower, the Administrative Agent and the Issuing Bank. All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the intended recipient and (ii) (A) if delivered by hand or by courier, when signed for by the intended recipient; (B) if delivered by mail, four Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail (which form of delivery is subject to the provisions of subsection (c) below), when delivered; provided, however, that notices and other communications to the Administrative Agent and the Issuing Bank pursuant to Article II shall not be effective until actually received by such Person. Any notice or other communication permitted to be given, made or confirmed by telephone hereunder shall be given, made or confirmed by means of a telephone call to the intended recipient at the number specified on Schedule 10.2, it being understood and agreed that a voicemail message shall in no event be effective as a notice, communication or confirmation hereunder.

(b) Effectiveness of Facsimile Documents and Signatures. Loan Documents may be transmitted and/or signed by facsimile. The effectiveness of any such documents and signatures shall, subject to applicable Law, have the same force and effect as manually-signed originals and shall be binding on all Loan Parties, the Administrative Agent and the Lenders. The Administrative Agent may also require that any such documents and signatures be confirmed by a manually-signed original thereof; provided, however, that the failure to request or deliver the same shall not limit the effectiveness of any facsimile document or signature.

(c) Electronic Communications. Notices and other communications (including all notices, requests, financial statements, financial and other reports, certificates and other information materials (all such communications being referred to herein collectively as "Communications") to the Lenders hereunder may be delivered or furnished by electronic communication (including email and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(d) Electronic Distribution Platforms. The Borrower further agrees that the Administrative Agent may make the Communications available to the Lenders by posting the Communications on Intralinks or a substantially similar electronic transmission system (the "Platform"). THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". THE INDEMNIFIED PARTIES (AS DEFINED IN SECTION 10.5) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS OR THE ADEQUACY OF THE PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS IS MADE BY THE INDEMNIFIED PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE INDEMNIFIED PARTIES HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER OR ANY OTHER PERSON FOR DAMAGES OF ANY KIND, WHETHER OR NOT BASED ON STRICT LIABILITY AND INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE PLATFORM, EXCEPT TO THE EXTENT THE LIABILITY OF ANY INDEMNIFIED PARTY IS FOUND IN A FINAL RULING BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH INDEMNIFIED PARTY'S BAD FAITH, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

(e) Other Notices Effective. Nothing herein shall prejudice the right of the Administrative Agent or any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

(f) Reliance by Administrative Agent and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Notice of Advances) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify each Agent-Related Person and each Lender from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

SECTION 10.3 No Waiver; Cumulative Remedies. No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein or therein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

SECTION 10.4 Attorney Costs, Expenses and Taxes. The Borrower agrees (a) to pay or reimburse the Administrative Agent for all costs and expenses incurred in connection with the development, preparation, negotiation and execution of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated hereby or thereby are consummated), and the consummation and administration of the transactions contemplated hereby and thereby, including all Attorney Costs, and (b) to pay or reimburse the Administrative Agent, the Issuing Bank and each Lender for all costs and expenses incurred in connection with the enforcement, attempted enforcement, or preservation of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any "workout" or restructuring in respect of the Obligations and during any legal proceeding, including any proceeding under any Debtor Relief Law), including all Attorney Costs. The foregoing costs and expenses shall include all search, filing, recording, title insurance and appraisal charges and fees and taxes related thereto, and other out-of-pocket expenses incurred by the Administrative Agent and the cost of independent public accountants and other outside experts retained by the Administrative Agent or any Lender. The agreements in this Section shall survive the termination of the Commitments and repayment of all the other Obligations.

SECTION 10.5 Indemnification by the Borrower. Whether or not the transactions contemplated hereby are consummated, the Borrower agrees to indemnify, defend, save and hold harmless each Agent-Related Person, each Lender and their respective Affiliates, directors, officers, employees, counsel, agents and attorneys-in-fact (collectively the "Indemnitees") from and against: (a) any and all claims, demands, actions or causes of action that are asserted against any Indemnitee by any Person (other than the Administrative Agent or any Lender) relating directly or indirectly to a claim, demand, action or cause of action that such Person asserts or may assert against any Loan Party, any Affiliate of any Loan Party or any of their respective officers or directors; (b) any and all claims, demands, actions or causes of action that may at any time (including at any time following repayment of the Obligations and the resignation or removal of the Administrative Agent or the replacement of any Lender) be asserted or imposed against any Indemnitee, arising out of or relating to, the Loan Documents, any predecessor loan documents, the Commitments, the use or contemplated use of the proceeds of any Credit Extension, or the relationship of any Loan Party, the Administrative Agent and the Lenders under this Agreement or any other Loan Document; (c) any administrative or investigative proceeding by any Governmental Authority arising out of or related to a claim, demand, action or cause of action described in clause (a) or (b) above; and (d) any and all liabilities (including liabilities under indemnities), losses, costs or expenses (including Attorney Costs) that any Indemnitee suffers or incurs as a result of the assertion of any foregoing claim, demand, action, cause of action, litigation or proceeding, or as a result of the preparation of any defense in connection with any foregoing claim, demand, action, cause of action, litigation or proceeding, in all cases, **WHETHER OR NOT ARISING OUT OF THE NEGLIGENCE OF AN INDEMNITEE**, and whether or not an Indemnitee is a party to such claim, demand, action, cause of action, litigation or proceeding (all the foregoing, collectively, the "Indemnified Liabilities"); provided that no Indemnitee shall be entitled to indemnification for any claim caused by its own gross negligence or willful misconduct, as determined by a court of competent jurisdiction by a final and non-appealable judgment, or for any loss asserted against it by another Indemnitee. The agreements in this Section shall survive the termination of the Commitments and repayment of all the other Obligations.

SECTION 10.6 Payments Set Aside. To the extent that the Borrower makes a payment to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of set-off, and such payment or the proceeds of such set-off or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such set-off had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to (i) with respect to the first two Business Days following such demand, the Federal Funds Rate from time to time in effect, and (ii) with respect to each day thereafter, the Base Rate from time to time in effect.

SECTION 10.7 Successors and Assigns; Assignments; Participations.

(a) Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments.

(i) Any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including in all instances for purposes of this subsection (i), participations in L/C Obligations) at the time owing to it); provided that (A) except in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder, including as noted above, participations in L/C Obligations) subject to each such assignment, determined as of the date the Lender Assignment with respect to such assignment is delivered to the Administrative Agent, shall not be less than $5,000,000 unless each of the Administrative Agent and, so long as no Default has occurred and is continuing and so long as in the case of Bank of Montreal, such Lender shall have been reduced to its "final hold amount" as described in the commitment letter referred to in the Agent and Arranger Fee Letter, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed), (B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (B) shall not prohibit any

Lender from assigning all or a portion of its rights and obligations among separate Borrowings on a non-pro rata basis, (C) the parties to each assignment shall execute and deliver to the Administrative Agent a Lender Assignment, together with a processing and recordation fee of $3,500. Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (ii) of this Section, from and after the effective date specified in each Lender Assignment, the Eligible Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Lender Assignment, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Lender Assignment, be released from its obligations under this Agreement (and, in the case of an Lender Assignment covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.7, 10.4 and 10.5). Upon request, the Borrower (at its expense) shall execute and deliver new or replacement Notes to the assigning Lender and the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.7(c) of this Section.

(ii) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Lender Assignment delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(c) Participations.

(i) Any Lender may, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations) owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment,

waiver or other modification that would (A) postpone any date upon which any payment of money is scheduled to be paid to such Participant, (B) reduce the principal, interest, fees or other amounts payable to such Participant, or (C) release any Guarantor from the Guaranty. Subject to subsection (ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.1, 3.4 and 3.5 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.7(b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.9 as though it were a Lender, provided such Participant agrees to be subject to Section 2.14 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(ii) A Participant shall not be entitled to receive any greater payment under Section 3.1 or 3.4 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.1 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 3.8 as though it were a Lender.

(d) Pledge of Lender's Interest. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Consent to Assignment. If the consent of the Borrower to an assignment or to an Eligible Assignee is required hereunder (including a consent to an assignment which does not meet the minimum assignment threshold specified in clause (A) of the proviso to the first sentence of Section 10.7(b)), the Borrower shall be deemed to have given its consent five Business Days after the date notice thereof has been delivered by the assigning Lender (through the Administrative Agent) unless such consent is expressly refused by the Borrower prior to such fifth Business Day.

(f) Definitions for Section 10.7. As used herein, the following terms have the following meanings:

"Eligible Assignee" means (a) a Lender; (b) an Affiliate of a Lender; (c) an Approved Fund and (d) any other Person (other than (i) a natural Person (or a holding company, investment vehicle or a trust for, or owned or operated for the primary benefit of, a natural Person) or (ii) a Defaulting Lender) approved by the Administrative Agent, the Issuing Bank, and provided that no Default has occurred and is continuing, the Borrower (each such approval not to be unreasonably withheld or delayed).

"Fund" means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

(g) Assignment by BMO. Notwithstanding anything to the contrary contained herein, if at any time BMO assigns all of its Commitment and Loans pursuant to Section 10.7(b) above, BMO may, upon **30** days' notice to the Borrower and the Lenders, resign as Issuing Bank. In the event of any such resignation as Issuing Bank, the Borrower shall be entitled to appoint from among the Lenders a successor Issuing Bank hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of BMO as Issuing Bank. BMO shall retain all the rights and obligations of the Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as Issuing Bank and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund participations in Unreimbursed Amounts pursuant to Section 2.3(c)).

SECTION 10.8 Confidentiality. Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential); (b) to the extent requested by any regulatory or self-regulatory authority; (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process; (d) to any other party to this Agreement; (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder; (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any direct or indirect contractual counterparty or prospective counterparty (or such contractual counterparty's or prospective counterparty's professional advisor) to any credit derivative transaction relating to obligations of the Borrower; (g) with the consent of the Borrower; (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent or any Lender on a nonconfidential basis from a source other than the Borrower; or (i) to the National Association of Insurance Commissioners or any other similar organization or any nationally recognized rating agency that requires access to information about a Lender's or its Affiliates' investment portfolio in connection with ratings issued with respect to such Lender or its Affiliates. For the purposes of

this Section, “Information” means all information received from the Borrower relating to the Borrower or its business, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower; provided that, in the case of information received from the Borrower after the date hereof, such information is clearly identified in writing at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 10.9 Set-off. In addition to any rights and remedies of the Lenders provided by law, upon the occurrence and during the continuance of any Event of Default, each Lender is authorized at any time and from time to time, without prior notice to the Borrower or any other Loan Party, any such notice being waived by the Borrower (on its own behalf and on behalf of each Loan Party) to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other indebtedness at any time owing by, such Lender to or for the credit or the account of the respective Loan Parties against any and all Obligations owing to such Lender, now or hereafter existing, irrespective of whether or not the Administrative Agent or such Lender shall have made demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such set-off and application made by such Lender; provided, however, that the failure to give such notice shall not affect the validity of such set-off and application.

SECTION 10.10 Interest Rate Limitation. It is the intention of the parties hereto to conform strictly to applicable usury laws and, anything herein to the contrary notwithstanding, the obligations of the Borrower to each Lender and the Issuing Bank under this Agreement shall be subject to the limitation that payments of interest shall not be required to the extent that receipt thereof would be contrary to provisions of law applicable to such Lender or the Issuing Bank limiting rates of interest which may be charged or collected by such Lender or the Issuing Bank. Accordingly, if the transactions contemplated hereby would be usurious under applicable law (including the Federal and state laws of the United States of America, or of any other jurisdiction whose laws may be mandatorily applicable) with respect to a Lender or the Issuing Bank then, in that event, notwithstanding anything to the contrary in this Agreement, it is agreed as follows: (i) the provisions of this Section 10.10 shall govern and control; (ii) the aggregate of all consideration which constitutes interest under applicable law that is contracted for, charged or received under this Agreement, or under any of the other aforesaid agreements or otherwise in connection with this Agreement by such Lender or the Issuing Bank shall under no circumstances exceed the maximum amount of interest allowed by applicable law (such maximum lawful interest rate, if any, with respect to such Lender or the Issuing Bank herein called the “Highest Lawful Rate”), and any excess shall be credited to the Borrower by such Lender or the Issuing Bank (or, if such consideration shall have been paid in full, such excess promptly refunded to the Borrower); (iii) all sums paid, or agreed to be paid, to the Lender or the Issuing Bank for the use, forbearance and detention of the indebtedness of the Borrower to such Lender or the Issuing Bank hereunder shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the actual rate of interest is uniform

throughout the full term thereof; and (iv) if at any time the interest provided pursuant to Article II together with any other fees payable pursuant to this Agreement and deemed interest under applicable law, exceeds that amount which would have accrued at the Highest Lawful Rate, the amount of interest and any such fees to accrue to such Lender or the Issuing Bank pursuant to this Agreement shall be limited, notwithstanding anything to the contrary in this Agreement to that amount which would have accrued at the Highest Lawful Rate, but any subsequent reductions, as applicable, shall not reduce the interest to accrue to such Lender or the Issuing Bank pursuant to this Agreement below the Highest Lawful Rate until the total amount of interest accrued pursuant to this Agreement and such fees deemed to be interest equals the amount of interest which would have accrued to such Lender or the Issuing Bank if a varying rate per annum equal to the interest provided pursuant to Article II had at all times been in effect, plus the amount of fees which would have been received but for the effect of this Section 10.10. For purposes of Tex. Fin. Code Ann. Ch.303, as amended, to the extent, if any, applicable to a Lender or the Issuing Bank, the Borrower agrees that the Highest Lawful Rate shall be the "weekly ceiling" as defined in said Article, provided that such Lender and the Issuing Bank may also rely, to the extent permitted by applicable laws, on alternative maximum rates of interest under other laws applicable to such Lender or such Issuer, as the case may be, if greater. Tex. Fin. Code Ann. Ch.346 (which regulates certain revolving credit loan accounts and revolving tri-party accounts) shall not apply to this Agreement or the Notes.

SECTION 10.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SECTION 10.12 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or Event of Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

SECTION 10.13 Collateral Matters; Hedges.

(a) The benefit of the Security Documents and the provisions of this Agreement and the other Loan Documents relating to the collateral shall also extend to, secure and be available on a pro rata basis (as set forth in Section 8.3 of this Agreement) to each Secured Swap Counterparty which is party to a Lender Provided Hedging Agreement (including any Hedging Agreement in existence prior to the date hereof or prior to such Person or its Affiliate becoming a Lender) with respect to any obligations of the Borrower or any other Loan Party arising under such Lender Provided Hedging Agreement, but only with respect to any such Lender Provided Hedging Agreement, and the transactions thereunder, that were entered into while such Person or its Affiliate was a Lender or prior to such Person or its Affiliate becoming a Lender, until either (x) such obligations are paid in full or otherwise expire or are terminated or (y) the Security

Documents are otherwise released in accordance with Section 9.11(b) or terminate; provided that with respect to any Hedging Agreement, or transaction thereunder, that remains secured after the counterparty thereto is no longer a Lender or an Affiliate of a Lender, the provisions of Article IX shall also continue to apply to such counterparty in consideration of its benefits hereunder and each such counterparty shall, if requested by the Administrative Agent, promptly execute and deliver to the Administrative Agent all such other documents, agreements and instruments reasonably requested by the Administrative Agent to evidence the continued applicability of the provisions of Article IX. Notwithstanding the foregoing, no Lender or Affiliate of a Lender (or former Lender or Affiliate of a former Lender) shall have any voting or consent right under this Agreement or any Security Document as a result of the existence of obligations owed to it under a Hedging Agreement that are secured by any Security Document.

(b) Notwithstanding anything contained in any of the Loan Documents to the contrary, the Borrower, the Administrative Agent, and each Lender, for itself and on behalf of its Affiliates party to a Hedging Agreement with the Borrower or any other Loan Party, hereby agrees that no Secured Party shall have any right individually to realize upon any of the collateral or to enforce any Guaranty, it being understood and agreed that all powers, rights and remedies hereunder and under the Security Documents may be exercised solely by Administrative Agent on behalf of the Lenders and any other secured party in accordance with the terms hereof. By accepting the benefits of the Guaranties and the Liens granted pursuant to the Security Documents, each Affiliate of a Lender hereby agrees to the terms of this Section 10.13(b).

SECTION 10.14 Acknowledgments. The Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) (i) the Loan facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Borrower and the other Loan Parties, on the one hand, and the Administrative Agent, the Lenders and the other Agents on the other hand, and the Borrower and the other Loan Parties are capable of evaluating and understanding and understand and accept the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, each of the Administrative Agent, other Agents and the Lenders, is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary for any of the Borrower, any other Loan Parties or any of their respective Affiliates, equity holders, creditors or employees or any other Person; (iii) neither the Administrative Agent, any other Agent nor any Lender has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower or any other Loan Party with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether the Administrative Agent or any other Agent or any Lender has advised or is currently advising any of the Borrower, the other Loan Parties or their respective Affiliates on other matters) and none of the Administrative Agent, any Agent or any Lender has any obligation to any of the Borrower, the other Loan Parties or their respective Affiliates with respect to the transactions

contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; (iv) the Administrative Agent and its Affiliates, each other Agent and each of its Affiliates and each Lender and its Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its respective Affiliates, and none of the Administrative Agent, any other Agent or any Lender has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) none of the Administrative Agent, any Agent or any Lender has provided and none will provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. The Borrower hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against the Administrative Agent and each Agent with respect to any breach or alleged breach of agency or fiduciary duty; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower, on the one hand, and any Lender, on the other hand.

SECTION 10.15 Severability. Any provision of this Agreement and the other Loan Documents to which the Borrower is a party that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 10.16 Authorization to Release Subordinate Mortgages. By executing this Agreement, each Lender hereby consents to the execution by the Administrative Agent and delivery to the Borrower or its designee one or more releases of any subordinate mortgages, deeds of trust, assignments, security agreements, financing statements and fixture filings heretofore delivered by a Guarantor in favor of the Borrower to secure any Indebtedness of such Guarantor owing to the Borrower that have been collaterally assigned to the Administrative Agent for the benefit of the Lenders and the other parties secured thereby, together with any and all other documents or instruments of release with respect to the Liens evidenced thereby as the Administrative Agent shall determine are necessary or appropriate (in its sole discretion).

SECTION 10.17 USA PATRIOT Act Notice. Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower and each other Loan Party that pursuant to the requirements of the USA Patriot Act (Title III of Pub.L.107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Borrower and each other Loan Party, which information includes the name and address of the Borrower and each other Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower and each other Loan Party in accordance with the Act.

SECTION 10.18 Governing Law.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY WITHIN SUCH STATE (WITHOUT GIVING EFFECT TO THE PRINCIPLES THEREOF RELATING TO CONFLICT OF LAW EXCEPT SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW); PROVIDED THAT THE ADMINISTRATIVE AGENT AND EACH LENDER SHALL RETAIN ALL RIGHTS ARISING UNDER FEDERAL LAW.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK SITTING IN MANHATTAN OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF SUCH STATE, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE BORROWER, THE ADMINISTRATIVE AGENT AND EACH LENDER CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. THE BORROWER, THE ADMINISTRATIVE AGENT AND EACH LENDER IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM *NON CONVENIENS*, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF ANY LOAN DOCUMENT OR OTHER DOCUMENT RELATED THERETO. THE BORROWER, THE ADMINISTRATIVE AGENT AND EACH LENDER WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS, WHICH MAY BE MADE BY ANY OTHER MEANS PERMITTED BY THE LAW OF SUCH STATE.

SECTION 10.19 Waiver of Right to Trial by Jury. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

SECTION 10.20 Consents to Renewals, Modifications and Other Actions and Events. This Agreement and all of the obligations of the Borrower hereunder shall remain in full force and effect without regard to and shall not be released, affected or impaired by: (a) any amendment, assignment, transfer, modification of or addition or supplement to the Lenders' Obligations, this Agreement, any Note or any other Loan Document; (b) any extension, indulgence, increase in the Lenders' Obligations or other action or inaction in respect of any of the Loan Documents or otherwise with respect to the Lenders' Obligations, or any acceptance of security for, or guaranties of, any of the Lenders' Obligations or Loan Documents, or any surrender, release, exchange, impairment or alteration of any such security or guaranties including

without limitation the failing to perfect a security interest in any such security or abstaining from taking advantage or of realizing upon any guaranties or upon any security interest in any such security; (c) any default by the Borrower under, or any lack of due execution, invalidity or unenforceability of, or any irregularity or other defect in, any of the Loan Documents; (d) any waiver by the Lenders or any other Person of any required performance or otherwise of any condition precedent or waiver of any requirement imposed by any of the Loan Documents, any guaranties or otherwise with respect to the Lenders' Obligations; (e) any exercise or non-exercise of any right, remedy, power or privilege in respect of this Agreement or any of the other Loan Documents; (f) any sale, lease, transfer or other disposition of the assets of the Borrower or any consolidation or merger of the Borrower with or into any other Person, corporation, or entity, or any transfer or other disposition by the Borrower or any other holder of any shares of capital stock or other ownership interest of the Borrower; (g) any bankruptcy, insolvency, reorganization or similar proceedings involving or affecting the Borrower; (h) the release or discharge of the Borrower from the performance or observance of any agreement, covenant, term or condition under any of the Obligations or contained in any of the Loan Documents by operation of law; or (i) any other cause whether similar or dissimilar to the foregoing which, in the absence of this provision, would release, affect or impair the Obligations, covenants, agreements and duties of the Borrower hereunder, including without limitation any act or omission by the Administrative Agent, or the Lenders or any other Person which increases the scope of the Borrower's risk; and in each case described in this paragraph whether or not the Borrower shall have notice or knowledge of any of the foregoing, each of which is specifically waived by the Borrower. The Borrower warrants to the Administrative Agent and the Lenders that it has adequate means to obtain from the Guarantors on a continuing basis information concerning the financial condition and other matters with respect to the Guarantors and it is not relying on the Administrative Agent or the Lenders to provide such information either now or in the future.

SECTION 10.21 ENTIRE AGREEMENT. This Agreement, together with the other Loan Documents, comprises the complete and integrated agreement of the parties on the subject matter hereof and thereof and supersedes all prior agreements, written or oral, on such subject matter. **THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

SECTION 10.22 FLOOD INSURANCE PROVISIONS. Notwithstanding any provision in this Agreement or any other Loan Document to the contrary, in no event is any Building (as defined in the applicable Flood Insurance Regulation) or Manufactured (Mobile) Home (as defined in the applicable Flood Insurance Regulation) included in the definition of "Mortgaged Property" and no Building or Manufactured (Mobile) Home is hereby encumbered by this Agreement or any other Loan Document. As used herein, "Flood Insurance Regulations" means (a) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (b) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statue thereto, (c) the National Flood Insurance Reform Act of 1994 (amending 42 USC 4001, et seq.), as the same may be amended or recodified from time to time and (d) the Flood Insurance Reform Act of 2004 and any regulations promulgated thereunder.

SECTION 10.23 INTERCREDITOR ~~AGREEMENT~~AGREEMENTS.

(a) EACH LENDER HEREBY (I) INSTRUCTS AND AUTHORIZES THE ADMINISTRATIVE AGENT TO EXECUTE AND DELIVER THE PRIORITY LIEN INTERCREDITOR AGREEMENT AND THE SECOND LIEN INTERCREDITOR AGREEMENT ON ITS BEHALF, (II) AUTHORIZES AND DIRECTS THE ADMINISTRATIVE AGENT TO EXERCISE ALL OF THE ADMINISTRATIVE AGENT'S RIGHTS AND TO COMPLY WITH ALL OF ITS OBLIGATIONS UNDER THE INTERCREDITOR AGREEMENT, (III) AGREES THAT THE ADMINISTRATIVE AGENT MAY TAKE ACTIONS ON ITS BEHALF AS IS CONTEMPLATED BY THE TERMS OF THE PRIORITY LIEN INTERCREDITOR AGREEMENT AND THE SECOND LIEN INTERCREDITOR AGREEMENT, AND (IV) UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT AT ALL TIMES FOLLOWING THE EXECUTION AND DELIVERY OF THE PRIORITY LIEN INTERCREDITOR AGREEMENT AND THE SECOND LIEN INTERCREDITOR AGREEMENT SUCH LENDER (AND EACH OF ITS SUCCESSORS AND ASSIGNS) SHALL BE BOUND BY THE TERMS THEREOF.

(b) EACH LENDER ACKNOWLEDGES THAT IT HAS REVIEWED AND IS SATISFIED WITH THE TERMS AND PROVISIONS OF THE PRIORITY LIEN INTERCREDITOR AGREEMENT AND THE PRIORITY LIEN INTERCREDITOR AGREEMENT AND ACKNOWLEDGES AND AGREES THAT SUCH LENDER IS RESPONSIBLE FOR MAKING ITS OWN ANALYSIS AND REVIEW OF THE PRIORITY LIEN INTERCREDITOR AGREEMENT AND THE SECOND LIEN INTERCREDITOR AGREEMENT THE TERMS AND PROVISIONS THEREOF, AND NO AGENT OR ANY OF ITS AFFILIATES MAKES ANY REPRESENTATION TO ANY LENDER AS TO THE SUFFICIENCY OR ADVISABILITY OF THE PROVISIONS CONTAINED IN THE INTERCREDITOR ~~AGREEMENT.~~AGREEMENTS.

SECTION 10.24 Waiver of Consequential Damages, etc. To the fullest extent permitted by Applicable Law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for indirect, special, punitive, consequential or exemplary damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit, or the use of the proceeds thereof. No Indemnitee referred to in clause (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby. This Section shall survive the termination of the Loan Documents and payment of the other Obligations.

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

COMSTOCK RESOURCES, INC.

By: ____________________________
Name: Roland O. Burns
Title: President

BANK OF MONTREAL,
as Administrative Agent and Issuing Bank and Lender

By: ____________________________
Name: James Ducote
Title: Director

BANK OF AMERICA, N.A.,
as Syndication Agent and Lender

By: ____________________________
Name: Raza Jafferi
Title: Vice President

SCHEDULE 7.10

PERMITTED RESTRICTIONS ON LIEN INCURRENCE

Section 6.12 of the 2011 Senior Notes Indenture and Section 9.15 of the 2012 Senior Notes Indenture (collectively, the "Indentures") provide that the Borrower shall not, and shall not permit any of the Loan Parties to, directly or indirectly, create, incur, assume, affirm or suffer to exist or become effective any "Lien" (as defined therein) of any kind, except for Permitted Liens (as defined therein), upon any of their respective properties, whether now owned or acquired after the date of the applicable Indenture or any income or profits therefrom, or assign or convey any right to receive income thereon, unless (a) in the case of any Lien securing Subordinated Indebtedness (as defined therein), the 2011 Senior Notes or the 2012 Senior Notes, as the case may be, 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 2011 Senior Notes or the 2012 Senior Notes, as the case may be, are directly secured equally and ratably with the obligation or liability secured by such Lien. Permitted Lien is defined to include Liens securing the Obligations.

Section 9.15 of the 2015 Senior ~~Secured~~ Notes Indenture provides that Borrower 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. (Capitalized terms used as defined in the 2015 Senior ~~Secured~~ Notes Indenture.).

TABLE OF CONTENTS

		Page
ARTICLE I.	DEFINITIONS AND ACCOUNTING TERMS	1
SECTION 1.1	Defined Terms	1
SECTION 1.2	Other Interpretive Provisions	~~24~~26
SECTION 1.3	Accounting Terms	~~24~~26
SECTION 1.4	Rounding	~~25~~27
SECTION 1.5	References to Agreements and Laws	~~25~~27
SECTION 1.6	Designation and Conversion of Restricted and Unrestricted Subsidiaries	~~25~~27
ARTICLE II.	THE COMMITMENTS AND CREDIT EXTENSIONS	~~26~~28
SECTION 2.1	Loans	~~26~~28
SECTION 2.2	Borrowings, Conversions and Continuations of Loans	~~26~~28
SECTION 2.3	Letters of Credit	~~28~~30
SECTION 2.4	Prepayments	~~36~~38
SECTION 2.5	Reduction or Termination of Commitments and Maximum Loan Amount	~~37~~39
SECTION 2.6	Repayment of Loans	~~37~~39
SECTION 2.7	Interest	~~37~~39
SECTION 2.8	Fees	~~38~~40
SECTION 2.9	Computation of Interest and Fees	~~38~~40
SECTION 2.10	Notes and Other Evidence of Debt	~~38~~40
SECTION 2.11	Payments Generally	~~39~~41
SECTION 2.12	Sharing of Payments	~~41~~43
SECTION 2.13	Defaulting Lenders	~~41~~43
ARTICLE III.	TAXES, YIELD PROTECTION AND ILLEGALITY	~~43~~45
SECTION 3.1	Taxes	~~43~~45
SECTION 3.2	Illegality	~~44~~46
SECTION 3.3	Inability to Determine Rates	~~44~~46
SECTION 3.4	Increased Cost and Reduced Return; Capital Adequacy	~~45~~46
SECTION 3.5	Funding Losses	~~45~~47

TABLE OF CONTENTS
(continued)

		Page
SECTION 3.6	Matters Applicable to all Requests for Compensation	~~46~~48
SECTION 3.7	Survival	~~46~~48
SECTION 3.8	Foreign Lenders	~~46~~48
SECTION 3.9	Removal and Replacement of Lenders	~~47~~49
ARTICLE IV.	CONDITIONS PRECEDENT TO CREDIT EXTENSIONS	~~48~~50
SECTION 4.1	Conditions of Initial Credit Extension	~~48~~50
SECTION 4.2	Conditions to all Credit Extensions	~~50~~52
SECTION 4.3	Post-Closing Obligations	~~51~~53
ARTICLE V.	REPRESENTATIONS AND WARRANTIES	~~51~~53
SECTION 5.1	Existence, Qualification and Power; Compliance with Laws	~~51~~53
SECTION 5.2	Authorization; No Contravention	~~52~~54
SECTION 5.3	Governmental Authorization; Consents	~~52~~54
SECTION 5.4	Binding Effect	~~52~~54
SECTION 5.5	Financial Statements; No Material Adverse Effect	~~52~~54
SECTION 5.6	Litigation	~~53~~55
SECTION 5.7	No Default	~~53~~55
SECTION 5.8	Ownership of Property; Liens	~~53~~55
SECTION 5.9	Environmental Matters	~~53~~55
SECTION 5.10	Insurance	~~54~~56
SECTION 5.11	Taxes	~~54~~56
SECTION 5.12	ERISA Compliance	~~54~~56
SECTION 5.13	Subsidiaries	~~55~~57
SECTION 5.14	Margin Regulations; Investment Company Act, Anti-Money Laundering and Anti-Terrorism Finance Laws	~~56~~58
SECTION 5.15	Disclosure	~~56~~58
SECTION 5.16	Intellectual Property; Licenses, Etc	~~56~~58
SECTION 5.17	Direct Benefit	~~57~~59
SECTION 5.18	Solvency	~~57~~59
SECTION 5.19	Indenture Debt Documents	~~57~~59

TABLE OF CONTENTS
(continued)

		Page
SECTION 5.20	Hedging Agreements	~~57~~59
SECTION 5.21	Location of Business and Offices	~~58~~60
ARTICLE VI.	AFFIRMATIVE COVENANTS	~~58~~60
SECTION 6.1	Financial Statements	~~58~~60
SECTION 6.2	Certificates; Other Information	~~59~~61
SECTION 6.3	Notices	~~61~~64
SECTION 6.4	Payment of Obligations	~~62~~64
SECTION 6.5	Preservation of Existence, Etc	~~62~~64
SECTION 6.6	Maintenance of Properties	~~62~~65
SECTION 6.7	Maintenance of Insurance	~~63~~65
SECTION 6.8	Compliance with Laws	~~63~~65
SECTION 6.9	Books and Records	~~63~~65
SECTION 6.10	Inspection Rights	~~63~~65
SECTION 6.11	Compliance with ERISA	~~63~~65
SECTION 6.12	Use of Proceeds	~~63~~66
SECTION 6.13	[intentionally omitted]	~~64~~66
SECTION 6.14	Additional Covenants Upon Issuance of Additional Permitted Notes or Permitted Refinancing Indebtedness	~~64~~66
SECTION 6.15	[intentionally omitted]	~~64~~66
SECTION 6.16	Security	~~64~~66
SECTION 6.17	Keepwell	~~67~~70
SECTION 6.18	Unrestricted Subsidiaries	~~68~~70
SECTION 6.19	Title Information	~~68~~71
ARTICLE VII.	NEGATIVE COVENANTS	~~69~~71
SECTION 7.1	Liens	~~69~~71
SECTION 7.2	Investments	~~70~~73
SECTION 7.3	Indebtedness	~~71~~73
SECTION 7.4	Fundamental Changes	~~72~~75
SECTION 7.5	Dispositions	~~73~~76

TABLE OF CONTENTS
(continued)

		Page
SECTION 7.6	Restricted Payments	~~74~~77
SECTION 7.7	ERISA	~~74~~77
SECTION 7.8	Change in Nature of Business	~~74~~77
SECTION 7.9	Transactions with Affiliates	~~74~~77
SECTION 7.10	Burdensome Agreements	~~75~~78
SECTION 7.11	Use of Proceeds	~~75~~78
SECTION 7.12	Payments and Modification of Indenture Debt Documents	~~75~~78
SECTION 7.13	Financial Covenants	~~76~~79
SECTION 7.14	Limitation on Hedges	~~76~~79
SECTION 7.15	Hedging Agreement Termination	~~76~~80
SECTION 7.16	Sanction Laws	~~77~~80
SECTION 7.17	Sale and Leaseback Transactions and other Off-Balance Sheet Liabilities	~~77~~80
SECTION 7.18	Sale or Discount of Receivables	~~77~~80
SECTION 7.19	Additional Collateral for ~~2015 Senior Secured~~ Notes	~~77~~80
SECTION 7.20	Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries	~~77~~81
SECTION 7.21	Gas Imbalances, Take-or-Pay or Other Prepayments	~~78~~81
ARTICLE VIII.	EVENTS OF DEFAULT AND REMEDIES	~~78~~81
SECTION 8.1	Events of Default	~~78~~81
SECTION 8.2	Remedies Upon Event of Default	~~80~~83
SECTION 8.3	Distribution of Proceeds	~~81~~84
ARTICLE IX.	ADMINISTRATIVE AGENT	~~82~~85
SECTION 9.1	Appointment and Authorization of Administrative Agent	~~82~~85
SECTION 9.2	Delegation of Duties	~~82~~86
SECTION 9.3	Liability of Administrative Agent	~~83~~86
SECTION 9.4	Reliance by Administrative Agent	~~83~~86
SECTION 9.5	Notice of Default	~~84~~87
SECTION 9.6	Credit Decision; Disclosure of Information by Administrative Agent	~~84~~87

TABLE OF CONTENTS
(continued)

		Page
SECTION 9.7	Indemnification of Administrative Agent	~~85~~88
SECTION 9.8	Administrative Agent in its Individual Capacity	~~85~~88
SECTION 9.9	Successor Administrative Agent	~~85~~89
SECTION 9.10	Administrative Agent May File Proofs of Claim	~~86~~89
SECTION 9.11	Authority of Administrative Agent to Release Collateral Property, Liens and Guarantees	~~87~~90
SECTION 9.12	Other Agents; Lead Managers	~~87~~91
ARTICLE X.	MISCELLANEOUS	~~88~~91
SECTION 10.1	Amendments, Etc	~~88~~91
SECTION 10.2	Notices and Other Communications; Facsimile Copies	~~89~~92
SECTION 10.3	No Waiver; Cumulative Remedies	~~91~~94
SECTION 10.4	Attorney Costs, Expenses and Taxes	~~91~~94
SECTION 10.5	Indemnification by the Borrower	~~91~~95
SECTION 10.6	Payments Set Aside	~~92~~95
SECTION 10.7	Successors and Assigns; Assignments; Participations	~~92~~96
SECTION 10.8	Confidentiality	~~96~~99
SECTION 10.9	Set-off	~~96~~100
SECTION 10.10	Interest Rate Limitation	~~97~~100
SECTION 10.11	Counterparts	~~98~~101
SECTION 10.12	Survival of Representations and Warranties	~~98~~101
SECTION 10.13	Collateral Matters; Hedges	~~98~~101
SECTION 10.14	Acknowledgments	~~99~~102
SECTION 10.15	Severability	~~100~~103
SECTION 10.16	Authorization to Release Subordinate Mortgages	~~100~~103
SECTION 10.17	USA PATRIOT Act Notice	~~100~~103
SECTION 10.18	Governing Law	~~100~~103
SECTION 10.19	Waiver of Right to Trial by Jury	~~101~~104
SECTION 10.20	Consents to Renewals, Modifications and Other Actions and Events	~~101~~104

TABLE OF CONTENTS
(continued)

		Page
SECTION 10.21	ENTIRE AGREEMENT	~~102~~105
SECTION 10.22	FLOOD INSURANCE PROVISIONS	~~102~~105
SECTION 10.23	INTERCREDITOR ~~AGREEMENT 102~~	AGREEMENTS 105
SECTION 10.24	Waiver of Consequential Damages, etc	~~103~~106

SCHEDULES

2.1	Commitment Amounts and Percentage Shares
5.6	Litigation
5.13	Subsidiaries and Other Equity Investments
5.20	Hedging Agreements
5.21	Location of Business and Offices
7.1	Existing Liens
7.2	Existing Investments
7.3	Prior Indebtedness
7.10	Permitted Restrictions on Lien Incurrence
10.2	Eurodollar and Domestic Lending Offices, Addresses for Notices

EXHIBITS

Form of

A	Notice of Advance
B	Note
C	Compliance Certificate
D	Lender Assignment

Security Documents

1. Supplement and First Amendment to Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement, and Fixture Filing from Comstock Oil & Gas, LP to the Pari Passu Collateral Agent.
2. Supplement and First Amendment to Mortgage, Assignment, Security Agreement, Financing Statement, and Fixture Filing from Comstock Oil & Gas- Louisiana, LLC, to the Pari Passu Collateral Agent.
3. First Amendment to Security Agreement by and among the Borrower and the Guarantors in favor of the Pari Passu Collateral Agent.
4. First Amendment to Pledge Agreement and Irrevocable Proxy by and among the Borrower and the Guarantors in favor of the Pari Passu Collateral Agent.
5. Amended and Restated Deposit Account Control Agreement by and among the Borrower, Priority Lien Agent, Second Lien Collateral Agent and Comerica Bank.
6. Collateral Trust Agreement by and among the Borrower, the Guarantors, Bank of Montreal, as the Collateral Trustee, American Stock Transfer & Trust Company, LLC, as Parity Lien Representative of the holders of New Convertible 2019 Notes, and American Stock Transfer & Trust Company, LLC, as the Parity Lien Representative of the holders of New Convertible 2020 Notes.

Indenture Debt Documents

1. Supplemental Indenture to 2011 Senior Notes Indenture;
2. Supplemental Indenture to 2012 Senior Notes Indenture;
3. Supplemental Indenture to 2015 Senior Notes Indenture;
4. 2019 Second Lien Indenture;
5. 2020 Second Lien Indenture;
6. Priority Lien Indenture; and
7. All other documents related to or delivered in connection with the Notes Exchange Transaction.

Exhibit C