Execution version

SIERRACOL ENERGY ANDINA, LLC,
as Issuer

the Guarantors named herein

and

DEUTSCHE BANK TRUST COMPANY AMERICAS,
as Trustee, Paying Agent, Registrar and Transfer Agent

INDENTURE

Dated as of June 22, 2021

Senior Notes

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Article **Page**

INDENTURE dated as of June 22, 2021

AMONG:

(1) **SIERRACOL ENERGY ANDINA, LLC**, a Delaware limited liability company (the "**Issuer**");

(2) **SIERRACOL ENERGY LIMITED** and **SIERRACOL ENERGY CONDOR, LLC** (each a "**Guarantors**" and together, the "**Guarantors**") and

(3) **DEUTSCHE BANK TRUST COMPANY AMERICAS** (the "**Trustee,**" "**Paying Agent**," "**Transfer Agent**" and "**Registrar**").

RECITALS OF THE ISSUER AND THE GUARANTORS

The Issuer is delivering this Indenture to provide for the issuance of (i) its 6.000% Senior Notes due 2028 issued on the date hereof (whether represented by a Global Note or a Definitive Registered Note, the "**Original Notes**") and (ii) any Additional Notes (whether represented by a Global Note or a Definitive Registered Note, together with the Original Notes, the "**Notes**"). The Guarantors are hereunder providing for the issuance of their respective Guarantees of the Notes.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

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

1. DEFINITIONS

1.1 Definitions

"**Acquired Debt**" means, with respect to any specified Person:

(a) Indebtedness of any other Person existing at the time such other Person is amalgamated or merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person amalgamating or merging with or into, or becoming a Restricted Subsidiary of, such specified Person; and

(b) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"**Acquisition**" means the acquisition of the SierraCol business by the Carlyle Group pursuant to the Acquisition Agreement.

"**Acquisition Agreement**" means the Sale and Purchase Agreement, dated as of October 1, 2020, among Oxy Colombia Holdings, LLC, Occidental International

Holdings Ltd., Occidental International Exploration and Production Company and the Company (formerly Flamingo Bidco Limited), pursuant to which the Carlyle Group consummated the Acquisition.

"**Additional Assets**" means:

(a) any property or assets used or useful in the Oil and Gas Business;

(b) the Capital Stock of a Person that becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock by the Company or any of its Restricted Subsidiaries; or

(c) Capital Stock constituting a Minority Interest in any Person that at such time is a Restricted Subsidiary;

provided, *however*, that any such Restricted Subsidiary described in clause (b) or (c) of this definition is primarily engaged in the Oil and Gas Business.

"**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.

"**Agents**" means the Paying Agent, the Transfer Agent and the Registrar.

"**Applicable Premium**" means, with respect to any Note at any time, the greater of (1) 1.0% of the principal amount of such Note and (2) the excess of:

(a) the present value at such time of (i) the Redemption Price of the Note on June 15, 2024 (such Redemption Price being set forth in the table in Section 6 of the Form of Note in Schedule 2), plus (ii) all required interest payments due on the Note through June 15, 2024 (excluding accrued but unpaid interest to the Redemption Date) discounted back to the Redemption Date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at a rate equal to the Treasury Rate as of such time plus 50 basis points; over

(b) the then-outstanding principal amount of the Note,

as calculated by the Issuer or on behalf of the Issuer by such Person as the Issuer may engage. For the avoidance of doubt, the calculation of the Applicable Premium shall not be a duty or obligation of the Trustee, the Paying Agent, the Registrar or the Transfer Agent.

"**Applicable Proceeds**" has the meaning given to it in Section 4.7(b).

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

"**Arauca Agreement**" means the Amended and Restated Limited Liability Company Agreement dated as of December 31, 2010, among SierraCol Energy Holder Ltd., Repsol International Finance, B.V. and SierraCol Arauca, LLC (formerly Occidental de Colombia, LLC), as amended, restated or otherwise modified or varied from time to time .

"**Asset Sale**" means:

(a) the sale, lease, conveyance or other disposition of any assets or rights (including by way of a Production Payment but excluding an operating lease entered into in the ordinary course of the Oil and Gas Business); *provided* that the sale, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole will be governed by Section 4.9 and/or Article 5 and not by Section 4.7; and

(b) the issuance of Equity Interests in any of the Company's Restricted Subsidiaries or the sale by the Company or its Restricted Subsidiaries of Equity Interests in any of the Company's Subsidiaries.

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

(a) any single transaction or series of related transactions that involves assets having a Fair Market Value less than the greater of (a) $30.0 million and (b) 3.0% of Consolidated Total Assets;

(b) a transfer or other disposition of assets or Equity Interests between or among the Company and/or its Restricted Subsidiaries;

(c) an issuance or sale of Equity Interests by a Restricted Subsidiary of the Company to the Company or to a Restricted Subsidiary of the Company;

(d) the sale, lease or other disposition of products, services, Hydrocarbons or mineral products inventory or accounts receivable or other assets in the ordinary course of business;

(e) the abandonment, farm–out, transfer in exchange for carry, lease or sublease of any oil and gas properties or the forfeiture or other disposition of such properties, in each case in the ordinary course of business;

(f) the disposition of assets to a Person who is providing services (the provision of which have been or are to be outsourced by the Company or any Restricted Subsidiary to such Person) related to such assets;

(g) any sale or other disposition of damaged, unserviceable, worn–out or obsolete assets in the ordinary course of business;

(h) the sale or other disposition of cash or Cash Equivalents or other financial assets in the ordinary course of business;

(i) for purposes of Section 4.7 only, the making of a Permitted Investment or a disposition subject to Section 4.6;

(j) the sale or other disposition (whether or not in the ordinary course of business) of crude oil and natural gas properties (for the avoidance of doubt, whether by direct sale or disposition or through a sale or disposition of shares); *provided*, that at the time of such sale or other disposition such properties do not have associated with them any proved reserves;

(k) any Asset Swap;

(l) granting of Liens not prohibited by Section 4.5;

(m) the licensing or sublicensing of intellectual property, including, without limitation, licenses for seismic data or other general intangibles and licenses, leases or subleases of other property, in the ordinary course of business and which do not materially interfere with the business of the Company and its Restricted Subsidiaries taken as a whole;

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

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

(p) any sale or other disposition of any oil and gas properties or interests therein to any governmental authority that is (i) a result of a relinquishment to, or a compulsory or involuntary acquisition by, such authority or (ii) made in connection with acquiring, renewing or retaining, as applicable, any other oil and gas properties or interests awarded by such governmental authority; *provided* that any cash or Cash Equivalents received in connection with any such sale or other disposition must be applied in accordance with Section 4.7;

(q) foreclosure, condemnation or any similar action with respect to any property or other assets;

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

(s) any sale, distribution or other disposition of the Teca Assets held by the Company or any Restricted Subsidiary of the Company.

"**Asset Swap**" means any substantially contemporaneous (and in any event occurring within 180 days of each other) purchase and sale or exchange (including, without limitation, by way of any farm-out, farm-in, lease, sublease or any other contractual transfer of rights) of any assets or properties or interests therein (including, for the avoidance of doubt, Capital Stock in companies owning such assets or properties or interests therein or otherwise primarily engaged, directly or indirectly, in the Oil and Gas Business) used or useful in the Oil and Gas Business between the Company or any of its Restricted Subsidiaries and another Person; *provided* that the Fair Market Value of the properties or assets or interests therein traded or exchanged (including, without limitation, by way of any farm-out, farm-in, lease, sublease or any other contractual transfer of rights) by the Company or such Restricted Subsidiary (together with any cash) is reasonably equivalent (as determined in good faith by a responsible accounting or financial officer of the Company) to the Fair Market Value of the properties or assets or interests therein (including, without limitation, by way of any farm-out, farm-in, lease, sublease or any other contractual transfer of rights) (together with any cash) to be received by the Company or such Restricted Subsidiary, and *provided further* that any net cash received must be applied in accordance with Section 4.7.

"**Authority**" means The International Stock Exchange Authority Limited.

"**Bankruptcy Law**" means (i) the UK Insolvency Act 1986, as amended (together with the rules and regulations made pursuant thereto), (ii) title 11, United States Bankruptcy Code of 1978, as amended and (iii) any other applicable law relating to bankruptcy, insolvency, receivership, winding up, liquidation, reorganization or relief of debtors.

"**beneficial owner**" has the meaning assigned to such term in Rule 13d–3 and Rule 13d–5 under the U.S. Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the

U.S. Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, other than securities that such "person" has the right to acquire or vote only upon the happening of any future event or contingency (including the passage of time) that has not yet occurred. The terms "**beneficial ownership**," "**beneficially owns**" and "**beneficially owned**" have a corresponding meaning.

"**Board of Directors**" means:

(a) with respect to a corporation or company, the board of directors of the corporation or company, or any committee thereof duly authorized to act on behalf of such board;

(b) with respect to a partnership, the board of directors of the general partner of the partnership;

(c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and

(d) with respect to any other Person, the board or committee of such Person serving a similar function.

"**Business Day**" means each day that is not a Saturday, Sunday or other day on which banking institutions in London, New York, Bogotá or another place of payment under this Indenture are authorized or required by law to close.

"**Calculation Date**" has the meaning given in the definition of "Fixed Charge Coverage Ratio."

"**Capital Lease Obligation**" means, at the time any determination is to be made, the amount of the liability in respect of a financing lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with IFRS, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty; *provided* that in no event shall an operating lease or a lease that would have been an operating lease prior to the adoption of IFRS 16 be considered a Capital Lease Obligation.

"**Capital Stock**" means:

(a) in the case of a corporation, corporate stock;

(b) in the case of an association, company or other business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock or share capital (as the case may be);

(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,

but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

"**Carlyle Group**" means the group of affiliated entities doing business as The Carlyle Group, including any entity ultimately owned or controlled by The Carlyle Group Inc. or any fund entity managed or advised (directly or indirectly) by Carlyle Investment Management L.L.C, or any of its Affiliates.

"**Cash Equivalents**" means:

(a) securities issued or directly and fully guaranteed or insured by the government of the United States of America, a member state of the European Union or the United Kingdom, Switzerland, Norway, Canada, Australia, Japan, Bermuda, Panama, the Cayman Islands or Colombia (including, in each case, any agency or instrumentality thereof), as the case may be, the payment of which is backed by the full faith and credit of the United States, the relevant member state of the European Union or the United Kingdom, Switzerland, Norway, Canada, Australia, Japan, Bermuda, Panama, the Cayman Islands or Colombia, as the case may be, having maturities of not more than fifteen months from the date of acquisition, the long-term debt of which is rated at the time of acquisition thereof is at least "BBB" or the equivalent thereof by S&P, or "Baa2" or the equivalent thereof by Moody's or the equivalent rating category of another internationally recognized rating agency;

(b) certificates of deposit, time deposits, eurodollar time deposits, money market deposits, overnight bank deposits or bankers' acceptances (and similar instruments) having maturities of not more than fifteen months from the date of acquisition thereof issued by any commercial bank, the long-term debt of which is rated at the time of acquisition thereof at least "BBB" or the equivalent thereof by S&P, or "Baa2" or the equivalent thereof by Moody's or the equivalent rating category of another internationally recognized rating agency, and having combined capital and surplus in excess of $250.0 million;

(c) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (a) and (b) of this definition entered into with any financial institution meeting the qualifications specified in clause (b) of this definition;

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

(e) in the case of any Restricted Subsidiary of the Company located outside the United States, Canada, the United Kingdom and the European Union, any substantially similar investment to the kinds described in clauses (b) and (c) of this definition obtained in the ordinary course of business and (i) with the highest ranking obtainable in the applicable jurisdiction or (ii) with any bank, trust company or similar entity, which would rank, in terms of combined capital and surplus and undivided profits or the ratings on its long-term debt, among the top five banks in such jurisdiction;

(f) bills of exchange issued in the United States, Canada, a member state of the European Union or the United Kingdom, Switzerland, Norway, Canada, Australia, Japan, Bermuda, Panama, the Cayman Islands or Colombia eligible for rediscount at the relevant central bank and accepted by a bank (or any dematerialized equivalent); and

(g) interests in any investment company or money market fund which invests 95% or more of its assets in instruments of the type specified in clauses (a) through (d) of this definition.

"**Change of Control**" means the occurrence of any of the following:

(a) the Issuer becoming aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) that any "person" or "group" of related persons (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act as in effect on the Issue Date), other than one or more Permitted Holders, is or becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act as in effect on the Issue Date), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of the Company; *provided* that for the purposes of this clause, no Change of Control shall be deemed to occur by reason of the Company becoming a Wholly-Owned Subsidiary of a Successor Parent (subject to any directors' qualifying shares, shares required by any applicable law or regulation to be held by a person other than the Company or another Wholly-Owned Subsidiary that are held by a Person other than such Successor Parent, and any shares held by a Permitted Holder as of the Issue Date);

(b) the sale, lease, transfer, conveyance or other disposition (other than by way of merger, amalgamation or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole to any "person" (as that term is used in Section 13(d) of the U.S. Exchange Act) other than one or more Permitted Holders; or

(c) the first day on which the Company shall fail to directly or indirectly own 100% of the issued and outstanding Voting Stock and Capital Stock of the Issuer (unless the Issuer amalgamates or merges with the Company or the Company becomes the Issuer in accordance with Article 5.

Notwithstanding the foregoing, (a) a transaction will not be deemed to involve a Change of Control solely as a result of the Company becoming a direct or indirect Wholly-Owned Subsidiary of a parent company if (1) the direct or indirect holders of the Voting Stock of such parent company immediately following that transaction are substantially the same as the holders of the Company's Voting Stock immediately prior to that transaction or (2) immediately following that transaction no Person (other than a parent company satisfying the requirements of this sentence) is the beneficial owner, directly or indirectly, of more than 50% of the Voting Stock of such parent company, (b) the right to acquire Voting Stock (so long as such Person does not have the right to direct the voting of the Voting Stock subject to such right) will not cause a party to be a beneficial owner, (c) any Voting Stock beneficially owned by any Permitted Holder shall not be included in any Voting Stock of which any other person or group is the beneficial owner so long as such other person or group does not have greater voting power with respect to such Permitted Holder's Voting Stock and (d) the transfer of assets between or among the Company and any Restricted Subsidiaries shall not itself constitute a Change of Control.

"**Change of Control Triggering Event**" means the occurrence of a Change of Control immediately after the completion of which the Consolidated Net Leverage Ratio of the Company (calculated in accordance with Section 4.19) is greater than 2.75 to 1.00.

"**Clearstream**" means Clearstream Banking S.A. and its successors.

"**COG Acquisition**" means the acquisition of COG Energy Ltd. and its subsidiaries by the Company, which was consummated on May 4, 2021.

"**Common Depositary**" means, with respect to any Additional Notes, as applicable, issued in whole or in part in global form in accordance with Section 2.14, a depositary common to Euroclear and Clearstream and any successor Common Depositary that shall have become such pursuant to this Indenture, and thereafter "Common Depositary" shall mean or include each Person who is then a Common Depositary hereunder.

"**Company**" means SierraCol Energy Limited and any and all successors and assigns.

"**Consolidated Cash Flow**" means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period *plus* the following, without duplication:

(a) an amount equal to any extraordinary loss plus any net loss realized by such Person or any of its Restricted Subsidiaries in connection with a sale of assets (together with any related provision for taxes and any related non–recurring charges relating to any premium or penalty paid, write–off of deferred financing costs or other financial recapitalization charges in connection with redeeming or retiring any Indebtedness prior to its Stated Maturity) to the extent deducted in calculating such Consolidated Net Income; *plus*

(b) taxes based on income or profits of such Person and its Restricted Subsidiaries for such period to the extent deducted in calculating such Consolidated Net Income; *plus*

(c) the Fixed Charges of such Person and its Restricted Subsidiaries for such period to the extent deducted in calculating such Consolidated Net Income; *plus*

(d) depreciation, depletion, amortization (including, without limitation, amortization of intangibles and deferred financing fees but excluding amortization of prepaid cash expenses that were paid in a prior period), impairment and other non–cash charges and expenses (including, without limitation, write downs and impairment of property, plant, equipment and intangible and other long lived assets and the impact of purchase accounting on the Company and its Restricted Subsidiaries for such period), of such Person and its Restricted Subsidiaries (excluding any such non–cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) for such period to the extent deducted in calculating such Consolidated Net Income; *plus*

(e) any expenses, charges or other costs related to the issuance of any Capital Stock, any Permitted Investment, acquisition (including amounts paid in connection with the acquisition or retention of one or more individuals comprising part of a management team retained to manage the acquired business and any expenses, charges or other costs related to deferred or contingent payments), disposition, recapitalization listing of Capital Stock or the incurrence of Indebtedness permitted to be incurred under Section 4.4 (including any refinancing thereof) whether or not successful, including (i) such fees, expenses or charges related to any incurrence of Indebtedness or issuance of Disqualified Stock or preferred stock; (ii) such fees, expenses or charges related to the Acquisition, the COG

Acquisition or the Transactions; and (iii) such fees, expenses or charges related to any amendment or other modification of any incurrence, in each case to the extent deducted in calculating such Consolidated Net Income; *plus*

(f) any foreign currency translation losses (including losses related to currency remeasurements of Indebtedness); *plus*

(g) (i) the amount of any minority interest expense (whether paid or not) consisting of subsidiary income attributable to Minority Interests of third parties in any non–wholly owned Restricted Subsidiary in such period or any prior period, except to the extent of dividends declared or paid on, or other cash payments in respect of, Equity Interests held by such parties; and (ii) to the extent not already included in calculating such Consolidated Net Income, and without duplication of amounts, 100% of the Consolidated Cash Flow of any majority-owned Restricted Subsidiary or joint venture, including SierraCol Arauca; *plus*

(h) [reserved]; *plus*

(i) the proceeds of any business interruption insurance received or that become receivable during such period to the extent the associated losses arising out of the event that resulted in the payment of such business interruption insurance proceeds were included in computing Consolidated Net Income; *plus*

(j) the amount of management, monitoring, consulting and advisory fees and related expenses paid in such period to the Permitted Holders to the extent permitted by Section 4.8; *plus*

(k) any income or charge attributable to a post-employment benefit scheme other than the current service costs and any past service costs and curtailments and settlements attributable to the scheme; *plus*

(l) an amount equal to the amount of any reduction in the Consolidated Net Income from operations of the Company or any of its Restricted Subsidiaries as a result of a revaluation or recognition of assets and liabilities of the Company or any of its Restricted Subsidiaries; *plus*

(m) payments received or that become receivable with respect to expenses that are covered by the indemnification provisions in any agreement entered into by such Person in connection with an acquisition to the extent such expenses were included in computing Consolidated Net Income; *plus*

(n) all non-cash losses, charges and expenses, including any write-offs or write-downs; *provided* that if any such non-cash loss, charge or expense represents an accrual or reserve for potential cash items in any future four-fiscal quarter period, (i) such Person may determine not to add back such non-cash loss, charge or

expense in the period for which Consolidated Cash Flow is being calculated and (ii) to the extent such Person does decide to add back such non-cash loss, charge or expense, the cash payment in respect thereof in such future four-fiscal quarter period will be subtracted from Consolidated Cash Flow for such future four-fiscal quarter period; and *minus*

(o) the sum of (i) the amount of deferred revenues that are amortized during such period and are attributable to reserves that are subject to Volumetric Production Payments and (ii) amounts recorded in accordance with IFRS as repayments of principal and interest pursuant to Dollar-Denominated Production Payments,

in each case, on a consolidated basis and determined in accordance with IFRS.

"**Consolidated Net Income**" means, with respect to any specified Person for any period, the aggregate of the net income (loss) of such Person and its Restricted Subsidiaries for such period, on a consolidated basis (excluding the net income (loss) of any Unrestricted Subsidiaries), determined in accordance with IFRS; *provided* that:

(a) subject to the limitations contained in clause (2) below, any net income (loss) of any Person if such Person is not a Restricted Subsidiary, except that the Issuer's equity in the net income of any such Person for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed by such Person during such period to the Company or a Restricted Subsidiary as a dividend or other distribution or return on investment or could have been distributed, as reasonably determined by an Officer (subject, in the case of a dividend or other distribution or return on investment to a Restricted Subsidiary, to the limitations contained in clause (b) below);

(b) solely for the purpose of determining the amount available for Restricted Payments under Section 4.6(a)(III)(1), any net income (but not loss) of any Restricted Subsidiary (other than any Guarantor) will be excluded if such Subsidiary is subject to restrictions, directly or indirectly, on the payment of dividends or the making of distributions by such Restricted Subsidiary, directly or indirectly, to such Person (or any Guarantor that holds the Equity Interests of such Restricted Subsidiary, as applicable) by operation of the terms of such Restricted Subsidiary's charter or any agreement, instrument, judgment, decree, order, statute or governmental rule or regulation applicable to such Restricted Subsidiary or its shareholders (other than (i) restrictions that have been waived or otherwise released, (ii) restrictions pursuant to the Notes (including Additional Notes), the Note Guarantees or this Indenture, (iii) contractual restrictions in effect on the Issue Date with respect to the Restricted Subsidiary and other restrictions with respect to such Restricted Subsidiary that taken as a

whole, are not materially less favorable to the holders of the Notes than such restrictions in effect on the Issue Date and (iv) any restriction listed under Section 4.14(b)(ii), (iii), (iv), (viii), (x), (xi) or (xiv)) except that such Person's equity in the net income of any such Restricted Subsidiary for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed or that could have been distributed by such Restricted Subsidiary during such period to such Person or another Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend to another Restricted Subsidiary (other than any Guarantor), to the limitation contained in this clause);

(c) the cumulative effect of a change in accounting principles will be excluded;

(d) income resulting from transfers of assets (other than cash) between such Person or any of its Restricted Subsidiaries, on the one hand, and an Unrestricted Subsidiary, on the other hand, will be excluded;

(e) any gain (loss) realized upon the sale or other disposition of any property, plant or equipment of such Person or its consolidated Restricted Subsidiaries (including pursuant to any sale or leaseback transaction) which is not sold or otherwise disposed of in the ordinary course of business (as determined in good faith by a responsible accounting or financial officer of such Person) and any gain (loss) realized upon the sale or other disposition of any Capital Stock of any Person will be excluded;

(f) any "ceiling limitation" or other asset impairment, write-offs or write-downs on oil and gas properties and ancillary assets will be excluded;

(g) the impact of capitalized, accrued or accreting or pay-in-kind interest or accreting principal on Subordinated Shareholder Debt will be excluded;

(h) all deferred financing costs written off and premiums paid or other expenses incurred directly in connection with any early extinguishment of Indebtedness or Hedging Obligations and any net gain (loss) from any write-off or forgiveness of Indebtedness will be excluded;

(i) any unrealized gains or losses in respect of Hedging Obligations or any ineffectiveness recognized in earnings related to qualifying hedge transactions or the fair value or changes therein recognized in earnings for derivatives that do not qualify as hedge transactions, in each case, in respect of Hedging Obligations will be excluded;

(j) any non-cash compensation charge or expense arising from any grant of stock, shares, stock option or other equity-based award will be excluded;

(k) any unrealized foreign currency translation or transaction gains or losses in respect of Indebtedness or other obligations of any Person denominated in a currency other than the functional currency of such Person and any unrealized foreign exchange gains or losses resulting from remeasuring assets and liabilities denominated in foreign currencies will be excluded;

(l) to the extent deducted in the calculation of net income, any non–cash or non–recurring charges associated with any premium or penalty paid, write–off of deferred financing costs or other financial recapitalization charges in connection with redeeming or retiring any Indebtedness prior to its Stated Maturity will be excluded;

(m) (i) any one-time non-cash charges or any amortization or depreciation, in each case to the extent related to the Transactions, the Acquisition, the COG Acquisition or any acquisition of another Person or business or resulting from any reorganization or restructuring involving the Company or its Subsidiaries and (b) any Contingent Acquisition Agreement Payment, in each case will be excluded;

(n) any goodwill or other intangible asset amortization charge, impairment charge or write-off or write-down will be excluded;

(o) (i) any extraordinary, exceptional, unusual or non–recurring losses or charges, (ii) any asset impairment charges or the financial impacts of natural disasters (including fire, flood and storm and related events) or (iii) any charges, provisions or reserves in respect of any restructurings, redundancy, integration or severance, or other post-employment arrangements, signing, retention or completion bonuses, transaction costs, acquisition costs, business optimization initiatives, system establishment, software or information technology implementation or development, costs related to governmental investigations and curtailments or modifications to pension or post-retirement benefits schemes, litigation or any asset impairment charges, in each case will be excluded;

(p) any consolidated exploration and abandonment costs, expenses (including capitalized expenses) and write-offs of the Company and its Restricted Subsidiaries will be excluded; and

(q) without duplication of amounts, the Consolidated Net Income of any majority-owned Restricted Subsidiary or joint venture, including SierraCol Arauca, will be included.

"**Consolidated Net Leverage**" means, as of any date of determination, with respect to any specified Person, the total amount of Indebtedness in respect of borrowed

money of such Person and its Restricted Subsidiaries on a consolidated basis (excluding, for the avoidance of doubt, Hedging Obligations and letters of credit), *less* cash and Cash Equivalents of such specified Person and its Restricted Subsidiaries on that date of determination

"**Consolidated Net Leverage Ratio**" means, as of any date of determination, with respect to any specified Person, the ratio of (1) the Consolidated Net Leverage of such Person on such date to (2) the Consolidated Cash Flow of the Person for the four most recent fiscal quarters ending immediately prior to such date for which internal financial statements are available. For purposes of calculating the Consolidated Cash Flow for such period:

(a) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through amalgamations, mergers or consolidations, or any Person or any of its Restricted Subsidiaries acquired by the specified Person or any of its Restricted Subsidiaries, and including all related financing transactions and including increases in ownership of Restricted Subsidiaries, during the four-quarter reference period or subsequent to such reference period, and on or prior to the date of determination, or that are to be made on the date of determination, will be given pro forma effect as if they had occurred on the first day of the four-quarter reference period;

(b) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with IFRS, and operations or businesses (and ownership interests therein) disposed of on or prior to the date of determination (including transactions giving rise to the need to calculate such Consolidated Net Leverage Ratio) will be excluded;

(c) any Person that is a Restricted Subsidiary on the date of determination will be deemed to have been a Restricted Subsidiary at all times during such four-quarter reference period;

(d) any Person that is not a Restricted Subsidiary on the date of determination will be deemed not to have been a Restricted Subsidiary at any time during such four-quarter reference period; and

(e) if any Indebtedness bears a floating rate of interest, the interest expense on such Indebtedness will be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Interest Rate Agreement applicable to such Indebtedness), and if any Indebtedness is not denominated in the Issuer's functional currency, that Indebtedness for purposes of the calculation of such Consolidated Net Leverage Ratio shall be determined in accordance with IFRS.

For purposes of this definition, whenever *pro forma* effect is to be given to a transaction, the *pro forma* calculation shall be determined in good faith by a responsible accounting or financial officer of the Company and may include Pro Forma Cost Savings. In determining the amount of Indebtedness in respect of borrowed money outstanding on any date of determination, *pro forma* effect will be given to any incurrence, repayment, repurchase, defeasance or other acquisition, retirement or discharge of Indebtedness in respect of borrowed money on such date. Any undrawn amounts under revolving credit Indebtedness shall be deemed not to be outstanding.

"**Consolidated Senior Secured Net Leverage**" means, as of any date of determination, with respect to any specified Person, the total amount of Indebtedness in respect of borrowed money of such Person and its Restricted Subsidiaries on a consolidated basis (excluding Hedging Obligations and excluding letters of credit), in each case that is secured by a Lien, *less* cash and Cash Equivalents of such specified Person and its Restricted Subsidiaries on that date of determination.

"**Consolidated Senior Secured Net Leverage Ratio**" means as of any date of determination, with respect to any specified Person, the ratio of (i) the Consolidated Senior Secured Net Leverage of such Person on such date to (ii) the Consolidated Cash Flow of the Person for the four most recent fiscal quarters ending immediately prior to such date for which internal financial statements are available. For purposes of calculating the Consolidated Cash Flow for such period:

(a) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through amalgamations, mergers or consolidations, or any Person or any of its Restricted Subsidiaries acquired by the specified Person or any of its Restricted Subsidiaries, and including all related financing transactions and including increases in ownership of Restricted Subsidiaries, during the four-quarter reference period or subsequent to such reference period, and on or prior to the date of determination, or that are to be made on the date of determination, will be given pro forma effect as if they had occurred on the first day of the four-quarter reference period;

(b) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with IFRS, and operations or businesses (and ownership interests therein) disposed of on or prior to the date of determination (including transactions giving rise to the need to calculate such Consolidated Senior Secured Net Leverage Ratio) will be excluded;

(c) any Person that is a Restricted Subsidiary on the date of determination will be deemed to have been a Restricted Subsidiary at all times during such four-quarter reference period;

(d) any Person that is not a Restricted Subsidiary on the date of determination will be deemed not to have been a Restricted Subsidiary at any time during such four-quarter reference period; and

(e) if any Indebtedness bears a floating rate of interest, the interest expense on such Indebtedness will be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Interest Rate Agreement applicable to such Indebtedness), and if any Indebtedness is not denominated in such Person's functional currency, that Indebtedness for purposes of the calculation of such Consolidated Senior Secured Net Leverage Ratio shall be determined in accordance with IFRS.

For purposes of this definition, whenever pro forma effect is to be given to a transaction, the pro forma calculation shall be determined in good faith by a responsible accounting or financial officer of the Company and may include Pro Forma Cost Savings. In determining the amount of Indebtedness in respect of borrowed money outstanding on any date of determination, pro forma effect will be given to any incurrence, repayment, repurchase, defeasance or other acquisition, retirement or discharge of Indebtedness in respect of borrowed money on such date. Any undrawn amounts under revolving credit Indebtedness shall be deemed not to be outstanding.

"**Consolidated Total Assets**" means the total assets of the Company and its Restricted Subsidiaries on a consolidated basis, as shown on the most recent consolidated balance sheet of the Company, in each case, prepared in accordance with IFRS, as adjusted to give *pro forma* effect to acquisitions and dispositions made prior to or that are made on the date of determination; *provided* that to the extent a consolidated balance sheet of the Company is not available as of such date of determination, the amount of Consolidated Total Assets shall be determined in good faith by a responsible accounting or financial officer of the Company.

"**Contingent Acquisition Agreement Payment**" means any payment of Contingent Consideration (as defined in the Acquisition Agreement).

"**Contingent Obligations**" means, with respect to any Person, any obligation of such Person Guaranteeing in any manner, whether directly or indirectly, any operating lease, dividend or other obligation that, in each case, does not constitute Indebtedness ("**primary obligations**") of any other Person (the "**primary obligor**"), including any obligation of such Person, whether or not contingent:

(a) to purchase any such primary obligation or any property constituting direct or indirect security therefor;

(b) to advance or supply funds:

(a) for the purchase or payment of any such primary obligation; or

(b) to maintain the working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof; or

(d) for the avoidance of doubt, any contingent obligations in respect of workers' compensation claims, early retirement or termination obligations, pension fund obligations or contributions, or similar claims, obligations or contributions or social security or wage taxes.

"**continuing**" means, with respect to any Default or Event of Default, that such Default or Event of Default has not been cured or waived.

"**Corporate Trust Office**" means the principal corporate trust office of the Trustee, at which at any particular time its corporate trust business shall be administered, which office at the date of execution of this Indenture is located at Deutsche Bank Trust Company Americas, Trust and Agency Services, 60 Wall Street, 24th Floor, Mail Stop: NYC60-2405, New York, NY 10005, United States, or such other address as the Trustee may designate from time to time by notice to the Holders and the Issuer, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Issuer).

"**Credit Facilities**" means one or more debt facilities, capital markets indentures, instruments or arrangements incurred by the Company, any Restricted Subsidiary or any Finance Subsidiary (including the Revolving Credit Facility or commercial paper facilities and overdraft facilities) with banks, funds or other institutions or investors, providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such institutions or to special purpose entities formed to borrow from such institutions against such receivables) or letters of credit, notes or other Indebtedness, in each case, as amended, restated, modified, renewed, refunded, replaced, restructured, refinanced, repaid, increased or extended in whole or in part from time to time (and whether in whole or in part and whether or not with the original administrative agent and lenders or another administrative agent or agents or trustees or other banks, funds, institutions or investors and whether provided under the Revolving Credit Facility or one or more other credit or other agreements, indentures, financing agreements or otherwise) and in each case including all agreements, instruments and documents executed and delivered pursuant to or in connection with the foregoing (including any promissory notes and letters of credit issued pursuant thereto and any Guarantee and collateral agreement, patent and trademark security agreement, mortgages or letter of credit applications and other Guarantees, pledges,

agreements, security agreements and collateral documents). Without limiting the generality of the foregoing, the term "Credit Facilities" shall include any agreement or instrument (a) changing the maturity of any Indebtedness incurred thereunder or contemplated thereby, (b) adding Subsidiaries of the Company as additional borrowers, issuers or guarantors thereunder, (c) increasing the amount of Indebtedness incurred thereunder or available to be borrowed thereunder or (d) otherwise altering the terms and conditions thereof.

"**Currency Exchange Protection Agreement**" means, in respect of any Person, any foreign exchange contract, currency swap agreement, currency option, cap, floor, ceiling or collar agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in currency exchange rates as to which such Person is a party.

"**Custodian**" means Deutsche Bank Trust Company Americas, as custodian with respect to the Notes in global form, or any successor entity thereto.

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

"**Definitive Registered Note**" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Sections 2.6 and 2.7 and Schedule 1 to this Indenture, and substantially in the form of Schedule 2 to this Indenture, except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Principal Amount of Indebtedness Evidenced by this Note" attached thereto.

"**Depositary**" means DTC until a successor Depositary, if any, shall have become such pursuant to this Indenture, and thereafter "Depositary" shall mean or include each Person who is then a Depositary hereunder.

"**Designated Non-Cash Consideration**" means the Fair Market Value of non-cash consideration received by the Company or one of its Restricted Subsidiaries in connection with an Asset Sale that is so designated as "Designated Non-Cash Consideration" by the Company or such Restricted Subsidiary (determined in good faith by a responsible accounting or financial officer of the Company), less the amount of cash or Cash Equivalents received in connection with a subsequent sale of such Designated Non-Cash Consideration.

"**Disqualified Stock**" means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature; *provided* that only the portion of Capital Stock which so matures or is mandatorily

redeemable, or is so redeemable at the option of the holder thereof prior to such date, will be deemed to be Disqualified Stock. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the issuer to repurchase or redeem such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the issuer may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 4.6. For purposes hereof, the amount of Disqualified Stock which does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were purchased on any date on which Indebtedness shall be required to be determined pursuant to this Indenture, and if such price is based upon, or measured by, the Fair Market Value of such Disqualified Stock, such Fair Market Value to be determined as set forth herein.

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

"**DTC**" means The Depository Trust Company.

"**Equity Interests**" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"**Equity Offering**" means (i) a public or private sale of Capital Stock (other than to the Company or any of its Subsidiaries) (1) that is a sale of Capital Stock of the Company, a Restricted Subsidiary or a Parent Holdco (other than Disqualified Stock) other than offerings registered on Form S-8 (or any successor form) under the U.S. Securities Act or any similar offering in other jurisdictions, or (2) the proceeds of which are contributed as Subordinated Shareholder Debt or to the equity (other than through the issuance of Disqualified Stock) of the Company or any of its Restricted Subsidiaries and (ii) any SPAC IPO.

"**Euroclear**" means Euroclear Bank SA/NV, and its successors as operator of the Euroclear System.

"**European Union**" means all members of the European Union as of the Issue Date.

"**Exchange**" means The International Stock Exchange.

"**Excluded Contribution**" means net cash proceeds or property or assets received by the Company after the Issue Date as capital contributions to the equity (other than through the issuance of Disqualified Stock or through Excluded Amounts) of the Company or from the issuance or sale (other than to a Restricted Subsidiary) of Capital

Stock (other than Disqualified Stock or through Excluded Amounts) of the Company or Subordinated Shareholder Debt of the Company, in each case, to the extent designated as an Excluded Contribution pursuant to an Officer's Certificate of the Company.

"**Existing Indebtedness**" means Indebtedness of the Company and its Restricted Subsidiaries (other than Indebtedness under the Revolving Credit Facility) in existence on the date of this Indenture.

"**Fair Market Value**" means the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, as determined in good faith by a responsible accounting or financial officer of the Company.

"**Finance Subsidiary**" means a Wholly-Owned Subsidiary of the Company or a Guarantor that is formed for the purpose of borrowing funds or issuing securities and lending the proceeds to the Issuer or a Guarantor and that conducts no business other than as may be reasonably incidental to, or related to, the foregoing.

"**Fitch**" means Fitch Ratings, Inc. or any successor to its ratings business.

"**Fixed Charge Coverage Ratio**" means, with respect to any specified Person for any period, the ratio of the Consolidated Cash Flow of such Person for such period to the Fixed Charges of such Person for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases, redeems, defeases or otherwise discharges any Indebtedness (other than ordinary course working capital borrowings) or issues, repurchases or redeems preferred stock or preferred shares subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "**Calculation Date**"), then the Fixed Charge Coverage Ratio will be calculated giving *pro forma* effect (as determined in good faith by a responsible accounting or financial officer of the Company) to such incurrence, assumption, Guarantee, repayment, repurchase, redemption, defeasance or other discharge of Indebtedness, or such issuance, repurchase or redemption of preferred stock or preferred shares, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the applicable four-quarter reference period and will also include cost savings reasonably anticipated by management to occur from programs initiated during the relevant period as though the full run-rate effect of such cost savings were realized on the first day of the relevant period; *provided*, *however*, that the *pro forma* calculation of Fixed Charges shall not give effect to (1) any Indebtedness incurred on the Calculation Date (and, for the avoidance of doubt, not reclassified on such Calculation Date) pursuant to Section 4.4(b) or (2) the discharge on the Calculation Date of any Indebtedness to

the extent that such discharge results from the application of the proceeds of any Indebtedness incurred pursuant to Section 4.4(b).

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

(a) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through amalgamations, mergers, consolidations or otherwise (including acquisitions of assets), or any Person or any of its Restricted Subsidiaries acquired by the specified Person or any of its Restricted Subsidiaries, and including any related financing transactions and including increases in ownership of Restricted Subsidiaries, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date or that are to be made on the Calculation Date, will be given *pro forma* effect (including Pro Forma Cost Savings) as if they had occurred on the first day of the four-quarter reference period;

(b) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with IFRS, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded;

(c) the Fixed Charges attributable to discontinued operations, as determined in accordance with IFRS, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date;

(d) any Person that is a Restricted Subsidiary on the Calculation Date will be deemed to have been a Restricted Subsidiary at all times during such four-quarter reference period; and

(e) any Person that is not a Restricted Subsidiary on the Calculation Date will be deemed not to have been a Restricted Subsidiary at any time during such four-quarter reference period.

"**Fixed Charges**" means, with respect to any specified Person for any period, the sum, without duplication, of:

(a) the consolidated interest expense (net of interest income) of such Person and its Restricted Subsidiaries for such period, whether paid or accrued (excluding any interest attributable to Dollar-Denominated Production Payments but including, without limitation, amortization of discount (but not debt issuance costs, commissions, fees and expenses), non-cash interest payments (but excluding any non-cash interest expense attributable to the movement in the mark to market

valuation of Hedging Obligations or other derivative instruments and excluding such interest on Subordinated Shareholder Debt), the interest component of any deferred payment obligations (but not with respect to decommissioning obligations), the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings), and net of the effect of all payments made or received pursuant to Hedging Obligations (excluding amortization of fees) in respect of interest rates; *plus*

(b) the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period (but excluding such interest on Subordinated Shareholder Debt); *plus*

(c) any interest on Indebtedness of another Person that is secured by a Lien on assets of such Person or one of its Restricted Subsidiaries; to the extent paid in cash by such Person or any of its Restricted Subsidiaries; *plus*

(d) the product of (1) all dividends, whether paid or accrued and whether or not in cash, on any series of Disqualified Stock of such Person or any series of preferred stock of its Restricted Subsidiaries, other than dividends on Equity Interests payable solely in Equity Interests of such Person (other than Disqualified Stock) or to the Person or a Restricted Subsidiary of such Person, times (2) a fraction, the numerator of which is one and the denominator of which is one minus the then current statutory tax rate of such Person, expressed as a decimal.

"**GAAP**" means generally accepted accounting principles in the United States of America as in effect from time to time, including those set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as approved by a significant segment of the accounting profession (but excluding the policies, rules and regulations of the SEC applicable only to public companies).

"**Guarantee**" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements, or by agreements to keep–well, to maintain financial statement conditions or otherwise), or entered into for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); *provided, however*, that the term "Guarantee" will not include the endorsements for collection or deposit in the ordinary course of business or any obligation to the extent it is payable only in Capital Stock of the guarantor that is not

Disqualified Stock. The term "Guarantee" used as a verb has a corresponding meaning.

"**Hedging Obligations**" means, with respect to any specified Person, the obligations of such Person under:

(a) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements, other agreements or arrangements designed to manage interest rates or interest rate risk;

(b) any foreign exchange contract, currency swap agreement, currency option, cap, floor, ceiling or collar agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in currency exchange rates;

(c) any forward contract, commodity futures contract, commodity option agreement, commodity swap agreement, cap, floor, ceiling or collar agreement or other similar agreement or arrangement designed to protect against fluctuations in the price of commodities used, produced, processed or sold by that Person or any of its Restricted Subsidiaries at the time; and

(d) other agreements or arrangements designed to protect such Person against fluctuations in interest rates, commodity prices or currency exchange rates, including Currency Exchange Protection Agreements.

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

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

"**IFRS**" means International Financial Reporting Standards issued by the International Accounting Standards Board and its predecessors (the "IASB") as endorsed by Colombia (or, at the option of the Company, as issued by the IASB or as endorsed by the United Kingdom or the European Union) and in effect on the Issue Date, or, solely with respect to Section 4.17, as in effect from time to time; *provided* that at any date after the Issue Date, the Company may make an irrevocable election (i) to establish that "IFRS" shall mean IFRS as in effect on a date that is on or prior to the date of such election (except with respect to Section 4.17, in which the term "IFRS" shall continue to mean IFRS as in effect from time to time) and (ii) to use GAAP in lieu of IFRS for financial reporting purposes and, upon any such notice, references herein to IFRS shall thereafter be construed to mean (a) for periods beginning on and after the date specified in such notice, GAAP as in effect on the date specified in such notice and as in effect from time to time (for all other purposes of the Indenture) and (b) for

prior periods, IFRS as otherwise defined in this definition (*provided* that in no event shall an operating lease or a lease that would have been an operating lease prior to the adoption of Accounting Standards Update No. 2016-02, Leases (Topic 842) be considered a Capitalized Lease Obligation). For the avoidance of doubt, the impact of IFRS 16 Leases and any successor standard thereto shall be disregarded with respect to all ratios, calculations and determinations based upon IFRS to be calculated or made, as the case may be, pursuant to this Indenture and (without limitation) any lease, concession or license of property that would be considered an operating lease under IFRS prior to the adoption of IFRS 16 and any guarantee given by the Company or any Restricted Subsidiary in the ordinary course of business solely in connection with, and in respect of, the obligations of the Company or any Restricted Subsidiary under any such operating lease shall be accounted for in accordance with IFRS prior to the adoption of IFRS 16.

"**Incremental Amount**" means $50.0 million.

"**Indebtedness**" means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables):

(a) in respect of borrowed money;

(b) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);

(c) in respect of bankers' acceptances (or reimbursement obligations in respect thereof except to the extent any such reimbursement obligations relate to trade payables and such obligations are satisfied within 30 days of incurrence);

(d) representing Capital Lease Obligations;

(e) representing the balance deferred and unpaid of the purchase price of any property due more than one year after such property is acquired;

(f) representing any Hedging Obligations;

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

(h) the principal component of Indebtedness of other Persons to the extent Guaranteed by such Person (including, with respect to any Production Payment, any warranties or guarantees 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);

provided that the foregoing indebtedness (other than letters of credit and Hedging Obligations) shall be included in this definition of Indebtedness only if, and to the extent that, the indebtedness would appear as a liability upon a balance sheet of such Person prepared in accordance with IFRS; and *provided further* that, notwithstanding any consolidation under IFRS, the preceding items shall not constitute "Indebtedness" for purposes hereof if (i) such Indebtedness is incurred by an orphan vehicle whose shares are not owned by such specified Person or any of its Subsidiaries and (ii) such Indebtedness is neither guaranteed by, nor secured by the assets of, such specified Person or any of its Subsidiaries. Notwithstanding the foregoing, indebtedness shall be included in the definition of Indebtedness after deducting any receivable due from another Person (other than the specified Person and its Restricted Subsidiaries) who has an interest in an asset financed with such indebtedness to the specified Person or any Restricted Subsidiary in respect of such other Person's interest in the relevant asset. Subject to clause (h) of the preceding sentence, neither Dollar–Denominated Production Payments nor Volumetric Production Payments shall be deemed to be Indebtedness.

The term "Indebtedness" shall not include:

(a) Subordinated Shareholder Debt;

(b) any lease of property which would be considered an operating lease under IFRS prior to the adoption of IFRS 16;

(c) for the avoidance of doubt, Contingent Obligations;

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

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

(f) any obligations related to prepayments arising in the ordinary course of business, including accelerated payments under any offtake or similar agreements;

(g) in connection with the purchase by the Company or any Restricted Subsidiary of any business, any post–closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business or other contingencies after the closing (including, for the avoidance of doubt, the Contingent Acquisition Agreement Consideration); or

(h) any obligations under power purchase agreements.

"**Indenture**" means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof.

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

"**Independent Financial Advisor**" means an investment banking or accounting firm of international standing or any third-party appraiser of international standing; provided, however, that such firm or appraiser is not an Affiliate of the Company.

"**Initial Investors**" means the Carlyle Group and/or its Affiliates (including, without limitation, subsidiaries and investors in those funds, vehicles, accounts or limited partnerships who are investors in such funds or partnerships) and any funds, vehicles, accounts or limited partnerships managed or advised by any of such Persons or any entity controlled by all or substantially all of the managing directors of such fund or such Persons from time to time, but excluding any controlled operating portfolio company of such Persons.

"**Initial Public Offering**" means (i) the first Public Equity Offering of common stock or common equity interests of the Company or any Parent Holdco (the "**IPO Entity**") or (ii) a SPAC IPO, in each case following which there is a Public Market.

"**Initial Purchasers**" means the initial purchasers of the Original Notes and, as applicable, any Additional Notes.

"**Interest Payment Date**" means the Stated Maturity of an installment of interest on the Notes.

"**Investment Grade Status**" shall occur when the Notes are rated as follows by two of the following three Rating Agencies: Baa3 or better by Moody's, BBB- or better by S&P and/or BBB- or better by Fitch (or, if any such entity ceases to rate the Notes, the equivalent investment grade credit rating from any other "nationally recognized statistical rating organization," as that term is defined for purposes of Section 3(a)(62) of the U.S. Exchange Act, selected by the Issuer as a replacement agency).

"**Investments**" means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations, but excluding advances or extensions of credit to customers or suppliers made in the ordinary course of business), advances or capital contributions (excluding endorsements of negotiable instruments and documents in the ordinary course of business, and commission, travel and similar advances to officers, employees and consultants made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with IFRS. If the Company or any Restricted Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of the Company such that, after giving effect to any 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 in an amount determined as provided in Section 4.6(c). The acquisition by the Company or any Subsidiary of the Company of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Company or such Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in Section 4.6(c). Except as otherwise provided herein, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value and, to the extent applicable, shall be determined based on the equity value of such Investment.

"**IPO Entity**" has the meaning given in the definition of "**Initial Public Offering**."

"**IPO Market Capitalization**" means an amount equal to (i) the total number of issued and outstanding shares of common stock or common equity interests of the IPO Entity at the time of closing of the Initial Public Offering or the SPAC IPO Entity at the time of the closing of the SPAC IPO, as applicable, multiplied by (ii) the price per share at which such shares of common stock or common equity interests are sold in such Initial Public Offering or SPAC IPO, as applicable.

"**Issue Date**" means June 22, 2021.

"**Issue Date Revolving Facility Amount**" means $80.0 million.

"**Issuer**" means SierraCol Energy Andina, LLC, the party named as such in this Indenture until a successor replaces it and, thereafter, means the successor.

"**Issuer Order**" means a written order of the Issuer signed by any Person authorized by the Board of Directors of the Issuer and delivered to the Trustee.

"**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.

"**Listing Authority**" means any nationally recognized listing authority in the United States, United Kingdom or a member state of the European Union.

"**Management Advances**" means loans or advances made to, or Guarantees with respect to loans or advances made to, directors, officers or employees of the Company or any Restricted Subsidiary:

(a) (i) in respect of travel, entertainment, moving and housing-related and similar expenses incurred in the ordinary course of business or (ii) for purposes of funding any such person's purchase of Equity Interests or Subordinated Shareholder Debt (or similar obligations) of the Company, its Subsidiaries or any Parent Holdco with (in the case of this sub-clause (ii)) the approval of the Board of Directors;

(b) in respect of moving related expenses incurred in connection with any closing or consolidation of any facility or office; or

(c) in the ordinary course of business and (in the case of this clause (c)) not exceeding the greater of (x) $10.0 million and (y) 1.0% of Consolidated Total Assets in the aggregate outstanding at any time.

"**Management Agreements**" means those certain services agreements or monitoring agreements between the Company or any of its Affiliates, on the one hand, and the Carlyle Group or any of its Affiliates, on the other hand, as in effect on the Issue Date, as the same may be amended, restated, modified or replaced, from time to time, to the extent such amendment, modification or replacement is not more disadvantageous to the holders of the Notes in any material respect than the applicable services agreement or monitoring agreement in effect on the Issue Date.

"**Management Investors**" means (a) current and former members of the management team, directors or employees of any Parent Holdco, the Company or any Restricted Subsidiary investing, or committing to invest, directly or indirectly, in any Parent Holdco, the Company or any Restricted Subsidiary as at the Issue Date or from time to time and (b) such entity or trust as may hold shares transferred by departing members of the management team, directors or employees of any Parent Holdco, the Company or any Restricted Subsidiary.

"**Market Capitalization**" means an amount equal to (i) the total number of issued and outstanding shares of common stock or common equity interests of the IPO Entity or the SPAC IPO Entity, as applicable, on the date of the declaration of the relevant

dividend multiplied by (ii) the arithmetic mean of the closing prices per share of such common stock or common equity interests for the 30 consecutive trading days immediately preceding the date of declaration of such dividend.

"**Maturity**" means, with respect to any Indebtedness, the date on which any principal of such Indebtedness becomes due and payable as therein or herein provided, whether at the Stated Maturity with respect to such principal or by declaration of acceleration, call for redemption, tender for purchase or otherwise.

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

"**Moody's**" means Moody's Investors Service, Inc. or any successor to its ratings business.

"**Net Proceeds**" means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non–cash consideration or Cash Equivalents received in any Asset Sale), net of the direct costs relating to such Asset Sale, including, without limitation:

(a) all legal, accounting, investment banking, commissions and other fees and expenses incurred, title and recording tax expenses, and all Taxes required to be paid or accrued as a liability under IFRS, as a consequence of such Asset Sale;

(b) all payments made on any Indebtedness which is secured by any assets subject to such Asset Sale, 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 by applicable law be repaid out of the proceeds from such Asset Sale;

(c) all distributions and other payments required to be made to holders of Minority Interests in Subsidiaries or joint ventures as a result of such Asset Sale; and

(d) the deduction of appropriate amounts to be provided by the seller as a reserve, in accordance with IFRS, or held in escrow, in either case for adjustment in respect of the sale price or for any liabilities associated with the assets disposed of in such Asset Sale and retained by the Company or any Restricted Subsidiary after such Asset Sale.

"**Non–Recourse Debt**" means Indebtedness:

(a) as to which neither the Company nor any of its Restricted Subsidiaries (i) provides credit support of any kind (including any undertaking, agreement or

instrument that would constitute Indebtedness), (ii) is directly or indirectly liable as a guarantor or otherwise, or (iii) constitutes the lender;

(b) no default with respect to which (including any rights that the holders of the Indebtedness 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 Company or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its Stated Maturity; and

(c) the explicit terms of which provide there is no recourse to the stock, shares or assets of the Company or any of its Restricted Subsidiaries, except as contemplated by clause (z) of the definition of Permitted Liens.

"**Note Guarantee**" means the Guarantee by each Guarantor of the Issuer's Obligations under this Indenture and the Notes pursuant to this Indenture.

"**Obligations**" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"**Offering**" refers to the offering of the Notes pursuant to the Offering Memorandum.

"**Offering Memorandum**" means the offering memorandum dated as of June 14, 2021, relating to the offering of the Original Notes.

"**Officer**" means, with respect to any Person, (a) any member of the Board of Directors, the chief executive officer, the president, the chief financial officer, any vice president, the treasurer, any managing director, any responsible accounting or financial officer, the secretary or the equivalent position of any of the foregoing (i) of such Person or (ii) if such Person is owned or managed by a single entity, of such entity, or (b) any other Person that the Board of Directors of such Person shall designate for such purpose. The obligations of an "Officer of the Company" may be exercised by the Officer of any Restricted Subsidiary who has been delegated such authority by the Board of Directors of the Company.

"**Officer's Certificate**" means a certificate signed on behalf of any Person by one or more Officers of such Person or direct or indirect parent of such Person.

"**Oil and Gas Business**" means:

(a) the acquisition, exploration, exploitation, development, production, operation and disposition of interests in oil, natural gas, natural gas liquids, liquefied natural gas and other Hydrocarbon and mineral properties or products produced in association with the foregoing;

(b) the gathering, marketing, distributing, compressing, handling, developing, treating, refining, processing, storing, terminalling, selling and transporting of any production from oil, natural gas, natural gas liquids, liquefied natural gas and other Hydrocarbon and mineral properties (whether or not such properties are owned by the Company and/or its Subsidiaries) and products produced in association therewith, the construction or contracting with third parties for the construction of infrastructure in support of the same and the marketing of oil, natural gas, other Hydrocarbons and minerals obtained from unrelated Persons;

(c) any other related energy business, including, without limitation, (i) power generation and electrical transmission business, from oil, natural gas, other Hydrocarbons and minerals, solar, wind and other clean energy sources, produced substantially from properties in which the Company or its Restricted Subsidiaries, directly or indirectly, participates, (ii) the purchase and sale of carbon credits, offsets and renewable energy certificates and (iii) providing or sourcing front end studies or other engineering solutions, subsea production equipment or offshore field design for oil and gas companies;

(d) any business relating to oil and gas field seismic mapping, sales, service provision and technology development; and

(e) any business or activity relating to, arising from, or necessary, appropriate or incidental to the activities described in clauses (a), (b), (c) or (d) of this definition.

"**Opinion of Counsel**" means a written opinion from legal counsel (in form and substance reasonably acceptable to the Trustee, where such opinion is addressed to, or is for the benefit of, the Trustee). The counsel may be an employee of or counsel to the Company or any Subsidiary of the Company.

"**Parent Holdco**" means any Person of which the Company at any time is or becomes a Subsidiary after the Issue Date and any holding companies established by any Permitted Holders for purposes of holding its investment in any Parent Holdco.

"**Permitted Business Investments**" means Investments and/or expenditures made in the ordinary course of, and of a nature that is or shall become customary in, or is ancillary or appropriate to the conduct of, the Oil and Gas Business, as a means of actively exploiting, exploring for, acquiring, developing, producing, processing, gathering, marketing, distributing, storing or transporting oil, natural gas or other Hydrocarbons and minerals (including with respect to plugging, abandonment and decommissioning), or in constructing or contracting with third parties for the construction of infrastructure in support of the same, through agreements, transactions, interests or arrangements that permit one to share risks or costs, comply with regulatory requirements regarding local ownership or satisfy other objectives

customarily achieved through the conduct of the Oil and Gas Business jointly with third parties, including without limitation:

(a) direct or indirect ownership of crude oil, natural gas, other Hydrocarbon and minerals properties, liquefied natural gas facilities, processing facilities, gathering systems, pipelines, storage facilities or related systems or ancillary real property interests;

(b) Investments in the form of or pursuant to operating agreements, joint ventures, processing agreements, farm-in agreements, farm-out agreements, development agreements, production sharing agreements, area of mutual interest agreements, unitization agreement, contracts for the sale, transportation or exchange of crude oil and natural gas and other Hydrocarbons and minerals, participation agreements, unitization agreements, pooling arrangements, joint bidding agreements, service contracts, partnership agreements (whether general or limited), subscription agreements, stock or share purchase agreements, stockholder or shareholder agreements and other similar agreements (including for limited liability companies) or other similar or customary agreements, in each case made or entered into with third parties; and

(c) direct or indirect ownership interests in drilling rigs, drill ships, jack-up rigs or tender rigs or other drilling vessels and common processing facilities and in each case related equipment, including, without limitation, transportation equipment.

"**Permitted Holder**" means, collectively, (a) the Initial Investors; (b) the Management Investors; (c) any Related Person of any Persons specified in clauses (a) and (b); (d) any Person who is acting as an underwriter in connection with a public or private offering of Capital Stock of any Parent Holdco, the Company or any Restricted Subsidiary, acting in such capacity; and (e) any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing or any Persons mentioned in the following sentence are members; provided that, in the case of such group described in clause (e), and without giving effect to the existence of such group or any other group, the Initial Investors and Management Investors and such Persons referred to in the following sentence, collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Company or any Parent Holdco owned by such group. Any person or group whose acquisition of beneficial ownership constitutes a Change of Control in respect of which a Change of Control Offer is made in accordance with the requirements of this Indenture or in respect of which no Change of Control Offer is required to be made in accordance with the requirements of this Indenture, will, in each case, thereafter, together with its Affiliates, constitute an additional Permitted Holder.

"**Permitted Investments**" means:

(a) any Investment in the Company or in a Restricted Subsidiary of the Company;

(b) any Investment in cash and Cash Equivalents;

(c) any Investment by the Company or any Restricted Subsidiary of the Company in any Person, if as a result of such Investment:

  (a) such Person becomes a Restricted Subsidiary of the Company; or

  (b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its properties or assets to, or is liquidated into, the Company or a Restricted Subsidiary of the Company;

(d) any Investment made as a result of the receipt of non–cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.7;

(e) any acquisition of assets or Capital Stock solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company;

(f) any Investments received in compromise or resolution of (i) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Company or any of its Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; or (ii) litigation, arbitration or other disputes with Persons who are not Affiliates;

(g) Investments represented by Hedging Obligations;

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

(i) surety and performance bonds and workers' compensation, utility, lease, tax, performance and similar deposits and prepaid expenses in the ordinary course of business;

(j) Guarantees of Indebtedness not prohibited by Section 4.4;

(k) guarantees by the Company or any of its Restricted Subsidiaries of operating leases (other than Capital Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case entered into by the Company or any Restricted Subsidiary in the ordinary course of business;

(l) Investments of a Restricted Subsidiary acquired after the Issue Date or of any entity merged into the Company or any Restricted Subsidiary of the Company or merged into or consolidated or amalgamated with a Restricted Subsidiary in accordance with Article 5 to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, consolidation or amalgamation and were in existence on the date of such acquisition, merger, consolidation or amalgamation;

(m) Permitted Business Investments;

(n) Investments received as a result of a foreclosure by the Company or any of its Restricted Subsidiaries with respect to any secured Investment in default;

(o) any Investment existing on, or made pursuant to binding commitments existing on, the Issue Date and any Investment consisting of an extension, modification or renewal of any Investment existing on, or made pursuant to a binding commitment existing on, the Issue Date; *provided* that the amount of any such Investment may be increased (i) as required by the terms of such Investment as in existence on the Issue Date or (ii) as otherwise permitted under this Indenture;

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

(q) Investments in the Notes and any other Indebtedness of the Company or any Restricted Subsidiary;

(r) Management Advances;

(s) payroll, commission, travel, relocation and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business, in each case to the extent the same constitutes an Investment;

(t) Investments in any Person to the extent such Investments consist of prepaid expenses, negotiable instruments held for collection and lease, utility and workers' compensation, performance and similar deposits made in the ordinary course of business by the Company or any Restricted Subsidiary;

(u) receivables or working capital loans or other such similar forms of credit support owing to the Company or any Restricted Subsidiary of the Company and advances to suppliers, contractors or builders, in each case payable or

dischargeable in accordance with such trade terms as the Company or such Restricted Subsidiary deems reasonable under the circumstances;

(v) (i) loans or grants customary or advisable in the Oil and Gas Business in respect of community development projects or economic development activities, as appropriate for the Company's regions of operation or consistent with past practice or counterparty requirements and (ii) Investments made with funds received by the Company and its Restricted Subsidiaries from grants or donations from third parties, when taken together with all other Investments made pursuant to this clause (v) that are at the time outstanding, not to exceed the greater of (x) $15.0 million and (y) 1.5% of Consolidated Total Assets;

(w) other Investments in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (w) that are at the time outstanding, not to exceed the greater of (x) $75.0 million and (y) 7.0% of Consolidated Total Assets; *provided* that if an Investment is made pursuant to this clause (w) in a Person that is not a Restricted Subsidiary of the Company and such Person subsequently becomes a Restricted Subsidiary or is subsequently designated a Restricted Subsidiary of the Company pursuant to Section 4.6 such Investment shall thereafter be deemed to have been made pursuant to clause (a) or (c) of this definition and not this clause (w);

(x) Investments in joint ventures having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (25) that are at the time outstanding, not to exceed the greater of (x) $50.0 million and (y) 4.5% of Consolidated Total Assets; *provided* that if an Investment is made pursuant to this clause (x) in a Person that is not a Restricted Subsidiary of the Company and such Person subsequently becomes a Restricted Subsidiary or is subsequently designated a Restricted Subsidiary of the Company pursuant to Section 4.6 such Investment shall thereafter be deemed to have been made pursuant to clause (a) or (c) of this definition and not this clause (w); and

(y) other Investments; *provided that*, on the date of any such Investment, the Consolidated Net Leverage Ratio for the Company and its Restricted Subsidiaries does not exceed 2.75 to 1.0 on a *pro forma* basis after giving effect thereto.

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

(a) Liens securing Indebtedness and other Obligations incurred pursuant to Section 4.4(b)(i);

(b) Liens in favor of the Company or any Restricted Subsidiary;

(c) Liens on property of a Person existing at the time such Person is merged with or into or consolidated or amalgamated with the Company or any Subsidiary of the Company; *provided* that such Liens were in existence prior to the contemplation of such merger, consolidation or amalgamation and do not extend to any assets other than those of the Person merged into or consolidated or amalgamated with the Company or the Subsidiary of the Company

(d) Liens on property (including Capital Stock) existing at the time of acquisition of the property by the Company or any Subsidiary of the Company; *provided* that such Liens were in existence prior to such acquisition, and not incurred in contemplation of, such acquisition;

(e) Liens existing on the Issue Date;

(f) Liens on Capital Stock of and assets of any Restricted Subsidiary that is not a Guarantor that secures Indebtedness of such Restricted Subsidiary or any other Restricted Subsidiary that is not a Guarantor;

(g) Liens for Taxes, assessments or governmental charges or claims that (i) are not yet due and payable or (ii) that are being contested in good faith by appropriate proceedings;

(h) survey exceptions, easements or reservations of, or rights of others for, licenses, rights–of–way, gas and oil pipelines, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real property that were not incurred in connection with Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(i) 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;

(j) Liens in favor of customs and revenue authorities arising as a matter of law to secure payments of customs duties in connection with the importation of goods;

(k) any attachment, prejudgment or judgment Lien that does not constitute an Event of Default and notices of *lis pendens* and associated rights related to litigation being contested in good faith by appropriate proceedings and for which adequate reserves have been made;

(l) Liens created for the benefit of (or to secure) the Notes (or the Note Guarantees);

(m) Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred under this Indenture; *provided*, *however*, that:

(a) the new Lien shall be limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (plus improvements and accessions to, such property or proceeds or distributions thereof); and

(b) the Indebtedness secured by the new Lien is not increased to any amount greater than the sum of (A) the outstanding principal amount, or, if greater, committed amount, of the Indebtedness extended, renewed, refunded, refinanced, replaced, exchanged, defeased or discharged with such Permitted Refinancing Indebtedness and (B) an amount necessary to pay any fees and expenses, including premiums, related to such extension, renewal, refunding, refinancing, replacement, exchange, defeasance or discharge;

(n) Liens for the purpose of securing the payment of all or a part of the purchase price or lease expense of, or Capital Lease Obligations, mortgage financings or purchase money obligations or other Indebtedness with respect to, or the repair, improvement, construction cost or cost of design, development, transportation, installation, migration or drydocking of property, plant or equipment or other assets used in the ordinary course of business of the Company or any of its Restricted Subsidiaries; *provided* that such Lien extends only to the assets the acquisition, lease, construction, repair or improvement of which is financed thereby and any replacements, additions and accessions thereto and any income or profits thereof; *provided*, *further*, that individual financings provided by a lender may be cross-collateralized to other financings provided by any lender or its affiliates;

(o) Liens arising solely by virtue of any statutory or common law provisions relating to bankers' Liens, rights of set–off or similar rights and remedies as to deposit accounts or other funds maintained or deposited with a depositary institution;

(p) Liens on cash, Cash Equivalents or other property arising in connection with the defeasance, discharge or redemption of Indebtedness;

(q) Liens in respect of Production Payments and Reserve Sales; *provided* such Liens are limited to the property that is the subject of such Production Payment and Reserve Sale;

(r) Liens on pipelines and pipeline facilities that arise by operation of law;

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

(t) any (i) interest or title of a lessor or sublessor under any lease, Liens reserved in oil, gas or other Hydrocarbons, mineral leases for bonus, royalty or rental payments and for compliance with the terms of such leases; (ii) restriction or encumbrance that the interest or title of such lessor or sublessor may be subject to (including, without limitation, ground leases or other prior leases of the demised premises, mortgages, mechanics' liens, tax liens, and easements); or (iii) subordination of the interest of the lessee or sublessee under such lease to any restrictions or encumbrance referred to in the preceding subclause (ii);

(u) Liens arising under this Indenture in favor of the Trustee for its own benefit and similar Liens in favor of other trustees, agents and representatives arising under instruments governing Indebtedness permitted to be incurred under this Indenture, *provided, however*, that such Liens are solely for the benefit of the trustees, agents or representatives in their capacities as such and not for the benefit of the holders of the Indebtedness;

(v) Liens securing Hedging Obligations, which obligations are permitted by Section 4.4(b)(viii);

(w) Liens upon specific items of inventory, receivables or other goods (or the proceeds thereof) of any Person securing such Person's obligations in respect of bankers' acceptances or receivables securitizations issued or created for the

account of such Person to facilitate the purchase, shipment or storage of such inventory, receivables or other goods (or the proceeds thereof);

(x) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of assets entered into in the ordinary course of business;

(y) (i) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any developer, landlord, contractor or other third party on property over which the Company or any Restricted Subsidiary has easement rights or on any real property leased by the Company or any Restricted Subsidiary (including those arising from progress or partial payments by a third party relating to such property or assets) and subordination or similar agreements relating thereto and (ii) any condemnation or eminent domain proceedings or compulsory purchase order affecting real property;

(z) Liens (including put and call arrangements) on Capital Stock or other securities of any Unrestricted Subsidiary or joint venture that secure Indebtedness of such Unrestricted Subsidiary or joint venture (but only to the extent that such Indebtedness is not Indebtedness of the Issuer or a Guarantor);

(aa) pledges of goods, the related documents of title and/or other related documents arising or created in the ordinary course of the Company or any Restricted Subsidiary's business or operations as Liens only for Indebtedness to a bank or financial institution directly relating to the goods or documents on or over which the pledge exists;

(bb) Liens on any proceeds loan made by the Company or any Restricted Subsidiary in connection with any future incurrence of Indebtedness permitted under this Indenture and securing that Indebtedness;

(cc) Liens created on any asset of the Company or a Restricted Subsidiary established to hold assets of any stock option plan or any other management or employee benefit or incentive plan or unit trust of the Company or a Restricted Subsidiary securing any loan to finance the acquisition of such assets;

(dd) Liens over treasury stock or treasury shares of the Company or a Restricted Subsidiary purchased or otherwise acquired for value by the Company or such Restricted Subsidiary pursuant to a stock buy–back scheme or other similar plan or arrangement;

(ee) Liens with respect to Indebtedness of the Company or any Subsidiary of the Company with respect to Indebtedness at any one time outstanding that does not exceed the greater of (x) $200.0 million and (y) 18.0% of Consolidated Total Assets as determined on the date of incurrence of such Indebtedness after giving

pro forma effect to such incurrence and the application of the proceeds therefrom;

(ff) the following ordinary course items:

(a) leases or subleases granted to others that do not materially interfere with the ordinary course of business of the Company and its Restricted Subsidiaries, taken as a whole;

(b) landlords', carriers', warehousemen's, mechanics', materialmen's, repairmen's or the like Liens arising by contract or statute in the ordinary course of business;

(c) pledges or deposits made in the ordinary course of business (A) in connection with leases, tenders, bids, statutory obligations, surety or appeal bonds, government contracts, performance bonds and similar obligations, (B) in connection with workers' compensation, unemployment insurance and other social security legislation (including, in each case, Liens to secure letters of credit issued to assure payment of such obligations) or (C) to secure plugging, abandonment and decommissioning obligations;

(d) Liens arising from Uniform Commercial Code financing statement filings under U.S. state law (or similar filings under applicable jurisdictions) regarding operating leases entered into by the Company and its Restricted Subsidiaries in the ordinary course of business;

(e) Liens on insurance policies and proceeds thereof, or other deposits, to secure insurance premium financings in the ordinary course of business;

(f) leases, licenses, subleases and sublicenses of assets in the ordinary course of business; and

(g) Liens securing or arising by reason of any netting or set–off arrangement entered into in the ordinary course of banking or other trading activities;

(gg) grants of software and other technology licenses in the ordinary course of business;

(hh) other Liens; *provided that*, on the date any such Lien is incurred, the Consolidated Senior Secured Net Leverage Ratio for the Company and its Restricted Subsidiaries does not exceed 1.0 to 1.0 on a *pro forma* basis after giving effect thereto; and

(ii) any extension, renewal, refinancing or replacement, in whole or in part, of any Lien described in clauses (b) through (ff) of this definition; *provided* that (x) any such Lien is limited to all or part of the same property or assets (plus improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced and (y) any amounts incurred under this clause (ii) as an extension, renewal, refinancing or replacement, in whole or in part, of any Lien described in the foregoing clause (ee) of this definition shall reduce the amount available under such clause (ee).

"**Permitted Parent Payments**" means the declaration and payment of dividends or other distributions, or the making of loans, by the Company or any of its Restricted Subsidiaries to any Parent Holdco of the Company, or the payment by the Company or any of its Restricted Subsidiaries in amounts on behalf of any Parent Holdco, in amounts and at times required to pay:

(a) obligations of any Company in respect of director and officer insurance (including premiums therefor);

(b) fees and expenses payable by any Company and any Restricted Subsidiary in connection with the Acquisition, the COG Acquisition and the Offering;

(c) general corporate overhead expenses to the extent such expenses are attributable to the ownership or operation of the Company and its Restricted Subsidiaries, including (i) professional fees and expenses and other operational expenses of any Parent Holdco of the Company or related to the proper administration of such Parent Holdco (including, without limitation, accounting, legal, audit, corporate reporting and administrative expenses and payments in respect of services provided by directors, officers, consultants or employees of any such Parent Holdco); (ii) costs and expenses with respect to the ownership of the Company and its Restricted Subsidiaries, directly or indirectly, by any Parent Holdco, (iii) costs and expenses with respect to the maintenance of any equity incentive or compensation plan, (iv) any Taxes, franchise fees and other fees and expenses required to maintain such Parent Holdco's corporate existence and to provide for other ordinary course operating costs, including customary salary, bonus and other benefits payable to, and indemnities provided on behalf of, officers and employees of such Parent Holdco and (v) to reimburse reasonable out-of-pocket expenses of the Board of Directors of such Parent Holdco;

(d) other fees, expenses and costs relating directly or indirectly to activities of the Company and its Subsidiaries or any Parent Holdco or any other Person established for purposes of or in connection with the Acquisition, the COG Acquisition or the Transactions or which holds directly or indirectly any Capital

Stock or Subordinated Shareholder Debt of the Company, in an amount not to exceed $2.0 million in any 12-month period;

(e) for so long as the Company or any of its Restricted Subsidiaries is a member of a group for tax purposes with any Parent Holdco, payments to that Parent Holdco in respect of an allocable portion of the Tax liabilities of such group that is attributable to the Company or the relevant Restricted Subsidiary ("**Tax Payments**"); provided that the Tax Payments shall not exceed the amount of the relevant Tax (including any penalties and interest) that the Company or the relevant Restricted Subsidiary would owe if they were not part of a group for tax purposes, taking into account any carryovers and carrybacks of tax attributes (such as net operating losses) of the Company and Restricted Subsidiary from other taxable years;

(f) obligations of any Parent Holdco in respect of director and officer insurance (including premiums therefor) to the extent relating to the Company and its Subsidiaries, customary indemnification obligations of any Parent Holdco owing to directors, officers, employees or other Persons under its charter or by-laws or pursuant to written agreements with any such Person to the extent relating to the Company and its Subsidiaries;

(g) costs (including all professional fees and expenses) incurred by any Parent Holdco of the Company in connection with reporting obligations under or otherwise incurred in connection with compliance with applicable laws, rules or regulations of any governmental, regulatory or self-regulatory body or stock exchange, this Indenture or any other agreement or instrument relating to Indebtedness of the Company or any of its Restricted Subsidiaries, including in respect of any reports filed with respect to the U.S. Securities Act, U.S. Exchange Act or the respective rules and regulations promulgated thereunder;

(h) expenses Incurred by any Parent Holdco in connection with any public offering or other sale of Capital Stock or Indebtedness or Subordinated Shareholder Debt: (i) where the net proceeds of such offering or sale are intended to be received by or contributed to the Company or a Restricted Subsidiary; (ii) in a prorated amount of such expenses in proportion to the amount of such net proceeds intended to be so received or contributed; or (iii) otherwise on an interim basis prior to completion of such offering so long as any Parent Holdco shall cause the amount of such expenses to be repaid to the Company or the relevant Restricted Subsidiary out of the proceeds of such offering promptly if completed; and

(i) fees and expenses of any Parent Holdco of the Company incurred in relation to (i) financing arrangements of the Company or any of its Restricted Subsidiaries (whether or not completed), (ii) acquisitions or dispositions by the Company or any of its Restricted Subsidiaries permitted under this Indenture (whether or not

completed); and (iii) any public offering or other sale of Capital Stock or Indebtedness (whether or not completed) provided that with respect to this clause (i)(iii): (A) where the net proceeds of such offering or sale are intended to be received by or contributed to the Company or any of its Restricted Subsidiaries; (B) in a prorated amount of such expenses in proportion to the amount of such net proceeds intended to be so received or contributed; or (C) otherwise on an interim basis prior to completion of such offering so long as any Parent Holdco of the Company will cause the amount of such expenses to be repaid to the Company or the relevant Restricted Subsidiary out of the proceeds of such offering promptly if completed.

"**Permitted Refinancing Indebtedness**" means any Indebtedness of the Company or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, renew, refund, refinance, replace, exchange, defease or discharge other Indebtedness of the Company or any of its Restricted Subsidiaries (other than intercompany Indebtedness); *provided* that:

(a) the aggregate principal amount (or accreted value, if applicable, or if issued with original issue discount, aggregate issue price) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable, or if issued with original issue discount, aggregate issue price) of the Indebtedness being extended, renewed, refunded, refinanced, replaced, exchanged, defeased or discharged (plus all accrued interest on the Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith);

(b) such Permitted Refinancing Indebtedness has (i) a final maturity date that is either (A) no earlier than the final maturity date of the Indebtedness being extended, renewed, refunded, refinanced, replaced, exchanged, defeased or discharged or (B) after the final maturity date of the Notes, and (ii) has a Weighted Average Life to Maturity that is equal to or greater than the Weighted Average Life to Maturity of the Indebtedness being extended, renewed, refunded, refinanced, replaced, exchanged, defeased or discharged;

(c) if the Indebtedness being extended, renewed, refunded, refinanced, replaced, exchanged, defeased or discharged is expressly contractually subordinated in right of payment to the Notes or the Note Guarantees, as the case may be, such Permitted Refinancing Indebtedness is subordinated in right of payment to the Notes or the Note Guarantees, as the case may be, on terms at least as favorable to the Holders of Notes or the Note Guarantees, as the case may be, as those contained in the documentation governing the Indebtedness being extended, renewed, refunded, refinanced, replaced, exchanged, defeased or discharged; and

(d) if the Issuer or any Guarantor was the obligor on the Indebtedness being extended, renewed, refunded, refinanced, replaced, exchanged, defeased or discharged, such Indebtedness is incurred either by the Issuer, a Finance Subsidiary or by a Guarantor.

"**Person**" means any individual, exempted company, corporation, exempted limited partnership, partnership, joint venture, association, joint–stock company, trust, unincorporated organization, limited liability company or government or other entity.

"**Production Payments**" means, collectively, Dollar–Denominated Production Payments and Volumetric Production Payments.

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

"**Pro Forma Cost Savings**" means, without duplication, with respect to any period, reductions in costs and related adjustments that have been actually realized or are projected in good faith by a responsible accounting or financial officer of the Company to result from reasonably identifiable actions or events within 12 months after the consummation of any such change.

"**Project Debt**" means Indebtedness of a Restricted Subsidiary that is not a Guarantor or the Issuer as to which neither the Issuer nor any Guarantor provides a Guarantee or security interest or credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness) and with respect to which creditors have no recourse to any assets of the Issuer or any Guarantor (other than a security interest over the Capital Stock of such Restricted Subsidiary).

"**Public Equity Offering**" means, with respect to any Person, a bona fide underwritten primary public offering of the ordinary shares, common equity or similar equity interests of such Person, either:

(a) pursuant to a listing or flotation on the London Stock Exchange or any other Recognized Stock Exchange or listing authority in the United States, United Kingdom or a member state of the European Union; or

(b) pursuant to an effective registration statement under the U.S. Securities Act (other than a registration statement on Form S-8 or otherwise relating to Equity Interests issued or issuable under any employee benefit plan).

"**Public Indebtedness**" means any capital markets Indebtedness consisting of bonds, debentures, notes or other similar debt securities issued in (x) a public offering or (y) a private placement to institutional investors that is underwritten for resale in accordance with Rule 144A under the U.S. Securities Act (or Rule 144A and Regulation S under the U.S. Securities Act) whether or not it includes registration rights entitling the holders of such debt securities to registration thereof with the SEC for public resale, in each case in an amount in excess of $50.0 million. For the avoidance of doubt, the term "Public Indebtedness" shall not be construed to include any Indebtedness issued to institutional investors in a direct placement of such Indebtedness that is not underwritten by an intermediary (it being understood that, without limiting the foregoing, a financing that is distributed to not more than fifteen Persons (*provided* that multiple managed accounts and affiliates of any such Persons shall be treated as one Person for the purposes of this definition) shall be deemed not underwritten), or any commercial bank or similar Indebtedness, receivables financing, Capital Lease Obligation or recourse transfer of any financial asset or any other type of Indebtedness incurred in a manner not customarily viewed as a "securities offering."

"**Public Market**" means any time after:

(a) a Public Equity Offering of the IPO Entity has been consummated; and

(b) at least 10% of the total issued and outstanding shares of share capital or common equity interests of the IPO Entity has been distributed to investors other than the Permitted Holders or their Related Parties or any other direct or indirect shareholders of the Company as of the Issue Date.

"**Rating Agencies**" means (a) S&P, (b) Moody's, (c) Fitch and (d) if S&P, Moody's, Fitch or any of these shall not make a rating of the Notes available, an internationally recognized securities rating agency or agencies, as the case may be, selected by the Issuer, which shall be substituted for S&P, Moody's, Fitch or any of these, as the case may be.

"**Recognized Stock Exchange**" means any nationally recognized stock exchange in the United States, United Kingdom, the European Union, the Grand Duchy of Luxembourg, Colombia or the Exchange.

"**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.

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

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

"**Registrar**" means Deutsche Bank Trust Company Americas in such capacity, or any successor Registrar appointed under this Indenture.

"**Related Person**" means

(a) any controlling equity holder, majority (or more) owned Subsidiary or partner or member of such Person;

(b) in the case of an individual, any spouse, family member or relative of such individual, any trust or partnership for the benefit of one or more of such individual and any such spouse, family member or relative, or the estate, executor, administrator, committee or beneficiaries of any thereof;

(c) any trust, corporation, company, partnership or other Person for which one or more of the Permitted Holders and other Related Persons of any thereof constitute the beneficiaries, stockholders, shareholders, partners or owners thereof, or Persons beneficially holding in the aggregate a majority (or more) controlling interest therein; or

(d) any investment fund or vehicle managed, sponsored or advised by such Person or any successor thereto, or by any Affiliate of such Person or any such successor.

"**Responsible Officer**" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee having direct responsibility for the administration of the Indenture and any other officers of the Trustee to whom any corporate trust matter is referred because of such person's knowledge of any familiarity with the particular subject.

"**Restricted Investment**" means an Investment other than a Permitted Investment.

"**Restricted Period**" means the distribution compliance period, ending 40 days after the later of the Issue Date and the last date on which the Issuer or any Affiliate of the Issuer was the owner of the Notes.

"**Restricted Subsidiary**" of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary. Unless the context requires otherwise, each reference to a Restricted Subsidiary herein is to a Restricted Subsidiary of the Company.

"**Revolving Credit Facility**" means that certain Credit Agreement dated on or around the Issue Date by and among the Issuer, GLAS USA LLC, as administrative agent, GLAS Americas LLC, as collateral agent, and the lenders from time to time party thereto, as may be amended, restated or otherwise modified from time to time.

"**S&P**" means Standard & Poor's Ratings Services and any successor to its ratings business.

"**SEC**" means the U.S. Securities and Exchange Commission.

"**SierraCol Arauca**" means SierraCol Energy Arauca, LLC, a Delaware limited liability company, and its successors.

"**Significant Subsidiary**" means, at the date of determination and as determined in good faith by a responsible accounting or financial officer of the Company, any Restricted Subsidiary that, together with its Subsidiaries which are Restricted Subsidiaries, (a) for the most recent fiscal year, accounted for more than 10% of the consolidated revenues of the Company, or (b) as of the end of the most recent fiscal year, was the owner of more than 10% of the consolidated assets of the Company.

"**SPAC IPO**" means the acquisition, purchase, merger, amalgamation or other combination of the Company, any direct or indirect parent of the Company, or any Restricted Subsidiary, by, or with, a publicly traded special purpose acquisition company or targeted acquisition company or any entity similar to the foregoing (a "*SPAC IPO Entity*") after which any common Equity Interests of the Company, any direct or indirect parent of the Company, any Restricted Subsidiary or such SPAC IPO Entity (or its successor by merger, amalgamation or other combination) being publicly traded on any United States national securities exchange or over-the-counter market, or any analogous exchange or market in Canada, the United Kingdom or the European Union.

"**Stated Maturity**" means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"**Subordinated Obligation**" means any Indebtedness of the Issuer (whether outstanding on the Issue Date or thereafter incurred) which is subordinate or junior in right of payment to the Notes pursuant to a written agreement or any Indebtedness of

a Guarantor (whether outstanding on the Issue Date or thereafter incurred) which is subordinate or junior in right of payment to the Note Guarantee of such Guarantor pursuant to a written agreement, as the case may be.

"**Subordinated Shareholder Debt**" means, collectively, any funds provided to the Company by any Parent Holdco or any Permitted Holder in exchange for or pursuant to any security, instrument or agreement other than Capital Stock, together with any such security, instrument or agreement and any other security or instrument other than Capital Stock issued in payment of any obligation under any Subordinated Shareholder Debt; provided, however, that such Subordinated Shareholder Debt:

(a) does not (including upon the happening of any event) mature or require any amortization, redemption or other repayment of principal or any sinking fund payment prior to the first anniversary of the Stated Maturity of the Notes (other than through conversion or exchange of such funding into Capital Stock (other than Disqualified Stock) of the Company or any funding meeting the requirements of this definition);

(b) does not (including upon the happening of any event) require, prior to the first anniversary of the Stated Maturity of the applicable Notes, payment of cash interest, cash withholding amounts or other cash gross-ups, or any similar cash amounts;

(c) contains no change of control or similar provisions and does not (including upon the happening of any event) accelerate and has no right (including upon the happening of any event) to declare a default or event of default or take any enforcement action or otherwise require any cash payment, in each case, prior to the first anniversary of the Stated Maturity of the Notes;

(d) does not provide for or require any security interest or encumbrance over any asset of the Company or any of its Subsidiaries and is not guaranteed by any Subsidiary of the Company;

(e) is subordinated in right of payment to the prior payment in full in cash of the Notes and the Guarantees in the event of any default, bankruptcy, reorganization, liquidation, winding up or other disposition of assets of the Company;

(f) does not (including upon the happening of any event) restrict the payment of amounts due in respect of the Notes or compliance by Issuer with its obligations under the Notes and this Indenture;

(g) does not (including upon the happening of an event) constitute Voting Stock; and

(h) is not (including upon the happening of any event) mandatorily convertible or exchangeable, or convertible or exchangeable at the option of the holder thereof; in whole or in part, prior to the date on which the Notes mature, other than into or for Capital Stock (other than Disqualified Stock) of the Company.

"**Subsidiary**" means, with respect to any specified Person:

(a) any corporation, company, association or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total ordinary voting power of 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);

(b) any corporation, company, association or other business entity of which that Person or one or more of the other Subsidiaries of that Person (or any combination thereof), directly or indirectly, has the right to appoint a majority of the directors, managers or trustees, as applicable, or has the operational control of the corporation, company, association or other business entity and the financial results of such corporation, company, association or other business entity are consolidated with the financial results of such Person or one or more of the other Subsidiaries of that Person (or any combination thereof); and

(c) any partnership, joint venture, limited liability company or similar entity of which (i) 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 membership, general, special or limited partnership interests or otherwise, and (ii) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity;

provided, however, that no Person, the sole purpose of which is to engage in charitable activities, shall be a Subsidiary.

"**Successor Parent**" with respect to any Person means any other Person more than 50% of the total voting power of the Voting Stock (other than directors' qualifying shares or shares required by any applicable law or regulation to be held by a Person other than the Company or another Wholly-Owned Subsidiary) of which is, at the time the first Person becomes a Subsidiary of such other Person, "beneficially owned" (as defined below) by one or more Persons that "beneficially owned" (as defined below) more than 50% of the total voting power of the Voting Stock (other than directors' qualifying shares or shares required by any applicable law or regulation to be held by a Person other than the Company or another Wholly-Owned Subsidiary) of the first Person immediately prior to the first Person becoming a Subsidiary of such other

Person. For purposes hereof, "beneficially own" has the meaning correlative to the term "beneficial owner," as such term is defined in Rules 13d-3 and 13d-5 under the Exchange Act (as in effect on the Issue Date)

"**Tax**" means any tax, duty, levy, impost, assessment or other governmental charge of whatever nature (including penalties, interest and any other additions thereto). "**Taxes**" and "**Taxation**" shall be construed to have corresponding meanings.

"**Teca Assets**" means the assets associated with the operations of the Company or its subsidiaries at the Teca field.

"**Transfer Agent**" means Deutsche Bank Trust Company Americas in such capacity, or any successor Transfer Agent appointed under this Indenture.

"**Trustee**" means Deutsche Bank Trust Company Americas in such capacity, the party named as such in this Indenture until a successor replaces it in accordance with the applicable provisions of this Indenture and, thereafter, means the successor serving hereunder.

"**Unrestricted Subsidiary**" means any Subsidiary of the Company other than the Issuer that is designated by the Board of Directors of the Company or director or indirect parent of the Company as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors of such Person, but only to the extent that such Subsidiary has no Indebtedness other than Non-Recourse Debt (unless such Indebtedness would otherwise be permitted to be incurred at the time of such designation pursuant to the covenant described under "*—Certain Covenants—Incurrence of Indebtedness and Issuance of Preferred Stock*") or does not own any Capital Stock or hold any Lien on any property of, the Company or any other Subsidiary of the Company which is not a Subsidiary of the Subsidiary to be so designated or otherwise an Unrestricted Subsidiary.

All Subsidiaries of an Unrestricted Subsidiary shall also be Unrestricted Subsidiaries.

"**U.S. dollars,**" "**dollars**" or "**$**" means the lawful currency of the United States of America.

"**U.S. Government Obligations**" means direct obligations of, or obligations guaranteed by, the United States of America, and the payment for which the United States pledges its full faith and credit.

"**U.S. Exchange Act**" means the United States Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

"**U.S. Securities Act**" means the United States Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"**Volumetric Production Payments**" means production payment obligations recorded as deferred revenue in accordance with IFRS, together with all related undertakings and obligations.

"**Voting Stock**" of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"**Weighted Average Life to Maturity**" means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

(a) the sum of the products obtained by multiplying (x) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (y) the number of years (calculated to the nearest one–twelfth) that will elapse between such date and the making of such payment; by

(b) the then outstanding principal amount of such Indebtedness.

"**Wholly-Owned Subsidiary**" means a Restricted Subsidiary, all of the Capital Stock of which (other than directors' qualifying shares or shares required by any applicable law or regulation to be held by a Person other than the Company or another Wholly-Owned Subsidiary) is owned by the Company or another Wholly-Owned Subsidiary or a Parent Holdco of the Company, as the case may be.

1.2 **Other Definitions**

Term	Defined in
"**144A Global Note**"	Schedule 1
"**Additional Amounts**"	Section 4.10(a)
"**Additional Notes**"	Section 2.14
"**Affiliate Transaction**"	Section 4.8(a)
"**Applicable Procedures**"	Schedule 1
"**Asset Sale Offer**"	Section 4.7(d)
"**Authorized Agent**"	Section 11.9
"**Change of Control Offer**"	Section 4.9(a)
"**Change of Control Payment**"	Section 4.9(a)

Term	Defined in
"**Change of Control Payment Date**".....	Section 4.9(a)
"**Code**".....	4.10(a)(vi)
"**Covenant Defeasance**".....	Section 8.3
"**Defaulted Interest**"	Section 2.11
"**Definitive Registered Note**".....	Schedule 1
"**Enforcement**"	Section 10.8
"**Event of Default**"	Section 6.1(a)
"**Excess Proceeds**".....	Section 4.7(c)
"**Freely Disposable Amount**"	Section 10.8
"**Global Note Legend**"	Schedule 1
"**Global Notes**"	Schedule 1
"**Guarantee**"	Section 10.8
"**incur**"	Section 4.4(a)
"**Initial Default**"	Section 6.1(b)
"**Initial Lien**"	Section 4.5
"**Legal Defeasance**".....	Section 8.2
"**Judgment Currency**".....	Section 11.15
"**Non-U.S. Person**"	Schedule 1
"**Note Obligations**".....	Section 10.1(a)
"**Notes**".....	Recitals
"**Original Notes**"	Recitals
"**Participants**".....	Schedule 1 2.1(b)
"**Payment Default**".....	Section 6.1(a)(vi)(A)
"**Private Placement Legend**".....	Schedule 1

Term	Defined in
"**QIB**"	Schedule 1
"**Regulation S**".....	Schedule 1
"**Regulation S Global Note**"	Schedule 1
"**Rule 144A**".....	Schedule 1
"**Permitted Debt**"	Section 4.4(b)
"**Restricted Payment**".....	Section 4.6(a)
"**Reversion Date**"	Section 4.18(b)
"**Security Register**"	Section 2.3
"**Suspension Period**"	Section 4.18(a)
"**Swiss Guarantor**".....	Section 10.7(c)
"**Swiss Withholding Tax**"	Section 10.7(c)
"**Tax Jurisdiction**"	Section 4.10(a)
"**U.S. Person**"	Schedule 1
"**U.S. Securities Act**".....	Schedule 1

1.3 **Rules of Construction**

Unless the context otherwise requires:

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

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

(c) "or" is not exclusive;

(d) "including" or "include" means including or include without limitation;

(e) words in the singular include the plural and words in the plural include the singular;

(f) unsecured or unguaranteed Indebtedness shall not be deemed to be subordinate or junior to secured or guaranteed Indebtedness merely by virtue of its nature as unsecured or unguaranteed Indebtedness;

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

(h) except as otherwise specifically set forth in Section 4.4(h), for purposes of determining compliance with any U.S. dollar-denominated restriction herein, the U.S. dollar-equivalent amount for purposes hereof that is denominated in a non-U.S. dollar currency shall be calculated based on the relevant currency exchange rate in effect on the date such non-U.S. dollar amount is Incurred or made, as the case may be; and

(i) this Indenture neither incorporates, by reference or otherwise, includes or is subject to any of the provisions of the U.S. Trust Indenture Act of 1939, as amended.

2. THE NOTES

2.1 Form and Dating.

Provisions relating to the Notes are set forth in Schedule 1, which is hereby incorporated in and expressly made a part of this Indenture. The Notes and the Trustee’s certificate of authentication shall be substantially in the form of Schedule 2 hereto with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture. The Notes may have notations, legends or endorsements required by law, the rules of any securities exchange or usage. Each Note shall be dated the date of its authentication. The terms and provisions contained in the form of the Notes shall constitute and are hereby expressly made a part of this Indenture. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling to the extent permitted by law. Subject to Section 2.14, the Notes shall be in minimum denominations of $200,000 and integral multiples of $1,000 in excess thereof.

2.2 Execution and Authentication

An authorized member of the Board of Directors or an Officer of the Issuer shall sign the Notes for the Issuer by manual, facsimile or PDF transmission signature.

If an authorized member of the Board of Directors or 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.

A Note shall not be valid or obligatory for any purpose until at least one authorized officer of the Trustee (or the Authenticating Agent) signs the certificate of authentication on the Note by electronic or manual signature. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

Notwithstanding the foregoing, if any Note shall have been authenticated and delivered hereunder but never issued and sold by the Issuer, the Issuer shall deliver such Note to the Registrar for cancellation as provided for in Section 2.10.

Pursuant hereto, the Trustee will, upon receipt of an Issuer Order, authenticate (a) on the Issue Date, Original Notes executed and delivered to it by the Issuer in an aggregate principal amount of $600,000,000 and (b) from time to time after the Issue Date, Additional Notes in an aggregate principal amount specified in such Issuer Order, subject to compliance at the time of issuance of such Additional Notes with this Indenture. The aggregate principal amount of Notes outstanding shall not exceed the aggregate principal amount of Notes authorized for issuance by the Issuer pursuant to one or more Issuer Orders, except as provided in Section 2.7.

The Trustee may appoint one or more authenticating agents (each, an "**Authenticating Agent**"), reasonably acceptable to the Issuer to authenticate the Notes on behalf of the Trustee as set forth in Schedule 1. Unless limited by the terms of such appointment, any such Authenticating Agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by any such agent. An Authenticating Agent has the same rights as any Registrar, Transfer Agent or Paying Agent to deal with the Holders or the Issuer or an Affiliate of the Issuer.

The Trustee shall have the right to decline to authenticate and deliver any Notes under this Section 2.2 if the Trustee, being advised by counsel, determines that such action may not lawfully be taken or if the Trustee in good faith shall determine that such action would expose the Trustee to personal liability to existing Holders.

2.3 **Paying Agents and Registrar for the Notes**

The Issuer shall maintain one or more paying agents (each, a "**Paying Agent**") for the Notes. The Issuer hereby appoints as the initial Paying Agent Deutsche Bank Trust Company Americas in New York.

The Issuer shall also maintain both a Registrar and a Transfer Agent with offices in New York City. The Issuer hereby appoints Deutsche Bank Trust Company Americas as the initial Registrar and the initial Transfer Agent.

Upon written notice to the Trustee, the Issuer may change any Paying Agent, the Registrar or the Transfer Agent without prior notice to the Holders. For so long as the Notes are listed on the Official List of the Exchange and if and to the extent its rules so require, the Issuer shall notify the Exchange of any change of a Paying Agent, the Registrar or the Transfer Agent in respect of the Notes in accordance with Section 11.2. The Company, the Issuer or any Restricted Subsidiaries of the Company may act as Paying Agent or Registrar in respect of the Notes.

Subject to any applicable laws and regulations, the Registrar will maintain a register (the "**Security Register**") at the corporate trust office of the Registrar reflecting ownership of each Global Note and any Definitive Registered Notes outstanding from time to time. The Registrar will provide the Issuer with a copy of the Security Register on each Record Date, or, if not a Business Day, the following Business Day. Notwithstanding the foregoing, for so long as outstanding Notes are Global Notes held by Cede & Co., DTC, a nominee of DTC or the Common Depositary no such copy shall be required. Such registration in the Security Register shall be conclusive evidence of the ownership of Notes. Included in the books and records for the Notes shall be notations as to whether such Notes have been paid, exchanged or transferred, cancelled, lost, stolen, mutilated or destroyed and whether such Notes have been replaced. In the case of the replacement of any of the Notes, the Registrar shall keep a record of the Note so replaced and the Note issued in replacement thereof. In the case of the cancellation of any of the Notes, the Registrar shall keep a record of the Note so cancelled and the date on which such Note was cancelled.

If the Issuer fails to maintain a Registrar, Transfer Agent or Paying Agent, the Trustee may appoint a suitably qualified and reputable party to act as such and such party shall be entitled to appropriate compensation therefor.

2.4 **Paying Agent to Hold Money**

Not later than 10:00 a.m. (New York time) on each Interest Payment Date, the maturity date of the Notes and each payment date relating to an Asset Sale Offer, Alternate Offer or a Change of Control Offer, and the Business Day immediately following any acceleration of the Notes pursuant to Section 6.2, the Issuer shall deposit with the applicable Paying Agent money in immediately available funds sufficient to make cash payments due on such date. Each Paying Agent shall hold in trust for the benefit of the Holders or the Trustee all money held by the Paying Agent for the payment of principal of, interest, premium and Additional Amounts, if any, on the Notes, and shall notify the Trustee of any default by the Issuer (or any other obligor on the Notes) in making any such payment. The Issuer at any time may require a Paying Agent to pay all money held by it to the Trustee and account for any funds disbursed, and the Trustee may at any time during the continuance of any Default under clause (i) or (ii) of Section 6.1(a), upon written request to a Paying Agent, require such Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed. Upon doing so, the Paying Agent shall have no further liability for the money so paid over to the Trustee. If the Issuer or any Affiliate of the Issuer acts as Paying Agent, it shall not later than 10:00 a.m. (New York time) on each due date of any principal, premium, if any, or interest on the Notes, segregate and hold in a separate trust fund for the benefit of the Holders a sum of money sufficient to pay such principal, premium, if any, or interest so becoming due until such sum of money shall be paid to such Holders or otherwise disposed of as provided in this Indenture, and shall promptly notify the Trustee of its action or failure to act. Upon any

insolvency, bankruptcy or reorganization proceedings relating to the Issuer (including its bankruptcy, voluntary or judicial liquidation, composition with creditors, reprieve from payment, controlled management, fraudulent conveyance, general settlement with creditors, reorganization or similar laws affecting the rights of creditors generally), each Paying Agent shall serve as an agent of the Trustee for the Notes.

2.5 **Holder Lists**

The Registrar 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 Issuer shall furnish to the Trustee, in writing no later than the Record Date for 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 Record Date as the Trustee may reasonably require of the names and addresses of registered Holders, including the aggregate principal amount of Notes held by each registered Holder.

Neither the Trustee, the Agents or any of their agents will have any responsibility or be liable for any aspect of the records in relation to, or payments made on account of, beneficial ownership interests in the Global Notes or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

2.6 **Transfer and Exchange**

(a) The Notes shall be issued in registered form and shall be transferable only upon the surrender of a Note for registration of transfer and in compliance with Schedule 1. When a Note is presented to the Registrar or Transfer Agent, as the case may be, with a request to register a transfer, the Registrar or the Transfer Agent, as the case may be, shall register the transfer as requested if its requirements therefor are met. When Notes are presented to the Registrar or the Transfer Agent, as the case may be, with a request to exchange them for an equal principal amount of Notes of other denominations, the Registrar shall make the exchange as requested if the same requirements are met. To permit registration of transfers and exchanges, the Issuer shall execute and the Trustee or an Authenticating Agent, upon receipt of an authentication order, shall authenticate Notes at the request of the Registrar or the Transfer Agent, as the case may be. The Issuer may require payment of a sum sufficient to pay all Taxes, assessments or other governmental charges in connection with any transfer or exchange pursuant to this Section 2.6. The Issuer is not required to register the transfer or exchange of any Definitive Registered Notes: (i) for a period of 15 calendar days prior to any date fixed for the redemption of the Notes under Section 3.3; (ii) for a period of 15 calendar days immediately prior to the date fixed for selection of Notes to be redeemed in part; (iii) for a period of 15 calendar days prior to the record date with respect to any Interest Payment Date applicable to such Notes; (iv) which the Holder has tendered (and not withdrawn) for repurchase in connection with a Change of Control Offer,

Alternate Offer or an Asset Sale Offer; or (v) to register the transfer of or to exchange a Note between a record date and the next succeeding interest payment date.

(b) Prior to the due presentation for registration of transfer of any Note, the Issuer and each Guarantor, the Trustee, the Paying Agent, the Transfer Agent and the Registrar may deem and treat the Person in whose name a Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and (subject to Section 3 of the Notes) interest, and premium and Additional Amounts, if any, on such Note and for all other purposes whatsoever, whether or not such Note is overdue, and none of the Issuer or any Guarantor, the Trustee, the Paying Agent, the Transfer Agent or the Registrar shall be affected by notice to the contrary.

(c) Any Holder of a Global Note shall, by acceptance of such Global Note, agree that transfers of beneficial interest in such Global Note may be effected only through a book-entry system maintained by (i) the Holder of such Global Note (or its agent) or (ii) any Holder of a beneficial interest in such Global Note, and that ownership of a beneficial interest in such Global Note shall be required to be reflected in a book-entry.

(d) All Notes issued upon any transfer or exchange pursuant to the terms of this Indenture shall evidence the same debt and shall be entitled to the same benefits under this Indenture as the Notes surrendered upon such transfer or exchange.

2.7 **Replacement Notes**

If a mutilated Note is surrendered to the Registrar or if the Holder claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall issue and upon receipt of an Issuer Order the Trustee shall authenticate a replacement Note in such form as the Note mutilated, lost, destroyed or wrongfully taken if the Holder satisfies any other reasonable requirements of the Trustee or the Issuer. If required by the Trustee or the Issuer, such Holder shall furnish an indemnity bond sufficient in the judgment of the Issuer and the Trustee to protect the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Registrar and any Authenticating Agent from any loss that any of them may suffer if a Note is replaced. The Issuer and the Trustee may charge the Holder for their expenses in replacing a Note, including the reasonable expenses of counsel and any Tax that may be imposed with respect to replacement of such Note.

Every replacement Note shall be an additional obligation of the Issuer.

The provisions of this Section 2.7 are exclusive and preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or wrongfully taken Notes.

2.8 **Outstanding Notes**

Notes outstanding at any time are all Notes authenticated by the Trustee except for those cancelled by the Registrar, those delivered to the Registrar for cancellation, those otherwise deemed discharged in accordance with the terms of Article 8 and those described in this Section 2.8 as not outstanding. Except as provided in Section 2.9, a Note does not cease to be outstanding because the Issuer or an Affiliate of the Issuer holds the Note.

If a Note is replaced pursuant to Section 2.7, it ceases to be outstanding unless the Trustee and the Issuer receive proof satisfactory to them that the Note which has been replaced is held by a protected purchaser.

If the principal amount of any Note is considered paid under Section 4.1, it ceases to be outstanding and interest on it ceases to accrue.

2.9 **Notes Held by Issuer**

In determining whether the Holders of the required principal amount of Notes have concurred in any direction or consent or any amendment, modification or other change to this Indenture, Notes owned by the Issuer or by an Affiliate of the Issuer shall be disregarded and treated as if they were not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent or any amendment, modification or other change to this Indenture, only Notes regarding which a Responsible Officer of the Trustee actually knows are so owned shall be so disregarded. Notes so owned which have been pledged in good faith shall not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgees right so to act with respect to the Notes and that the pledgee is not the Issuer or an Affiliate of the Issuer.

2.10 **Cancellation**

The Issuer at any time may deliver Notes to the Registrar for cancellation. The Paying Agent and the Trustee shall forward to the Registrar any Notes surrendered to them for registration of transfer, exchange or payment. The Registrar, in accordance with its customary procedures, and no one else shall cancel (subject to the record retention requirements of the U.S. Exchange Act and the Registrar's retention policy) all Notes surrendered for registration of transfer, exchange, payment or cancellation and dispose of such cancelled Notes in its customary manner. The Issuer may not issue new Notes to replace Notes it has redeemed, purchased, paid or delivered to the Registrar for cancellation.

2.11 **Defaulted Interest**

Any interest on any Note that is payable, but is not punctually paid or duly provided for, on the dates and in the manner provided in the Notes and this Indenture (all such interest herein called "**Defaulted Interest**") shall forthwith cease to be payable to the Holder on the relevant Record Date by virtue of having been such Holder, and such

Defaulted Interest may be paid by the Issuer, at its election in each case, as provided in clause (a) or (b) of this Section 2.11:

(a) The Issuer may elect to make payment of any Defaulted Interest to the Persons in whose names the Notes are registered at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment, and at the same time the Issuer shall either (i) deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or (ii) make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause (a) provided. In addition, the Issuer shall fix a special record date for the payment of such Defaulted Interest, such date to be not more than 15 days and not less than 10 days prior to the proposed payment date and not less than 15 days after the receipt by the Trustee of the notice of the proposed payment date. The Issuer shall promptly but, in any event, not less than 15 days prior to the special record date, notify the Trustee of such special record date and, in the name and at the expense of the Issuer, the Trustee shall cause notice of the proposed payment date of such Defaulted Interest and the special record date therefor to be mailed first–class, postage prepaid to each Holder as such Holder's address appears in the Security Register, not less than 10 days prior to such special record date. Notice of the proposed payment date of such Defaulted Interest and the special record date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Notes are registered at the close of business on such special record date and shall no longer be payable pursuant to Section 2.11(b).

(b) The Issuer may make payment of any Defaulted Interest on the Notes in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Issuer to the Trustee of the proposed payment date pursuant to this clause (b), such manner of payment shall be deemed reasonably practicable.

(c) Subject to this Section 2.11, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

2.12 **Computation of Interest**

Interest on the Notes shall accrue from the date of original issuance or, if interest has already been paid, from the date it was most recently paid. Interest on the Notes shall be computed on the basis of a 360-day year of twelve 30-day months or as otherwise specified in an Officer's Certificate delivered pursuant to Section 2.14 of this Indenture in connection with the issuance of Additional Notes, as applicable. Each interest period shall end on (but not include) the relevant interest payment date.

2.13 **CUSIP, ISIN or Common Code Numbers**

The Issuer in issuing the Notes may use CUSIP, ISIN or Common Code numbers (if then generally in use), and, if so, the Trustee shall use CUSIP, ISIN or Common Code numbers, as appropriate, in notices of redemption as a convenience to Holders; *provided*, *however*, that any such notice may state that no representation is made as to the correctness of such numbers or codes 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 Issuer shall promptly notify the Trustee, in writing, of any change in the CUSIP, ISIN or Common Code numbers.

2.14 **Issuance of Additional Notes**

(a) The Issuer may from time to time, subject to compliance with Section 4.4, and in accordance with the procedures of Section 2.2 issue further Notes (the "**Additional Notes**") ranking *pari passu* with the Original Notes and with the same terms as to status, redemption and otherwise as such Original Notes, except in respect of any of the following terms (which shall be set forth in an Officer's Certificate):

(i) whether such Additional Notes shall be issued as part of a new or existing series of Notes and the title of such Additional Notes (which shall distinguish the Additional Notes of the series from Notes of any other series);

(ii) the title of such Additional Notes;

(iii) the aggregate principal amount of such Additional Notes;

(iv) the date or dates on which such Additional Notes will be issued;

(v) the rate or rates (which may be fixed or floating) at which such Additional Notes shall bear interest and, if applicable, the interest rate basis, formula or other method of determining such interest rate or rates, the date or dates from which such interest shall accrue, the interest payment dates on which such interest shall be payable or the method by

which such dates will be determined, the record dates for the determination of holders thereof to whom such interest is payable and the basis upon which such interest will be calculated;

(vi) the currency or currencies in which such Additional Notes shall be denominated and the currency in which cash or government obligations in connection with such series of Additional Notes may be payable;

(vii) the date or dates and price or prices at which, the period or periods within which, and the terms and conditions upon which, such Additional Notes may be redeemed, in whole or in part;

(viii) if other than denominations of $200,000 and in integral multiples of $1,000, the denominations in which such Additional Notes shall be issued and redeemed; and

(ix) the ISIN, Common Code, CUSIP or other securities identification numbers with respect to such Additional Notes.

(b) Such Additional Notes shall be treated, along with all other Notes, of the applicable series as a single class for the purposes of this Indenture with respect to waivers, amendments and all other matters that are not specifically distinguished for any applicable series. Unless the context otherwise requires, for all purposes of this Indenture, references to "*Notes*" shall be deemed to include references to the Notes initially issued on the Issue Date as well as any Additional Notes. Additional Notes may be designated to be of the same series as the Notes initially issued on the Issue Date, but only if they have terms substantially identical in all material respects to the Notes initially issued on the Issue Date, and shall be deemed to form one series therewith; *provided* that any Additional Notes that are not fungible with previously issued Notes for U.S. federal income tax purposes will not have the same CUSIP, ISIN or other identifying number as such Notes.

2.15 **Methods of Receiving Payment on the Notes**

(a) Principal, premium, if any, interest and Additional Amounts, if any, on the Global Notes will be payable at the specified office or agency of the Paying Agent; provided that all such payments with respect to Notes represented by one or more Global Note registered in the name of or held by a nominee of the common depositary for DTC, Euroclear and Clearstream will be made by wire transfer of immediately available funds to the account specified by the Holder or Holders thereof, in accordance with the procedures of DTC, Euroclear and Clearstream.

(b) Principal, premium, if any, interest and Additional Amounts, if any, on any Definitive Registered Notes will be payable at the specified office or agency of

the Paying Agent maintained for such purpose. In addition, interest on the Definitive Registered Notes may be paid by bank transfer to the person entitled thereto as shown on the register for the Definitive Registered Notes.

2.16 **Agents**

(a) The rights, powers, duties and obligations and actions of each Agent under this Indenture are several and not joint or joint and several.

(b) The Issuer and the Agents acknowledge and agree that in the event of a Default or Event of Default, the Trustee may, by notice in writing to the Issuer and the Agents, require that the Agents act as agents of, and take instructions exclusively from, the Trustee. Without prejudice to Section 2.4, until they have received such written notice from the Trustee, the Agents shall act solely as agents of the Issuer.

(c) Any obligation the Agents may have to publish a notice to Holders of Global Notes on behalf of the Issuer will have been met upon delivery of the notice to the Depositary.

(d) The Issuer shall provide the Agents with a certified list of authorized signatories within a reasonable time following a request for such list by an Agent.

(e) In the event that instructions given to any Agent are not reasonably clear, then such Agent shall be entitled to seek reasonable clarification from the Issuer or other party entitled to give the Agents instructions under this Indenture by written request immediately and in any event on the same Business Day of receipt by such Agent of such instructions. If an Agent has sought clarification in accordance with this Section 2.16, then such Agent shall be entitled to take no action until such clarification is provided, and shall not incur any liability for not taking any action pending receipt of such clarification.

(f) Except as otherwise set forth herein, no Agent shall be under any duty or other obligation towards, or have any relationship of agency or trust for or with, any person other than the Issuer.

3. REDEMPTION, OFFERS TO PURCHASE

3.1 Right of Redemption

The Issuer may redeem all or any portion of the Notes upon the terms and at the Redemption Prices set forth in the Notes. Any redemption pursuant to this Section 3.1 shall be made pursuant to this Article 3 and the redemption provisions of the Notes.

3.2 Notices to Trustee

If the Issuer elects to redeem Notes pursuant to redemption provisions of any Notes (including Section 6, Section 7 or Section 8 of the Form of Note in Schedule 2), it

shall notify the Trustee in writing (with a copy to the Paying Agents) of the Redemption Date, the principal amount of Notes to be redeemed and the paragraph of the Notes and Section of this Indenture pursuant to which the redemption will occur.

The Issuer shall give each notice to the Trustee provided for in this Section 3.2 in writing at least at least 10 days but not more than 60 days before the date notice is delivered to the Holders pursuant to Section 3.4 unless the Trustee (acting reasonably) consents to a shorter period. Such notice shall be accompanied by an Officer's Certificate from the Issuer to the effect that such redemption will comply with the conditions herein. If fewer than all the Notes are to be redeemed, the record date relating to such redemption shall be selected by the Issuer and given to the Trustee, which record date shall be not less than 15 days after the date of notice to the Trustee unless the Trustee (acting reasonably) consents to a shorter period.

3.3 **Selection of Notes to be Redeemed**

If less than all of the Notes are to be redeemed at any time, the Trustee, a Paying Agent or the Registrar shall select Notes for redemption on a *pro rata* basis (or, in the case of Notes issued in global form in accordance with the applicable procedures of the depositary) unless otherwise required by law or applicable stock exchange or depositary requirements.

Subject to Section 2.14, no Notes of $200,000 or less can be redeemed in part and only Notes in integral multiples of $1,000 will be redeemed. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption or tendered for purchase also apply to portions of Notes called for redemption or tendered for purchase.

Neither the Trustee, any Paying Agent nor the Registrar shall be liable for any such selections made by it in accordance with this Section 3.3.

3.4 **Notice of Redemption**

(i) The Issuer shall mail or cause to be mailed a notice of redemption by first–class mail at least 10 days but not more than 60 days before a Redemption Date to each Holder to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a Redemption Date (a) if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture or (b) in the case of a redemption that is subject to one or more conditions precedent, the date of redemption is extended as permitted pursuant to Article 8 and shall comply with Section 11.2. Notice of any redemption, including upon an Equity Offering, may, at the Issuer's discretion, be subject to one or more conditions precedent. The redemption date of any redemption that is subject to the satisfaction of one or more conditions precedent may, in the Issuer's discretion be delayed until such time as any

or all such conditions shall be satisfied (or waived by the Issuer in its sole discretion) or such redemption may not occur and any notice with respect to such redemption may be modified, extended or rescinded in the even that any or all such conditions shall not have been satisfied (or waived by the Issuer in its sole discretion) by the Redemption Date, or by the Redemption Date so delayed (which may exceed 60 days from the date of the redemption notice in such case.

(ii) For Notes which are represented by global certificates held on behalf of DTC, Euroclear or Clearstream, notices may be given by delivery of the relevant notices to DTC, Euroclear or Clearstream in accordance with its Applicable Procedures for communication to entitled account holders and in substitution for the aforesaid mailing.

(iii) So long as any Notes are listed on the Official List of the Exchange and the rules of the Authority so require, the Issuer shall publish any such notice to the Holders of the Notes (whether in the form of Definitive Registered Notes or Global Notes) to the extent and in the manner required by such rules of the Authority on the official website of the Authority in accordance with Section 11.2 and, in connection with any redemption, the Issuer shall notify the Authority of any change in the principal amount of Notes outstanding.

(c) The notice shall identify the Notes to be redeemed (including any CUSIP, ISIN or Common Code numbers) and shall state:

(i) the Redemption Date (if then determined and otherwise its manner of determination);

(ii) the Redemption Price (if then determined and otherwise its manner of determination) and the amount of accrued interest, if any, and Additional Amounts, if any, to be paid, subject to Section 2.14, per $1,000 principal amount of Notes;

(iii) the name and address of the Paying Agent;

(iv) that Notes called for redemption must be surrendered to the Paying Agent to collect the Redemption Price plus accrued interest, if any, and Additional Amounts, if any;

(v) if any Definitive Registered Note is to be redeemed in part only, the portion of the principal amount of that Note that is to be redeemed and that a new Definitive Registered Note in principal amount equal to the unredeemed portion of the original Note will be issued in the name of the

Holder upon cancellation of the original Note and will be collectible at the offices of the Paying Agent;

(vi) that, if any Note contains a CUSIP, ISIN or Common Code number, no representation is being made as to the correctness of such CUSIP, ISIN or Common Code number either as printed on the Notes or as contained in the notice of redemption;

(vii) that, unless the Issuer defaults in making such redemption payment, interest on the Notes (or portion thereof) called for redemption shall cease to accrue on and after the Redemption Date;

(viii) the paragraph of the Notes or section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and

(ix) whether the redemption is conditioned on any events and, if so, the notice shall provide a detailed explanation of such conditions.

(d) Notice of redemption shall be deemed to be given when sent in accordance with this Section 3.4, whether or not the Holder receives the notice. In any event, failure to give such notice, or any defect therein, shall not affect the validity of the proceedings for the redemption of Notes held by Holders to whom such notice was properly given.

(e) At the Issuer's written request, the Registrar or the Paying Agent shall give a notice of redemption in the Issuer's name and at the Issuer's expense. In such event, the Issuer shall provide the Registrar or the Paying Agent, as applicable, with the notice and the other information required by this Section 3.4.

(f) If the Company elects to redeem the Notes or portions thereof and requests the Trustee to distribute to the Holders any amounts deposited in trust (which, for the avoidance of doubt, will include accrued and unpaid interest to the date fixed for redemption) prior to the date fixed for redemption in accordance with Section 8.5, the applicable redemption notice will state that Holders will receive such amounts deposited in trust prior to the date fixed for redemption and mention the payment date.

3.5 **Deposit of Redemption Price**

No later than 10:00 a.m. (New York time) on any Redemption Date, the Issuer shall deposit or cause to be deposited with the Paying Agent (or, if the Issuer, the Company or a Subsidiary is the Paying Agent, shall segregate and hold in trust) a sum in same day funds sufficient to pay the Redemption Price of and accrued interest, if any, and Additional Amounts, if any, on all Notes to be redeemed on that date.

3.6 **Payment of Notes Called for Redemption**

If notice of redemption has been given in the manner provided in this Indenture, subject to the satisfaction of any conditions precedent set forth in a notice of redemption, the Notes called for redemption without condition shall become due on the date fixed for redemption. Upon surrender of any Note for redemption in accordance with a notice of redemption, such Note shall be paid and redeemed by the Issuer at the Redemption Price, together with accrued interest, if any, to the Redemption Date; *provided*, *however*, that installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders registered as such at the close of business on the relevant Record Date.

3.7 **Notes Redeemed in Part**

(a) Respecting a Global Note that is redeemed in part, the principal amount of such Global Note will be reduced accordingly and an endorsement will be made on such Global Note by the Trustee or the Registrar, at the direction of the Trustee, to reflect such reduction.

(b) Upon surrender and cancellation of a Definitive Registered Note that is redeemed in part, the Issuer shall execute and, upon receipt of an Issuer Order, the Trustee shall authenticate for the Holder (at the Issuer's expense) a new Note equal in principal amount to the unredeemed portion of the Note surrendered and cancelled; *provided*, *however*, that, subject to Section 2.14, each such Definitive Registered Note shall be in a minimum principal amount of $200,000 or an integral multiple of $1,000 in excess thereof.

3.8 **Optional Redemption Upon Certain Tender Offers**

In connection with any tender offer or other offer to purchase for all of the Notes (including pursuant to a Change of Control Offer, Alternate Offer or Asset Sale Offer), if not less than 90% of the aggregate principal amount of the then outstanding Notes are purchased by the Issuer, or any third party making such tender offer in lieu of the Issuer, the Issuer or such third party will have the right following such purchase date, to redeem all Notes that remain outstanding following such purchase at a price equal to the price paid (excluding any early tender premium or similar payment) to each other holder in such tender offer, plus, to the extent not included in the tender offer payment, accrued and unpaid interest, if any, thereon, to, but excluding, the date of such redemption.

4. **COVENANTS**

4.1 **Payment of Notes**

The Issuer covenants and agrees for the benefit of the Holders that it shall pay the principal of, premium, if any, interest and Additional Amounts, if any, on the Notes on the dates and in the manner provided in the Notes and this Indenture. Principal, premium, if any, interest and Additional Amounts, if any, shall be considered paid on

the date due if by 10:00 a.m. (New York time) on such date the Trustee or a Paying Agent (other than the Issuer or any of its Affiliates) holds, in accordance with this Indenture, money sufficient to pay all principal, premium, if any, interest and Additional Amounts, if any, then due. If the Issuer or any of its Affiliates acts as Paying Agent, principal, premium, if any, interest and Additional Amounts, if any, shall be considered paid on the due date if the entity acting as Paying Agent complies with Section 2.4, and such Paying Agent is not then prohibited from paying the money it holds to the Holders on such date in accordance with this Indenture.

The Issuer shall pay interest (including post-petition interest in any proceeding under Bankruptcy Law) from time to time on demand on overdue principal (and premium, if any) at a rate that is 1.0% higher than the then applicable interest rate on the Notes, and it shall pay interest on overdue installments of interest and Additional Amounts (without regard to any applicable grace periods) at the same rate to the extent lawful.

4.2 **Corporate Existence**

Subject to Article 5, the Company and each Restricted Subsidiary shall do or cause to be done all things necessary to preserve and keep in full force and effect their corporate, partnership, limited liability company or other existence and the rights (charter and statutory), licenses and franchises of the Company and each Restricted Subsidiary; *provided, however*, that the Company shall not be required to preserve any such right, license or franchise 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 the Restricted Subsidiaries as a whole and that the loss thereof is not disadvantageous in any material respect to the Holders.

4.3 **Statement as to Compliance**

(a) The Company shall deliver to the Trustee, within 90 days after the end of each fiscal year, an Officer's Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of each signing Officer with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating that, as to each Officer signing such certificate 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 is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default has occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Issuer is taking or proposes to take with respect thereto). For purposes of this Section 4.3(a), such compliance shall be determined without regard to any period of grace or requirement of notice under this Indenture.

(b) The Company shall deliver written notice to the Trustee within 30 days of becoming aware of the occurrence of a Default or an Event of Default.

4.4 **Incurrence of Indebtedness and Issuance of Preferred Stock**

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "**incur**") any Indebtedness (including Acquired Debt), and the Company shall not issue any Disqualified Stock and will not permit any of its Non-Guarantor Restricted Subsidiaries to issue any shares of preferred stock; *provided*, *however*, that the Company may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock or preferred stock and any Guarantor may incur Indebtedness (including Acquired Debt), if (1) the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or preferred stock is issued, as the case may be, would have been at least 2.00 to 1.0 or (2) the Consolidated Net Leverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or preferred stock is issued, as the case may be, is less than or equal to 2.75 to 1.0 (such Indebtedness, Disqualified Stock or preferred stock, incurred or issued pursuant to this subclause (2), or pursuant to subclause (1), collectively, "**Ratio Debt**", in each case determined on a *pro forma* basis (including a *pro forma* application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the Disqualified Stock or the preferred stock had been issued, as the case may be, at the beginning of such four-quarter reference period.

(b) Section 4.4(a) will not prohibit the incurrence of any of the following items of Indebtedness or issuances of Disqualified Stock or preferred stock (collectively, "**Permitted Debt**"):

(i) the incurrence by the Company and any Restricted Subsidiary of additional Indebtedness under Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (i) not to exceed any or all of the following amounts: (x) the Issue Date Revolving Facility Amount, (y) the Incremental Amount, and (z) the greater of (A) $200.0 million and (B) 18.0% of Consolidated Total Assets, *plus* in the case of any refinancing of any Indebtedness permitted under this clause (i) or any portion thereof, the aggregate amount of fees, costs and expenses (including underwriting commissions paid as discounts) incurred in connection with such refinancing;

(ii) the incurrence by the Company and its Restricted Subsidiaries of the Existing Indebtedness;

(iii) the incurrence by the Issuer of Indebtedness represented by the Notes to be issued on the date of this Indenture and the incurrence by any Guarantor of a Note Guarantee at any time;

(iv) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness:

(A) [reserved]; or

(B) represented by Capital Lease Obligations, mortgage financings or purchase money obligations or other Indebtedness, in each case, incurred for the purpose of financing all or any part of the purchase price, lease expense, charter expense, rental payments or cost of design, development, construction, transportation, installation, migration, drydocking or improvement of property, plant or equipment or other capital assets used in the business of the Company or any of its Restricted Subsidiaries and any other capital expenses or operating expenses in relation thereto (including any reasonably related fees or expenses incurred in connection therewith), in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to extend, renew, refund, refinance, replace, exchange, defease or discharge any Indebtedness incurred pursuant to this clause (iv)(B), not to exceed the greater of (x) $150.0 million and (y) 14.0% of Consolidated Total Assets at any time outstanding,

in each case, whether such Indebtedness is incurred for the charter of, leasing of or direct purchase of or the purchase of the Capital Stock of any Person owning such property, plant or equipment or other capital assets (including any Indebtedness deemed to be incurred in connection with such purchase) (it being understood that any such Indebtedness may be incurred after the acquisition or purchase or the design, development, construction, transportation, installation, migration, drydocking, incurrence of expenses or the making of any improvement with respect to any such property, plant or equipment or other capital assets);

(v) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to extend, renew, refund, refinance, replace, exchange, defease or discharge any Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be incurred under

Section 4.4(a) or clause (ii), (iii) or (xiv) of this Section 4.4(b) or this clause (v);

(vi) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; *provided, however*, that:

(A) if the Issuer or any Guarantor is the obligor on such Indebtedness and the payee is not the Issuer or a Guarantor ((i) except in respect of the intercompany current liabilities incurred in the ordinary course of business in connection with the cash management operations of the Company and its Restricted Subsidiaries and (ii) only to the extent legally permitted), such indebtedness shall be subordinated in right of payment to the prior payment in full in cash of all Obligations then due with respect to the Notes, in the case of the Issuer, or the Note Guarantee, in the case of a Guarantor; and

(B) (i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (ii) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or 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 (vi);

(vii) the issuance by any of the Company's Restricted Subsidiaries to the Company or to any of its Restricted Subsidiaries of shares of preferred stock; *provided, however*, that:

(A) any subsequent issuance or transfer of Equity Interests that results in any such preferred stock 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 preferred stock to a Person that is not either the Company or a Restricted Subsidiary of the Company,

will be deemed, in each case, to constitute an issuance of such preferred stock by such Restricted Subsidiary that was not permitted by this clause (vii);

(viii) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations in the ordinary course of business and not for

speculative purposes, including in connection with any commodities marketing activities or any permitted Oil and Gas Business activities;

(ix) the Guarantee by the Company or any of its Restricted Subsidiaries of Indebtedness of the Company or any of its Restricted Subsidiaries that was permitted to be incurred by another provision of this Section 4.4; *provided* that if the Indebtedness being Guaranteed is subordinated to or *pari passu* with the Notes or a Note Guarantee, as applicable, then the Guarantee shall be subordinated or *pari passu*, as applicable, to the same extent as the Indebtedness Guaranteed;

(x) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within 30 Business Days of receiving notice;

(xi) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness in respect of self–insurance obligations or captive insurance companies or consisting of the financing of insurance premiums in the ordinary course of business;

(xii) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness arising from agreements of the Company or any of its Restricted Subsidiaries providing for customary guarantees, indemnification, obligations in respect of earnouts or other adjustments of purchase price or, in each case, similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business or assets or Person or any Capital Stock of a Subsidiary (other than Guarantees of Indebtedness incurred by any Person acquiring or disposing of such business or assets or such Subsidiary for the purpose of financing such acquisition or disposition); *provided* that, in the case of a disposition, the maximum aggregate liability of the Company and its Restricted Subsidiaries in respect of all such Indebtedness shall at no time exceed the gross proceeds, including the Fair Market Value of non-cash proceeds (measured at the time received and without giving effect to any subsequent changes in value), actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(xiii) Indebtedness in respect of (A) workers' compensation claims, self-insurance obligations, performance, indemnity, surety, judgment, appeal, advance payment, customs, value added tax (or other similar taxes) or other Tax or other guarantees or other similar bonds, instruments or obligations and completion guarantees and warranties provided by the

Company or a Restricted Subsidiary or relating to liabilities, obligations or guarantees incurred in the ordinary course of business or in respect of any governmental requirement, (B) letters of credit, bankers' acceptances, guarantees or other similar instruments or obligations issued or relating to liabilities or obligations incurred in the ordinary course of business or in respect of any governmental requirement (including abandonment funds or other obligations), *provided, however*, that upon the drawing of such letters of credit or other similar instruments, the obligations are reimbursed within 30 days following such drawing and (C) any customary treasury and/or cash management services, including treasury, depository, overdraft, credit card processing, credit or debit card, purchase card, electronic funds transfer, the collection of checks and direct debits, cash pooling and other cash management arrangements, in each case, in the ordinary course of business;

(xiv) Indebtedness or preferred stock of a Person outstanding on the date on which such Person becomes a Restricted Subsidiary or is acquired by the Company or any of its Restricted Subsidiaries or merged, consolidated, amalgamated or otherwise combined with (including pursuant to any acquisition of assets and assumption of related liabilities) the Company or any of its Restricted Subsidiaries in accordance with this Indenture (and Indebtedness incurred by the Company or any of its Restricted Subsidiaries, in each case, (A) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by or was merged into the Company or any of its Restricted Subsidiaries or (B) otherwise in connection with, or in contemplation of, such acquisition); *provided, however*, with respect to this clause (xiv) that at the time of the acquisition or other transaction pursuant to which such Indebtedness was either deemed to be incurred or was incurred, (x) the Company would have been able to incur at least $1.00 of Ratio Debt after giving effect to the incurrence of such Indebtedness or issuance of such preferred stock pursuant to this clause (xiv) or (y) (i) the Fixed Charge Coverage Ratio would not be less than it was immediately prior to giving effect to such acquisition or other transaction or (ii) the Consolidated Net Leverage Ratio would not be more than it was immediately prior to giving effect to such acquisition or other transaction;

(xv) Guarantees by the Company or any of its Restricted Subsidiaries of any Management Advances;

(xvi) Guarantees by the Company or any of its Restricted Subsidiaries granted to any trustee of any management equity plan or stock option plan or any

other management or employee benefit or incentive plan or unit trust scheme approved by the Board of Directors of the Company or any Parent Holdco, so long as the proceeds of the Indebtedness so Guaranteed are used to purchase Equity Interests of the Company (other than Disqualified Stock); *provided* that the amount of any net cash proceeds from the sale of such Equity Interests of the Company shall be excluded from Section 4.6(a)(III)(2) and shall not be considered to be net cash proceeds from an Equity Offering for purposes of the "Optional Redemption" provisions as set forth in the Notes;

(xvii) Guarantees by the Company or any of its Restricted Subsidiaries of pension fund obligations of the Company or any Restricted Subsidiary required by law or regulation;

(xviii) (a) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness in connection with one or more standby letters of credit, Guarantees, performance bonds or other reimbursement obligations, in each case, issued in the ordinary course of business and not in connection with the borrowing of money or the obtaining of an advance or credit (other than advances or credit for goods and services in the ordinary course of business and on terms and conditions that are customary in the Oil and Gas Business, and other than the extension of credit represented by such letter of credit, Guarantee or performance bond itself) and (b) Indebtedness of the Company or any Restricted Subsidiary consisting of take-or-pay obligations or minimum stocking requirement contained in supply arrangements entered into in the ordinary course of business;

(xix) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness through the provision of bonds, Guarantees, letters of credit or similar instruments required by any governmental or regulatory agencies, including, without limitation, customs authorities; in each case, in the ordinary course of business of the Company or any of its Restricted Subsidiaries at any time outstanding not to exceed the amount required by such governmental or regulatory authority;

(xx) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness in the form of customer deposits and advance payments received in the ordinary course of business from customers for purchases in the ordinary course of business;

(xxi) Indebtedness arising in connection with (including the operation and establishment of) a fiscal unity or group for corporate tax on income or gains or value added tax (or other similar tax) purposes of which any Restricted Subsidiary is a member;

(xxii) Indebtedness of the Issuer and any Guarantor in an aggregate principal amount that, when taken together with any Permitted Refinancing Indebtedness in respect thereof and the principal amount of all other Indebtedness incurred pursuant to this clause (xxii) and then outstanding, will not exceed 100% of the Net Proceeds received by the Company (or the Company in the case of Subordinated Shareholder Debt) from the issuance or sale (other than to a Restricted Subsidiary) of Subordinated Shareholder Debt or its Capital Stock (other than Disqualified Stock, an Excluded Contribution or Excluded Amounts) or otherwise contributed to the equity (other than through the issuance of Disqualified Stock) of the Company, in each case, subsequent to the Issue Date provided, however, that (i) any such Net Proceeds that are so received or contributed shall be excluded for purposes of making Restricted Payments pursuant to Section 4.6(a) and clauses (ii) and (xiii) of Section 4.6(b) to the extent the Company and its Restricted Subsidiaries incur Indebtedness in reliance thereon and (ii) any Net Proceeds that are so received or contributed shall be excluded for purposes of incurring Indebtedness pursuant to this clause (xxii) to the extent the Company or any of its Restricted Subsidiaries makes a Restricted Payment pursuant to Section 4.6(a) and clauses (ii) and (xiii) of Section 4.6(b) in reliance thereon;

(xxiii) the incurrence by the Company or any of its Restricted Subsidiaries of additional Indebtedness or the issuance of Disqualified Stock by the Company or preferred stock by any Restricted Subsidiary in an aggregate principal amount at any time outstanding, including all Permitted Refinancing Indebtedness incurred to extend, renew, refund, replace, exchange, defease or discharge any Indebtedness incurred pursuant to this clause (xxiii) not to exceed the greater of (a) $200.0 million and (b) 18.0% of Consolidated Total Assets determined as of the date of such incurrence or issuance; *provided*, however, that the aggregate principal amount of Indebtedness that may be incurred by Non-Guarantor Restricted Subsidiaries pursuant to this clause (xxiii), when aggregated with the amount of outstanding Indebtedness that was incurred under clause (xxv) of this Section, shall not exceed the greater of (x) $200.0 million and (y) 18.0% of Consolidated Total Assets at any one time outstanding, determined as of the date of such incurrence or issuance;

(xxiv) Indebtedness under daylight borrowing facilities incurred in connection with the Offering or any refinancing of Indebtedness (including by way of set-off or exchange) so long as any such Indebtedness is repaid within three days of the date on which such Indebtedness is incurred; and

(xxv) the incurrence by any Non-Guarantor Restricted Subsidiary of Indebtedness that is Project Debt; *provided* that at the time of and after

giving effect to such Indebtedness, the Company would have been permitted to incur at least $1.00 of additional Indebtedness as Ratio Debt; *provided*, however, that the aggregate principal amount of Indebtedness that may be incurred by Non-Guarantor Restricted Subsidiaries pursuant to this clause (xxv), when aggregated with the amount of outstanding Indebtedness that was incurred under clause (xxiii) of this Section, shall not exceed the greater of (x) $200.0 million and (y) 18.0% of Consolidated Total Assets at any one time outstanding, determined as of the date of such incurrence or issuance;

(c) For purposes of determining compliance with, and the outstanding principal amount of, any particular Indebtedness, Disqualified Stock or preferred stock incurred or issued pursuant to and in compliance with this Section 4.4:

(i) in the event that an item or portion of an item of proposed Indebtedness, Disqualified Stock or preferred stock meets the criteria of more than one of the categories of Permitted Debt described in clauses (b)(i) through (b)(xxv) of this Section 4.4, or is entitled to be incurred or issued pursuant to Section 4.4(a), the Company, in its sole discretion, will be permitted to classify such item or portion of such item on the date of its incurrence or issuance and only be required to include the amount and type of such item in one of such clauses and from time to time to reclassify all or a portion of such item, in any manner that complies with this Section 4.4; *provided* that Indebtedness incurred under the Revolving Credit Facility outstanding on the Issue Date will be deemed to have been incurred on such date pursuant to Section 4.4(b)(i);

(ii) Guarantees of, or obligations in respect of letters of credit relating to, Indebtedness which is otherwise included in the determination of a particular amount of Indebtedness shall not be included; and

(iii) Indebtedness, Disqualified Stock or preferred stock permitted by this Section 4.4 need not be permitted solely by reference to one provision permitting it but may be permitted in part by one such provision and in part by one or more other provisions of this Section 4.4 permitting such Indebtedness, Disqualified Stock or preferred stock, as applicable.

(d) The amount of any Indebtedness, Disqualified Stock or preferred stock outstanding as of any date will be:

(i) in the case of any Indebtedness issued with original issue discount, the amount of the liability in respect thereof determined in accordance with IFRS;

(ii) in respect of Hedging Obligations, either (a) zero if such Hedging Obligation is incurred pursuant to Section 4.4(b)(viii) or (b) the notional amount of such Hedging Obligation if not incurred pursuant to such clause;

(iii) the principal amount of the Indebtedness, in the case of any other Indebtedness;

(iv) in the case of any preferred stock, (A) if other than Disqualified Stock, the greater of its voluntary or involuntary liquidation preference and its maximum fixed redemption price or repurchase price or (B) if Disqualified Stock, as specified in the definition thereof; and

(v) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:

(A) the Fair Market Value of such assets at the date of determination; and

(B) the amount of the Indebtedness of the other Person.

(e) Accrual of interest, accrual of dividends, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness, the reclassification of preferred stock as Indebtedness due to a change in accounting principles and the payment of dividends in the form of additional shares of preferred stock or Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of preferred stock or Disqualified Stock for purposes of this Section 4.4. The amount of any Indebtedness outstanding as of any date shall be 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.

(f) If at any time an Unrestricted Subsidiary becomes a Restricted Subsidiary, any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of the Company as of such date (and, if such Indebtedness is not permitted to be incurred as of such date under this Section 4.4, the Company shall be in Default of this Section 4.4).

(g) For purposes of calculating any ratio-based or ratio-referent basket, with respect to any revolving Indebtedness, delayed draw facility or other committed debt financing incurred under such ratio-based or ratio-referent basket, the Company may elect, at any time (which election may not be changed with respect to such Indebtedness), to either (x) give pro forma effect to the incurrence of the entire committed amount of such Indebtedness, in which case such committed amount may thereafter be borrowed or reborrowed, in whole or in part, from time to

time, without further compliance with any ratio-based or ratio-referent component of any provision of the Indenture, or (y) give pro forma effect to the incurrence of the actual amount drawn under such revolving Indebtedness, delayed draw facility or other committed debt financing, in which case, the ability to incur the amounts committed to under such Indebtedness will be subject to the ratio-based or ratio-referent basket (to the extent being incurred pursuant to such ratio) at the time of each such incurrence.

(h) 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 different currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed or first incurred (whichever yields the lower U.S. dollar-equivalent), in the case of revolving credit debt or debt financing to fund an acquisition, or first issued in the case of Disqualified Stock or preferred stock, or, in each case, at the Testing Party's option, the Transaction Commitment Date or last day of the applicable four-quarter reference period; *provided*, *however*, that (i) if such Indebtedness denominated in non–U.S. dollar currency is subject to a Currency Exchange Protection Agreement with respect to U.S. dollars, the amount of such Indebtedness expressed in U.S. dollars will be calculated so as to take account of the effects of such Currency Exchange Protection Agreement; and (ii) the U.S. dollar–equivalent of the principal amount of any such Indebtedness outstanding on the Issue Date shall be calculated based on the relevant currency exchange rate in effect on the Issue Date. The principal amount of any refinancing Indebtedness incurred in the same currency as the Indebtedness being refinanced will be the U.S. dollar–equivalent of the Indebtedness refinanced determined on the date such Indebtedness was originally incurred, except that to the extent that:

(i) such U.S. dollar–equivalent was determined based on a Currency Exchange Protection Agreement, in which case the refinancing Indebtedness will be determined in accordance with the preceding sentence; and

(ii) the principal amount of the refinancing Indebtedness exceeds the principal amount of the Indebtedness being refinanced, in which case the U.S. dollar–equivalent of such excess will be determined on the date such refinancing Indebtedness is being incurred.

(i) 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.

(j) Notwithstanding any other provision of this Section 4.4, the maximum amount of Indebtedness that the Company or a 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 Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

(k) Under this Indenture (1) unsecured Indebtedness will not be treated as subordinated or junior to secured Indebtedness merely because it is unsecured or (2) Indebtedness will not be treated as subordinated or junior to any other Indebtedness merely because it has a junior priority with respect to the same collateral.

4.5 **Liens**

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien of any kind securing Indebtedness upon any of its property or assets (whether now owned or hereafter acquired), except (x) Permitted Liens or (y) Liens on property or assets that are not Permitted Liens (the "**Initial Lien**") if payments due under the Notes and this Indenture are directly secured at least equally and ratably with (or in the case of Subordinated Obligations, prior or senior thereto with the same relative priority as the Notes shall have with respect to such Subordinated Obligations) the obligations secured by the Initial Lien for so long as such obligations are so secured.

Any Lien created for the benefit of the holders pursuant to this Section 4.5 will provide by its terms that such Lien will be automatically and unconditionally released and discharged upon the release and discharge of the Initial Lien other than as a consequence of an enforcement action with respect to the assets subject to such Lien.

4.6 **Restricted Payments**

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly:

(i) declare or pay any dividend or make any other payment or distribution on account of the Company's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any such payment or distribution made in connection with any merger, amalgamation or consolidation involving the Company or any of its Restricted Subsidiaries) or to the

direct or indirect holders of the Company's or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company or in Subordinated Shareholder Debt and other than dividends or distributions payable to the Company or a Restricted Subsidiary of the Company);

(ii) repurchase, redeem or otherwise acquire or retire for value (including, without limitation, any such purchase, redemption, acquisition or retirement made in connection with any merger, amalgamation or consolidation involving the Issuer) any Equity Interests of the Company or any Parent Holdco;

(iii) make any principal payment on or with respect to, or repurchase, redeem, defease or otherwise acquire or retire for value, prior to the Stated Maturity thereof, any Indebtedness of the Issuer or any Guarantor that is expressly contractually subordinated in right of payment to the Notes or to any Note Guarantee (excluding any intercompany Indebtedness between or among the Company and/or any of its Restricted Subsidiaries), except (A) a payment of principal at the Stated Maturity thereof or (B) the repurchase, redemption or other acquisition of Indebtedness in anticipation of satisfying a sinking fund obligation, principal installment or scheduled maturity, in each case due within one year of the date of such repurchase, redemption or other acquisition;

(iv) make any payment on or with respect to, or repurchase, redeem, defease or otherwise acquire for value any Subordinated Shareholder Debt; or

(v) make any Restricted Investment;

(all such payments and other actions set forth in clauses (i) through (v) of this Section 4.6(a) 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 has occurred and is continuing or would occur as a consequence of such Restricted Payment;

(II) in the case of any Restricted Payment set forth in clauses (i) through (iv) the Company would, at the time of such Restricted Payment and after giving *pro forma* effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter reference period, have been permitted to incur at least $1.00 of Ratio Debt; and

(III) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries

since the Issue Date (including Restricted Payments permitted by clause (i) of Section 4.6(b) but excluding all other Restricted Payments permitted under Section 4.6(b)), is equal to or less than the sum, without duplication, of:

(1) an amount (which may not be less than zero) equal to 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from the beginning of the fiscal quarter commencing immediately prior to the Issue Date to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit); *plus*

(2) 100% of the aggregate net cash proceeds received, the Fair Market Value of marketable securities received and the Fair Market Value of other property or assets received by the Company (or, in the case of Subordinated Shareholder Debt, the Company) since the Issue Date as a contribution to its common capital or from the issue or sale of Equity Interests (other than Disqualified Stock, Excluded Contributions or Excluded Amounts) or Subordinated Shareholder Debt or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Company that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock or debt securities) or Subordinated Shareholder Debt, in each case, sold to a Subsidiary of the Company) (except, in each case, to the extent such proceeds or property or assets or marketable securities are used to make a Restricted Payment in reliance on Sections 4.6(b)(ii) or (v)); *plus*

(3) (i)to the extent that any Restricted Investment that was made after the Issue Date is (x) sold, disposed of or otherwise cancelled, liquidated or repaid, 100% of the aggregate amount received in cash and the Fair Market Value of the marketable securities and other property received by the Company or any Restricted Subsidiary, or (y) made in an entity that subsequently becomes a Restricted Subsidiary, 100% of the Fair Market Value of the Restricted Investment of the Company and its Restricted Subsidiaries as of the date such entity becomes a Restricted Subsidiary; *plus*

(ii) to the extent that any Unrestricted Subsidiary of the Company designated as such after the Issue Date is redesignated as a

Restricted Subsidiary or is merged, amalgamated or consolidated with or into the Company or a Restricted Subsidiary, or all or substantially all of the properties or assets of such Unrestricted Subsidiary are transferred to the Company or a Restricted Subsidiary, the Fair Market Value of the property received by the Company or Restricted Subsidiary or the Company's or Restricted Subsidiary's Restricted Investment in such Subsidiary as of the date of such redesignation, merger, amalgamation, consolidation or transfer of properties or assets, to the extent such Investments reduced the Restricted Payments capacity under this clause (3) and were not previously repaid or otherwise reduced; *plus*

(4) 100% of any dividends or distributions received in cash by the Company or a Restricted Subsidiary after the Issue Date from an Unrestricted Subsidiary, to the extent that such dividends or distributions were not otherwise included in the Consolidated Net Income of the Company for such period; *plus*

(5) $75.0 million.

Notwithstanding the foregoing, any amounts (such amounts, the "Excluded Amounts") that would otherwise be included in the calculation of the amount available for Restricted Payments pursuant to subclauses (b) and (c) of the preceding clause (3) will be excluded to the extent (i) such amounts result from the receipt of Net Proceeds, property or assets or marketable securities received in contemplation of, or in connection with, an event that would otherwise constitute a Change of Control Triggering Event pursuant to the definition thereof, (ii) the purpose and effect of the receipt of such Net Proceeds, property or assets or marketable securities was to reduce the Consolidated Net Leverage Ratio of the Company so that there would not be an occurrence of a Change of Control Triggering Event that would otherwise have been achieved without the receipt of such Net Proceeds, property or assets or marketable securities and (iii) no Change of Control Offer is made in connection with such event in accordance with the requirements of this Indenture.

(b) Section 4.6(a) shall not prohibit:

(i) the payment of any dividend or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend or redemption payment would have complied with this Indenture;

(ii) the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a

Subsidiary of the Company) of, Equity Interests of the Company (other than Disqualified Stock), Subordinated Shareholder Debt or from the substantially concurrent contribution of common equity capital (other than an Excluded Contribution or Excluded Amounts) to the Company; *provided* that the amount of any such net cash proceeds, or Fair Market Value of property or assets or of marketable securities, from such sale of Equity Interests or such contribution that are utilized for any such Restricted Payment will be excluded from Section 4.6(a)(III)(2);

(iii) the repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness of the Issuer or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee with the net cash proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness for the purpose of such repurchase, redemption, defeasance or other acquisition or retirement for value;

(iv) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary of the Company to the holders of its Equity Interests (other than the Company or any Restricted Subsidiary) on a pro rata basis or a basis more favorable to the Company;

(v) the purchase, defeasance, repurchase, redemption or other acquisition, cancellation or retirement for value of any Equity Interests of the Company, any Restricted Subsidiary of the Company or any Parent Holdco (including any options, warrants or other rights in respect thereof) and loans, advances, dividends or distributions by the Company to any Parent Holdco to permit any Parent Holdco to purchase, repurchase, redeem, defease or otherwise acquire, cancel or retire for value Equity Interests of the Company, any Restricted Subsidiary or any Parent Holdco (including any options, warrants or other rights in respect thereof), or payments to purchase, repurchase, redeem, defease or otherwise acquire, cancel or retire for value Equity Interests of the Company, any Restricted Subsidiary or any Parent Holdco (including any options, warrants or other rights in respect thereof), in each case, held by any of the Company's (or any of its Restricted Subsidiaries') or any Parent Holdco's current or former officers, directors, employees or consultants pursuant to any equity subscription agreement, stock or share option agreement, restricted stock or share grant, shareholders' agreement or similar agreement; provided that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed (A) the greater of (x) $5.0 million, and (y) 0.5% of Consolidated Total Assets in any calendar year or (B) subsequent to the consummation of any public common Equity Offering, the greater of (x) $10.0 million and (y) 1.0% of Consolidated

Total Assets, in any calendar year (in each case, with unused amounts in any calendar year being permitted to be carried over for succeeding calendar years) and *provided, further*, that such amount in any calendar year may be increased by an amount not to exceed (A) the cash proceeds from the sale of Equity Interests of the Company, a Restricted Subsidiary or any Parent Holdco received by the Company or a Restricted Subsidiary during such calendar year, in each case to members of management, directors or consultants of the Company, any of its Restricted Subsidiaries or any Parent Holdco to the extent the net cash proceeds from the sale of Equity Interests have not otherwise been applied to the making of Restricted Payments pursuant to Section 4.6(a)(III)(2) or Section 4.6(b)(ii) and (B) the cash proceeds of key man life insurance policies;

(vi) the defeasance, repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Company or any Restricted Subsidiary of the Company or any Parent Holdco held by any of the Company's (or any of its Restricted Subsidiaries') or any Parent Holdco's current or former directors or employees in connection with the exercise or vesting of any equity compensation (including, without limitation, stock options, restricted stock and phantom stock) in order to satisfy the Company's, such Restricted Subsidiary's or such Parent Holdco's tax withholding obligation with respect to such exercise or vesting;

(vii) repurchases of Subordinated Obligations at a purchase price not greater than (i) 101% of the principal amount of such Subordinated Obligations and accrued and unpaid interest thereon in the event of a change of control or (ii) 100% of the principal amount of such Subordinated Obligations and accrued and unpaid interest thereon in the event of an Asset Sale (or other similar event described therein as an "asset sale" or "asset disposition"), in each case plus accrued interest, in connection with any change of control offer or asset sale offer required by the terms of such Indebtedness, but only if:

(A) in the case of a change of control, the Issuer has first complied with and fully satisfied its obligations under Section 4.9; or

(B) in the case of an Asset Sale, the Issuer has complied with and fully satisfied its obligations in accordance with Section 4.7;

(viii) the repurchase, redemption or other acquisition for value of Capital Stock of the Company or any of its Restricted Subsidiaries representing fractional shares of such Capital Stock in connection with a merger, consolidation, amalgamation or other combination involving the

Company or any of its Restricted Subsidiaries or any other transaction permitted by this Indenture;

(ix) the repurchase of Equity Interests deemed to occur upon the exercise of stock or share options or warrants to the extent such Equity Interests represent a portion of the exercise price of those stock or share options or warrants;

(x) the declaration and payment of regularly scheduled or accrued dividends to holders of any class or series of Disqualified Stock or preferred stock of the Company or any Restricted Subsidiary of the Company issued on or after the Issue Date in accordance with the covenant set forth in Section 4.4(a);

(xi) payments of cash, dividends, distributions, advances or other Restricted Payments by the Company or any of its Restricted Subsidiaries to allow the payment of cash in lieu of the issuance of fractional shares upon (x) the exercise of options or warrants or (y) the conversion or exchange of Capital Stock of any such Person;

(xii) (a) advances or loans to any future, present or former officer, director, employee or consultant of the Company or a Restricted Subsidiary to pay for the purchase or other acquisition for value of Equity Interests of the Company or any Parent Holdco (other than Disqualified Stock), or any obligation under a forward sale agreement, deferred purchase agreement or deferred payment arrangement pursuant to any management equity plan or stock option plan or any other management or employee benefit or incentive plan or other agreement or arrangement; *provided* that the total aggregate amount of Restricted Payments made under this subclause (a) does not exceed the greater of (x) $10.0 million and (y) 1.0% of Consolidated Total Assets in any calendar year or (b) advances, grants or loans in relation to any management equity plan or stock option plan or any other management or employee benefit or incentive plan or unit trust, whether made directly to any such plan or trust or to the trustees of any such plan or trust, to pay for the purchase or other acquisition for value of Equity Interests of the Company or any Parent Holdco (other than Disqualified Stock); *provided* that the total aggregate amount of Restricted Payments made under this subclause (b) does not exceed the greater of (x) $10.0 million and (y) 1.0% of Consolidated Total Assets in any calendar year;

(xiii) Restricted Payments in an aggregate amount outstanding at any time not to exceed the aggregate cash amount of Excluded Contributions, or consisting of non-cash Excluded Contributions, or Investments in

exchange for or using as consideration Investments previously made under this clause (xiii);

(xiv) so long as no Default or Event of Default has occurred and is continuing or would be caused thereby, other Restricted Payments in an aggregate amount not to exceed the greater of (a) $50.0 million and (b) 4.5% of Consolidated Total Assets;

(xv) so long as no Default or Event of Default has occurred and is continuing or would be caused thereby, other Restricted Payments; *provided that*, on the date of any such Restricted Payment, the Consolidated Net Leverage Ratio for the Company and its Restricted Subsidiaries does not exceed 2.25 to 1.0 on a *pro forma* basis after giving effect thereto;

(xvi) following the Initial Public Offering of the Capital Stock of the Company or any Parent Holdco (or, in each case, a SPAC IPO), the declaration or payment of dividends or distributions, or the making of any cash payments, advances, loans or expense reimbursements on the Capital Stock of the Company or any Parent Holdco; *provided* that the aggregate amount of all such dividends or distributions under this clause (xvi) shall not exceed in any fiscal year the greater of (A) 7% of (i) the net cash proceeds received by the Company from one or more Public Equity Offerings or contributed to the equity of the Company in any form (other than through the issuance of Disqualified Stock or through an Excluded Contribution or Excluded Amounts) or contributed to the Company as Subordinated Shareholder Debt or (ii) in the case of a SPAC IPO, cash held by the Company or any of its Restricted Subsidiaries following the consummation of the SPAC IPO, and (B) the greater of (1) 7% of the Market Capitalization and (2) 7% of the IPO Market Capitalization;

(xvii) any dividends, distributions or other payments to any Parent Holdco or Unrestricted Subsidiary to the extent that such dividends, distributions or payments are made in order to carry out group contributions under the tax laws or regulations of an applicable jurisdiction;

(xviii) Permitted Parent Payments;

(xix) any Restricted Payments made in connection with the consummation of the Transactions, including any dividends, payments or loans made to Parent Guarantor or any direct or indirect parent of Parent Guarantor to enable it to make any such payments;

(xx) any contingent payments made in connection with the Oil and Gas Business, including the Contingent Acquisition Agreement Payments; and

(xxi) Restricted Payments made with the Net Proceeds from the sale or other disposition of the Teca Assets, distributions in the form of returns of capital from the Teca Assets or the dividend or distribution of the Capital Stock or assets of the Teca Assets.

(c) The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment (or, in the case of a dividend, on the date of declaration) 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. The Fair Market Value of any cash Restricted Payment shall be its face amount. For purposes of determining compliance with this covenant, in the event that a Restricted Payment (or portion thereof) meets the criteria of more than one of the categories of Permitted Payments described in Section 4.6(b), or is permitted pursuant to Section 4.6(a) or one or more of the clauses contained in the definition of Permitted Investment, the Company, in its sole discretion, may divide and classify such Restricted Payment or Investment (or portion thereof) in any manner that complies with this covenant, including as an Investment pursuant to one or more clauses contained in the definition of Permitted Investment and may later divide and reclassify any such Investment or Restricted Payment so long as the Investment or Restricted Payment (as so divided and/or reclassified) would be permitted to be made in reliance on the applicable exception as of the date of such reclassification. Unsecured Indebtedness shall not be deemed to be subordinate or junior to secured Indebtedness by virtue of its nature as unsecured Indebtedness.

(d) If the Company or any Restricted Subsidiary makes a Restricted Payment that, at the time of the making of such Restricted Payment, in the good faith determination of the Company, would be permitted under this Indenture, such Restricted Payment shall be deemed to have been made in compliance with the Indenture notwithstanding any subsequent adjustments made in good faith to the financial statements of the Company (or any direct or indirect parent of the Company or any Qualified Reporting Subsidiary) affecting Consolidated Net Income, Consolidated Cash Flow, Consolidated Total Assets, Consolidated Net Leverage or any other financial measure or ratio.

(e) For the avoidance of doubt, any dividend or distribution otherwise permitted pursuant to this Section 4.6 may be in the form of a loan; *provided* that such Indebtedness is otherwise permitted to be incurred under this Indenture.

4.7 **Asset Sales**

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(i) the Company (or any of its Restricted Subsidiaries, as the case may be) receives consideration at the time of the Asset Sale at least equal to the Fair Market Value of the assets or Equity Interests issued or sold or otherwise disposed of; and

(ii) except in the case of any Asset Sale that involves assets having a Fair Market Value less than the greater of (x) $50.0 million and (y) 4.5% of Consolidated Total Assets, at least 75% of the consideration received in the Asset Sale by the Company or such Restricted Subsidiary is in the form of cash or Cash Equivalents. For purposes of this provision, each of the following will be deemed to be cash:

(A) any liabilities, as shown on the most recent consolidated balance sheet, of the Company or any Restricted Subsidiary of the Company (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes or any Note Guarantee) that are assumed by the transferee of any such assets pursuant to an agreement that releases the Company or such Restricted Subsidiary from further liability or indemnifies the Company or such Restricted Subsidiary against further liabilities;

(B) any securities, notes or other obligations received by the Company or any Restricted Subsidiary of the Company from such transferee that are converted by the Company or such Restricted Subsidiary into cash or Cash Equivalents within 180 days following the closing of the Asset Sale, to the extent of the cash or Cash Equivalents received in that conversion;

(C) with respect to any Asset Sale of oil and gas properties by the Company or any Restricted Subsidiary of the Company, the costs and expenses related to the exploration, development, completion or production of such oil and gas properties and activities related thereto agreed to be assumed by the transferee (or an Affiliate thereof);

(D) any Capital Stock or other assets of the kind referred to in clauses (iii) or (v) of Section 4.7(b);

(E) Indebtedness (other than Subordinated Obligations) of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Sale, to the extent that the Company and each other Restricted Subsidiary of the Company are released from any Guarantee of such Indebtedness in connection with such Asset Sale;

(F) consideration consisting of Indebtedness of the Issuer or any Restricted Subsidiary received from Persons who are not the Issuer or any Restricted Subsidiary;

(G) accounts receivable of a business retained by the Company or any Restricted Subsidiary of the Company, as the case may be, following the sale of such business; and

(H) any Designated Non-Cash Consideration received by the Company or any Restricted Subsidiary of the Company in such Asset Sales having an aggregate Fair Market Value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (H) that is at that time outstanding, not to exceed the greater of (x) $200.0 million and (y) 18.0% of Consolidated Total Assets at the time of the receipt of such Designated Non-Cash Consideration (with the Fair Market Value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value).

(b) Within 365 days of the later of (1) the date of the consummation of such Asset Sale and (2) the receipt of such Net Proceeds, the Company or one of its Restricted Subsidiaries may apply an amount equal to the Applicable Percentage of such Net Proceeds (the "**Applicable Proceeds**") from such Asset Sale (at the option of the Company or such Restricted Subsidiary):

(i) to reduce Obligations under the Credit Facilities;

(ii) to reduce Obligations under Indebtedness (other than Subordinated Indebtedness) that is secured by a Lien, which Lien is permitted by the Indenture and, in the case of revolving loans, to correspondingly reduce commitments with respect thereto;

(iii) to reduce Obligations under (x) *pari passu* Indebtedness of the Issuer or the Guarantors (*provided* that if the Issuer or any Guarantor shall so reduce such Obligations under *pari passu* Indebtedness other than the Notes, the Issuer will (A) equally and ratably reduce Obligations under the Notes as provided under the "Optional Redemption" provisions as set forth in the Notes or through open-market purchases or (B) make an offer (in accordance with the procedures for an Asset Sale Offer) to all holders to purchase at a purchase price equal to 100% of the principal amount thereof, plus accrued and unpaid interest, if any, the principal amount of Notes that would otherwise be redeemed under subclause (A) above), or (y) Indebtedness of a Non-Guarantor Restricted Subsidiary, in each case, other than Indebtedness owed to the Company or another Restricted

Subsidiary (and, in the case of revolving loans, to correspondingly reduce commitments with respect thereto)

(iv) to invest in Additional Assets;

(v) to make a capital expenditure; or

(vi) any combination of the foregoing;

provided that the Company and its Restricted Subsidiaries will be deemed to have complied with the provisions described in clause (4) or (5) of this paragraph if and to the extent that, within 365 days after the Asset Sale that generated the Net Cash Proceeds, the Company or such Restricted Subsidiary, as applicable, has entered into and not abandoned or rejected a binding agreement to make an investment in compliance with the provision described in clauses (4) or (5) of this paragraph, and that investment is thereafter completed within 180 days after the end of such 365-day period. Such 365-day period (as may be extended pursuant to this paragraph) shall constitute the "Proceeds Application Period".

"**Applicable Percentage**" means 100%; *provided* that so long as no Event of Default shall have occurred and be continuing or would result therefrom, the Applicable Percentage shall be (1) 50% if, on a Pro Forma Basis after giving effect to such Asset Sale and the use of proceeds therefrom, the Consolidated Senior Secured Net Leverage Ratio would be less than or equal to 2.00 to 1.00 but greater than 1.50 to 1.00 or (2) 0% if, on a Pro Forma Basis after giving effect to such Asset Sale and the use of proceeds therefrom, the Consolidated Senior Secured Net Leverage Ratio would be less than or equal to 1.50 to 1.00.

(c) Pending the final application of any Net Proceeds, the Company or any Restricted Subsidiary of the Company may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by this Indenture. Any Applicable Proceeds from Asset Sales that are not applied or invested pursuant to Section 4.7(b) will constitute "**Excess Proceeds**."

(d) When the aggregate amount of Excess Proceeds exceeds the greater of (x) $50.0 million and (y) 4.5% of Consolidated Total Assets, within 10 Business Days thereof, the Issuer shall make an offer (an "**Asset Sale Offer**") to all Holders of Notes and may make an offer to all holders of other Indebtedness that is *pari passu* with the Notes or any Note Guarantees to purchase, prepay or redeem with the proceeds of sales of assets the maximum principal amount of Notes and such other *pari passu* Indebtedness (plus all accrued interest on the Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith) that may be purchased, prepaid or redeemed out of the Excess Proceeds. The offer price for the Notes in any Asset Sale Offer

will be equal to at least 100% of the principal amount (or in the event such other Indebtedness was issued with original issue discount, 100% of the accreted value thereof), plus accrued and unpaid interest, if any, to, but not including, the date of purchase, prepayment or redemption, subject to the rights of Holders of Notes on the relevant Record Date to receive interest due on the relevant Interest Payment Date, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company or any of its Restricted Subsidiaries may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and other *pari passu* Indebtedness tendered into (or to be prepaid or redeemed in connection with) such Asset Sale Offer exceeds the amount of Excess Proceeds or if the aggregate amount of Notes tendered pursuant to a Notes Offer exceeds the amount of the Net Proceeds so applied, the Trustee, a Paying Agent or the Registrar will select the Notes and such other *pari passu* Indebtedness, if applicable, to be purchased on a *pro rata* basis (or, in the case of Notes issued in global form, based on a method that most nearly approximates a *pro rata* selection) unless otherwise required by applicable law or applicable stock exchange or depositary requirements, based on the amounts tendered or required to be prepaid or redeemed. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

(e) The Issuer shall comply, to the extent applicable, with the requirements of Rule 14e–1 under the U.S. Exchange Act and any other applicable securities laws and regulations to the extent those laws and regulations are applicable in connection with each repurchase of Notes pursuant to a Change of Control Offer, an Asset Sale Offer or an Alternate Offer. To the extent that the provisions of any securities laws or regulations conflict with Section 4.7 or 4.9, the Issuer shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under Section 4.7 or 4.9 by virtue of such compliance.

(f) The provisions under this Indenture relative to the Issuer's obligation to make an offer to repurchase the Notes as a result of an Asset Sale may be waived or modified as described in Section 9.

4.8 **Transactions with Affiliates**

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each, an "**Affiliate Transaction**") involving aggregate payments or consideration in excess of $20.0 million, unless:

(i) the Affiliate Transaction is on terms that are no less favorable to the Company or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person (as determined in good faith by a responsible accounting or financial officer of the Company); and

(ii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $50.0 million, the Company delivers to the Trustee a resolution of the Board of Directors of the Company set forth in an Officer's Certificate certifying that such Affiliate Transaction complies with this covenant and that such Affiliate Transaction has been approved by the Board of Directors of the Company.

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to Section 4.8(a):

(i) transactions between or among the Company or its Restricted Subsidiaries;

(ii) Management Advances and Permitted Parent Payments;

(iii) the incurrence of any Subordinated Shareholder Debt;

(iv) Restricted Payments not prohibited by Section 4.6 and Permitted Investments;

(v) transactions with a Person (other than an Unrestricted Subsidiary of the Company) that is an Affiliate of the Company solely because the Company owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person;

(vi) any customary directors' fees, indemnification and similar arrangements (including the payment of directors' and officers' insurance premiums), consultant agreements, employment agreements, collective bargaining agreements, severance agreements, any other compensation or employee benefit plans or arrangements (including stock option, stock appreciation, equity incentive or equity ownership or similar plans) or legal fees (as determined in good faith by a majority of the disinterested members of the Board of Directors of the Company;

(vii) any issuance of Equity Interests (other than Disqualified Stock) of the Company to Affiliates of the Company;

(viii) transactions with a joint venture or similar entity (including, for the avoidance of doubt, SierraCol Arauca) which would constitute an Affiliate Transaction solely because the Company owns, directly or through a Restricted Subsidiary, an Equity Interest in, can designate one or more members of the board of, or otherwise controls, such joint venture or similar entity;

(ix) (1)(A) the COG Acquisition; (B) the Transactions (including any fees paid in connection with customary broker-dealer activities) or (C) transactions pursuant to, or contemplated by any agreement or arrangement in effect on the Issue Date and as described in the Offering Memorandum under the caption "*Certain Relationships and Related Party Transactions*," and transactions pursuant to any amendment, modification, supplement or extension thereto; *provided* that any such amendment, modification, supplement or extension to the terms thereof, taken as a whole, is not materially more disadvantageous to the Holders than the original agreement or arrangement as in effect on the Issue Date and (2) the Management Agreements or any transaction or payments (including reimbursement of out-of-pocket expense or payments under any indemnity obligations) contemplated thereby;

(x) (i) transactions with customers, clients, suppliers, purchasers or sellers of goods or services, providers of employees or other labor, oil field service companies, construction companies, engineering companies, other oil and gas exploration and development companies or other suppliers or service providers, in each case, in the ordinary course of business and otherwise in compliance with the terms of this Indenture that are fair to the Company or any of its Restricted Subsidiaries, in the reasonable determination of the senior management of the Company, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated Person and (ii) to the extent constituting Affiliate Transactions, transactions with any governmental agency or entity in connection with the Oil and Gas Business;

(xi) payments or other transactions pursuant to any tax sharing agreement or group arrangement among the Company or any of its Restricted Subsidiaries and any other Person with which the Company or any of its Restricted Subsidiaries files or filed a consolidated tax return or with which the Company or any of its Restricted Subsidiaries is or was part of a consolidated group for tax purposes or any tax advantageous group contribution made pursuant to applicable legislation; *provided, however*, that such payments, and the value of such transactions, shall not exceed the amount of Tax that the Company or such Restricted Subsidiaries

would owe if such Person was not a member of such consolidated or tax advantageous group;

(xii) the transfer, pledge or other disposition of all or any portion of Equity Interests of Unrestricted Subsidiaries;

(xiii) transactions between the Company or any Restricted Subsidiary and any Person, a director of which is also a director of the Company or any Parent Holdco and such director is the sole cause for such Person to be deemed an Affiliate of the Company or any Restricted Subsidiary; *provided*, *however*, that such director shall abstain from voting as a director of the Company or such Parent Holdco, as the case may be, on any matter involving such other Person;

(xiv) any participation in a public tender or exchange offer for securities or debt instruments issued by the Company or any of its Subsidiaries that are conducted on arm's-length terms and provide for the same price or exchange ratio, as the case may be, to all holders accepting such tender or exchange offer; and

(xv) any transactions for which the Company or a Restricted Subsidiary delivers a written letter or opinion to the Trustee from an Independent Financial Advisor stating that such transaction is (A) fair to the Company or such Restricted Subsidiary from a financial point of view or (B) on terms not less favorable than might have been obtained in a comparable transaction at such time on an arm's length basis from a Person who is not an Affiliate.

4.9 **Change of Control Triggering Event**

(a) If a Change of Control Triggering Event occurs, each Holder will have the right to require the Issuer to repurchase all or any part (subject to Section 2.14, in integral multiples of $1,000; *provided*, that Notes of $200,000 or less may only be repurchased in whole and not in part) of that Holder's Notes pursuant to an offer ("**Change of Control Offer**") on the terms set forth in this Section 4.9. In the Change of Control Offer, the Issuer shall offer a payment in cash (the "**Change of Control Payment**") equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest on the Notes repurchased to, but not including, the date of purchase (the "**Change of Control Payment Date**"), subject to the rights of Holders of Notes on the relevant Record Date to receive interest due on the relevant Interest Payment Date.

(b) If not previously made in advance of such Change of Control Triggering Event, within 30 days following any Change of Control Triggering Event, the Issuer shall:

(i) cause a notice of the Change of Control Offer to be published:

(A) through the newswire service of Bloomberg, or if Bloomberg does not then operate, any similar agency or, so long as the Notes are represented by Global Notes held on behalf of DTC, by delivery of the relevant notice to that clearing system for communication by it to entitled account holders in substitution for publication as otherwise required in this Section 4.9(b)(i); and

(B) if and for so long as the Notes are listed on the Exchange and the rules of the Authority so require, on the official website of the Authority to the extent and in the manner permitted by such rules; and

(ii) send notice of the Change of Control Offer to each Holder (with a copy to the Trustee) in the manner prescribed in Section 11.2, stating:

(A) that a Change of Control Triggering Event has occurred and that all Notes will be accepted for payment;

(B) the circumstances or relevant facts in respect of such Change of Control Triggering Event;

(C) the Change of Control Payment and the Change of Control Payment Date which date shall be no earlier than 10 days and no later than 60 days from the date such notice is mailed or delivered, other than as required by law;

(D) that any Note accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest after the Change of Control Payment Date unless the Issuer fails to pay the Change of Control Payment;

(E) that any Note (or portion thereof) not tendered shall continue to accrue interest; and

(F) such other procedures that a Holder is required to follow to accept a Change of Control Offer or to withdraw such acceptance as determined by the Issuer, so long as such procedures are consistent with the terms of this Indenture.

(c) Holders electing to have their Notes purchased pursuant to a Change of Control Offer must surrender their Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of each Note completed, to the Paying Agent at the address specified in the notice, or transfer their Notes to the Paying Agent by book-entry transfer pursuant to the Applicable Procedures, prior to the close

of business on the third Business Day prior to the Change of Control Payment Date.

(d) On the Change of Control Payment Date, the Issuer shall, to the extent lawful:

(i) accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer;

(ii) 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

(iii) deliver or cause to be delivered to the Paying Agent the Notes properly accepted.

(e) The Paying Agent shall promptly mail or cause to be delivered to each Holder properly tendered the Change of Control Payment for such Notes, and the Trustee shall 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, subject to Section 2.14, each such new Note shall be in a principal amount of $200,000 or an integral multiple of $1,000 in excess thereof. Any Note so accepted for payment will cease to accrue interest on and after the Change of Control Payment Date unless the Issuer defaults in making the Change of Control Payment. The Issuer shall announce (which announcement may be made by posting to the website of the Company or any Subsidiary of the Company or any direct or indirect parent of the Company or on a non-public, password-protected website maintained by the Company, any Subsidiary of the Company or any direct or indirect parent of the Company or a third party, in accordance with Section 4.17) the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(f) The Issuer shall not be required to make a Change of Control Offer upon a Change of Control Triggering Event if (i) a third party makes the Change of Control Offer in the manner, at the time and otherwise in compliance with the requirements set forth herein applicable to a Change of Control Offer made by the Issuer and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer, (ii) in connection with or in contemplation of any Change of Control, the Issuer (or any Affiliate of the Issuer) or a third party has made an offer to purchase, at the times and otherwise in compliance with the requirements set forth in the Indenture applicable to a Change of Control Offer (an "Alternate Offer"), any and all Notes validly tendered and not validly withdrawn at a cash price equal to or higher than the Change of Control Payment and has purchased all Notes properly tendered and not validly withdrawn in accordance with the terms of the Alternate Offer, or (iii) notice of redemption

of all outstanding Notes has been given pursuant to the "Optional Redemption" provision as set forth in the Notes, unless and until there is a default in payment of the applicable Redemption Price.

(g) A Change of Control Offer may be made in advance of a Change of Control Triggering Event, and conditioned upon the occurrence of such Change of Control Triggering Event.

4.10 **Additional Amounts**

(a) All payments made by or on behalf of the Issuer 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 present or future Taxes unless the withholding or deduction for, or on account of, such Taxes is then required by law. If any deduction or withholding for, or on account of, any Taxes imposed or levied by or on behalf of (1) any jurisdiction in which the Issuer is then incorporated, organized, engaged in business for tax purposes, or otherwise resident for tax purposes or any political subdivision thereof or therein or (2) any jurisdiction from or through which payment is made by or on behalf of the Issuer under or with respect to the Notes (including the jurisdiction of any Paying Agent) or any political subdivision thereof or therein (each, a "**Tax Jurisdiction**") will at any time be required to be made from any payments made by or on behalf of the Issuer under or with respect to the Notes, including payments of principal, Redemption Price, purchase price, interest or premium, the Issuer will pay such additional amounts (the "**Additional Amounts**") as may be necessary in order that the net amounts received in respect of such payments by each holder of Notes after such withholding or deduction (including any such withholding or deduction from such Additional Amounts) will equal the respective amounts that would have been received in respect of such payments in the absence of such withholding or deduction; provided, however, that no Additional Amounts will be payable with respect to:

(i) any Taxes, to the extent such Taxes would not have been imposed but for the existence of any present or former connection between the Holder (or between a fiduciary, settler, beneficiary, member or shareholder of, or possessor of a power over, the relevant Holder, if the relevant Holder is an estate, nominee, trust, partnership, limited liability company, company or corporation) or the beneficial owner of the Notes and the relevant Tax Jurisdiction (including being a resident of such jurisdiction for Tax purposes), other than the mere holding of such Note, the enforcement of rights under such Note or the receipt of any payments in respect of such Note;

(ii) any Taxes, to the extent such Taxes were imposed as a result of the presentation of a Note for payment (where presentation is required) more

than 30 days after the relevant payment is first made available for payment to the Holder (except to the extent that the Holder would have been entitled to Additional Amounts had the Note been presented on the last day of such 30–day period);

(iii) any estate, inheritance, gift, sales, transfer, personal property or similar Taxes;

(iv) any Taxes payable other than by deduction or withholding from payments under, or with respect to, the Notes;

(v) any Taxes, to the extent such Taxes are withheld or deducted by reason of the failure of the Holder or beneficial owner of Notes to comply with any reasonable written request of the Issuer, addressed to the Holder and made at least 60 days before any such withholding or deduction is to be made, to satisfy any certification, identification, information or other reporting requirements, whether required by statute, treaty, regulation or administrative practice of a Tax Jurisdiction, as a precondition to exemption from, or reduction in the rate of deduction or withholding of, Taxes imposed by the Tax Jurisdiction (including, without limitation, a certification that the Holder or beneficial owner is not resident in the Tax Jurisdiction), but in each case, only to the extent the Holder or beneficial owner is legally entitled to satisfy such requirement;

(vi) any Taxes imposed pursuant to Sections 1471 through 1474 of the United States Internal Revenue Code of 1986, as amended (the "**Code**"), any current or future regulations or official interpretations thereof, any law or regulation adopted pursuant to an intergovernmental agreement between a non-U.S. jurisdiction and the United States with respect to the foregoing or any agreements entered into pursuant to section 1471(b)(1) of the Code;

(vii) any Tax that is imposed on or with respect to any payment made to any person who is a fiduciary or partnership or an entity that is not the sole beneficial owner of such payment, to the extent a beneficiary or settlor (for tax purposes) with respect to such fiduciary, a member of such partnership or the beneficial owner of such payment would not have been entitled to the Additional Amounts, had such beneficiary, settlor, member or beneficial owner been the actual Holder of the applicable Note;

(viii) any Taxes that are imposed or withheld solely by reason of the holder or beneficial owner, or a fiduciary, settlor, beneficiary, member or shareholder of the holder if the holder is an estate, trust, partnership, company or corporation, or a person holding a power over an estate or trust administered by a fiduciary holder,

(A) being considered as:

(1) being or having been present or engaged in a trade or business in the United States or having or having had a permanent establishment in the United States;

(2) having a current or former relationship with the United States, including a relationship as a citizen or resident thereof;

(3) being or having been a foreign or domestic personal holding company, a passive foreign investment company or a controlled foreign corporation with respect to the United States or a corporation that has accumulated earnings to avoid U.S. federal income tax;

(4) being or having been a "10-percent shareholder" of the obligor under the notes within the meaning of section 871(h)(3) of the U.S. Internal Revenue Code of 1986, as amended (the "Code"), or any successor provision; or

(5) being or having been a bank receiving interest described in section 881(c)(3)(A) of the Code or any successor provision; or

(B) failing to submit an applicable U.S. Internal Revenue Service ("IRS") Form W-8 (with any required attachments) attesting to the statements in clause (A); or

(ix) any combination of items (i) through (vii) of this Section 4.10(a).

(b) In addition to the foregoing, the Issuer shall also pay and indemnify the Holders for any present or future stamp, issue, registration, court or documentary taxes, or any other excise or property taxes, charges or similar levies (including penalties, interest and any other reasonable expenses related thereto), which are levied by any Tax Jurisdiction on the execution, delivery, issuance, registration or enforcement of any of the Notes, this Indenture or any other document referred to therein (except for any such taxes, charges or levies imposed or levied as a result of a transfer after the Issue Date), or on the receipt of any payments with respect thereto (limited solely in the case of Taxes, charges or levies attributable to the receipt of any payments with respect thereto, to any taxes, charges or levies that are not excluded under clauses (i) through (iii) or (v) through (viii) of Section 4.10(a) or any combination thereof).

(c) If the Issuer becomes aware that it shall be obligated to pay Additional Amounts with respect to any payment under or with respect to the Notes, the Issuer shall deliver to the Trustee and Paying Agents on a date that is at least 30 days prior

to the date of that payment (unless the obligation to pay Additional Amounts arises less than 45 days prior to that payment date, in which case the Issuer shall notify the Trustee promptly thereafter) an Officer's Certificate stating the fact that Additional Amounts will be payable and the amount estimated to be so payable. The Officer's Certificate shall also set forth any other information reasonably necessary to enable any Paying Agent to pay Additional Amounts to Holders on the relevant payment date. The Trustee and the Paying Agent shall be entitled to rely solely on such Officer's Certificate as conclusive proof that such payments are necessary.

(d) The Issuer shall make all withholdings and deductions for, or on account of, Taxes required by law and will remit the full amount deducted or withheld to the relevant Tax authority in accordance with applicable law. The Issuer shall use its reasonable efforts to obtain Tax receipts from each Tax authority evidencing the payment of any Taxes so deducted or withheld. The Issuer shall furnish to the Trustee (or to a Holder upon written request), within a reasonable time after the date the payment of any Taxes so deducted or withheld is made to the relevant Tax authority, certified copies of Tax receipts evidencing such payment by the Issuer or if, notwithstanding such entity's efforts to obtain receipts, receipts are not obtained, other evidence of such payments by such entity.

(e) Whenever in this Indenture or the Notes there is mentioned, in any context, the payment of amounts based upon the principal amount of the Notes or of principal, interest or any other amount payable under, or with respect to, any of the Notes, such mention shall be deemed to include mention of the payment of Additional Amounts to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof.

(f) The obligations described in this Section 4.10 shall survive any termination, defeasance or discharge of this Indenture or any transfer by a Holder or beneficial owner of its Notes, and will apply, *mutatis mutandis*, to any jurisdiction in which any successor Person to the Issuer is incorporated, organized, engaged in business for tax purposes or otherwise resident for tax purposes or any political subdivision thereof or therein or any jurisdiction from or through which such Person makes any payment on the Notes or any political subdivision thereof or therein.

4.11 **Limitation on Lines of Business**

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, engage in any business other than the Oil and Gas Business, except to the extent as would not be material to the Company and its Restricted Subsidiaries taken as a whole.

4.12 **Maintenance of Listing**

The Issuer shall use its commercially reasonable efforts to obtain before the first interest payment date and thereafter maintain the listing of the Notes on the Official List of the Exchange for so long as such Notes are outstanding; *provided* that if the Issuer is unable to obtain admission to listing of the Notes on the Official List of the Exchange or if at any time the Issuer determines that it will not maintain such listing, it will use its commercially reasonable efforts to obtain and maintain a listing of such Notes on another "recognised stock exchange" as defined in Section 1005 of the Income Tax Act 2007 of the United Kingdom (in which case, references in this covenant to the Exchange will be deemed to refer to such other "recognised stock exchange").

4.13 **Limitation on Guarantees of Indebtedness by Restricted Subsidiaries**

(a) The Company shall not permit any Non-Guarantor Restricted Subsidiary, directly or indirectly, to Guarantee, assume or in any other manner become liable for the payment of any Indebtedness under a Credit Facility greater than $50.0 million or any Public Indebtedness, in each case of the Company or the Issuer (other than the Notes) or a Guarantor (other than a Guarantee of the Notes), unless such Restricted Subsidiary simultaneously executes and delivers to the Trustee a supplemental indenture to this Indenture providing for a Guarantee of payment of the Notes by such Restricted Subsidiary which Note Guarantee will be senior in right of payment to or *pari passu* in right of payment with such Restricted Subsidiary's Guarantee of such other Indebtedness.

(b) Section 4.13(a) will not be applicable to any Guarantees of any Restricted Subsidiary:

(i) existing on the Issue Date;

(ii) that existed at the time such Person became a Restricted Subsidiary if the Guarantee was not incurred in connection with, or in contemplation of, such Person becoming a Restricted Subsidiary;

(iii) arising due to the granting of a Permitted Lien; or

(iv) given to a bank or trust company having combined capital and surplus and undivided profits of not less than $250.0 million, whose debt has a rating, at the time such Guarantee was given, of at least "A" or the equivalent thereof by S&P and at least "A2" or the equivalent thereof by Moody's, in connection with the operation of cash management programs established for the Company's benefit or that of any Restricted Subsidiary.

(c) In addition, notwithstanding anything to the contrary herein:

(i) no Guarantee by any such Restricted Subsidiary shall be required if such Guarantee could reasonably be expected to give rise to or result in (A) personal liability for the officers, directors or shareholders of such Restricted Subsidiary, (B) any violation of applicable law that cannot be avoided or otherwise prevented through measures reasonably available to the Company or such Restricted Subsidiary or (C) any significant cost, expense, liability or obligation (including with respect to any Taxes) other than reasonable out of pocket expenses and other than reasonable expenses incurred in connection with any governmental or regulatory filings required as a result of, or any measures pursuant to subclause (B) undertaken in connection with, such Guarantee, which cannot be avoided through measures reasonably available to the Company or the Restricted Subsidiary; and

(ii) each Note Guarantee will be limited as necessary to reflect limitations under local law in the applicable jurisdiction and defenses generally available to guarantors in such jurisdiction (including those relating to fraudulent conveyance, fraudulent transfer, voidable preference, financial assistance, corporate purpose, corporate benefit, capital maintenance and similar laws, regulations and defenses affecting the rights of creditors generally) or other considerations under applicable law, including those limitations described under Section 10.7. This includes limiting Note Guarantees to an amount not to exceed the maximum amount that can be guaranteed by that Restricted Subsidiary without rendering the Note Guarantee, as it relates to such Restricted Subsidiary, voidable under applicable law. However, such limitations may not be effective under local law.

(d) Future Guarantees granted pursuant to this provision will be released as set forth under Section 10.12. A Guarantee of a future Guarantor will be deemed to provide by its terms that it shall be automatically and unconditionally released and discharged if at the date of such release either (i) there is no Indebtedness of such Guarantor outstanding which was incurred after the Issue Date and which could not have been incurred in compliance with this Indenture if such Guarantor had not been designated as a Guarantor, or (ii) there is no Indebtedness of such Guarantor outstanding which was incurred after the Issue Date and which could not have been incurred in compliance with this Indenture as at the date of such release if such Guarantor were not designated as a Guarantor as at that date. The Trustee shall take all necessary actions, at the request of the Company, to effectuate any release of a Note Guarantee in accordance with these provisions, subject to customary protections and indemnifications.

4.14 **Dividend and Other Payment Restrictions Affecting Subsidiaries**

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(ii) pay dividends or make any other distributions on its Capital Stock to the Company or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Company or any of its Restricted Subsidiaries;

(iii) make loans or advances to the Company or any of its Restricted Subsidiaries; or

(iv) sell, lease or transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries,

provided that (x) the priority of any preferred stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock and (y) the subordination of (including the application of any standstill period to) loans or advances made to the Company or any Restricted Subsidiary to other Indebtedness incurred by the Company or any Restricted Subsidiary, shall not be deemed to constitute such an encumbrance or restriction.

(b) However, Section 4.14(a) will not apply to encumbrances or restrictions existing under or by reason of:

(ii) contractual encumbrances or restrictions in effect on the Issue Date, including agreements governing Existing Indebtedness and Credit Facilities, and any amendments, restatements, modifications, renewals, supplements, increases, refundings, replacements or refinancings of those agreements; *provided* that the amendments, restatements, modifications, renewals, supplements, increases, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the Issue Date or will not adversely affect in any material respect the Issuer's ability to make principal or interest payments on the Notes as they become due (in each case, as determined in good faith by a responsible accounting or financial officer of the Company);

(iii) this Indenture, the Notes (including Additional Notes) and the Note Guarantees;

(iv) applicable law, rule, regulation or order or the terms of any license, authorization, approval, concession or permit or similar restriction;

(v) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Company or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred;

(vi) customary non–assignment and similar provisions in contracts, leases and licenses (including, without limitation, licenses of intellectual property) entered into in the ordinary course of business;

(vii) purchase money obligations for property (including Capital Stock) acquired in the ordinary course of business, Capital Lease Obligations and mortgage financings that impose restrictions on the property purchased or leased of the nature described in Section 4.14(a)(iv);

(viii) agreements for the sale or other disposition of assets, including, without limitation, an agreement for the sale or other disposition of the Capital Stock or assets of a Restricted Subsidiary, that restricts distributions by the applicable Restricted Subsidiary pending the sale or other disposition;

(ix) Permitted Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced or will not adversely affect in any material respect the Issuer's ability to make principal or interest payments on the Notes as they become due (in each case, as determined in good faith by a responsible accounting or financial officer of the Company);

(x) Liens permitted to be incurred under Section 4.5 that limit the right of the debtor or the security provider to dispose of the assets subject to such Liens;

(xi) provisions limiting the disposition or distribution of assets or property in, or transfer of Capital Stock of, joint venture agreements (including, for the avoidance of doubt, the Arauca Agreement), asset sale agreements, sale–leaseback agreements, stock sale agreements and other similar agreements (including agreements entered into in connection with a

Restricted Investment), which limitations are applicable only to the assets, property or Capital Stock that are the subject of such agreements;

(xii) agreements governing other Indebtedness of the Company or any of its Restricted Subsidiaries permitted to be incurred in accordance with Section 4.4, and any amendments, restatements, modifications, renewals, supplements, increases, refundings, replacements or refinancings of those agreements; *provided* that any such encumbrances or restrictions contained in such Indebtedness are not materially more restrictive taken as a whole than customary in comparable financings in such jurisdictions as such Indebtedness is being incurred or will not adversely affect in any material respect the ability to make principal or interest payments on the Notes as they become due (in each case, as determined in good faith by a responsible accounting or financial officer of the Company);

(xiii) supermajority voting requirements existing under corporate charters, bylaws, stockholders or shareholders agreements, joint venture agreements and similar documents and agreements;

(xiv) customary provisions restricting subletting or assignment of any lease governing a leasehold interest;

(xv) Hedging Obligations permitted from time to time hereunder;

(xvi) restrictions on cash or other deposits or net worth imposed by customers or suppliers or required by insurance, surety or bonding companies, in each case under contracts entered into in the ordinary course of business;

(xvii) [reserved]; and

(xviii) any agreement that extends, renews, refinances or replaces the agreements containing the encumbrances or restrictions in clauses (ii) through (xvi) of this Section 4.14(b), or in this clause (xviii); *provided* that the terms and conditions of any such encumbrances or restrictions are not materially more restrictive taken as a whole with respect to such dividend and other payment restrictions than those under or pursuant to the agreement so extended, renewed, refinanced or replaced or will not adversely affect in any material respect the ability to make principal or interest payments on the Notes as they become due (in each case, as determined in good faith by a responsible accounting or financial officer of the Company).

4.15 **Designation of Restricted and Unrestricted Subsidiaries**

(a) The Board of Directors of the Company or any direct or indirect parent of the Company may designate any Restricted Subsidiary (other than the Issuer) to be an Unrestricted Subsidiary if that designation would not cause a Default and in

the circumstances described under the definition of Unrestricted Subsidiary. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be either (i) a Restricted Investment made as of the time of the designation that will reduce the amount available for Restricted Payments under Section 4.6 or (ii) a Permitted Investment under one or more clauses of the definition of Permitted Investments, as determined in good faith by a responsible accounting or financial officer of the Company. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary.

(b) Any designation of a Subsidiary of the Company (other than the Issuer) as an Unrestricted Subsidiary shall be evidenced to the Trustee by providing the Trustee with a copy of a resolution of the Board of Directors of the Company or any direct or indirect parent of the Company giving effect to such designation and an Officer's Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.6. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding 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 by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.4, the Company shall be in default of Section 4.4.

(c) The Board of Directors of the Company or any direct or indirect parent of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary of the Company; *provided* that such designation shall be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary, and such designation shall only be permitted if (i) such Indebtedness is permitted under Section 4.4, calculated on a *pro forma* basis as if such designation had occurred at the beginning of the four-quarter reference period; and (ii) no Default or Event of Default would be in existence following such designation.

4.16 **Payment of Taxes**

The Company shall pay or discharge and shall cause each of its Subsidiaries to pay or discharge, or cause to be paid or discharged, before the same shall become delinquent all material Taxes levied or imposed upon the Company or any such Subsidiary; *provided*, *however*, that the Company and each of its Subsidiaries shall not be required to pay or discharge, or cause to be paid or discharged, any such Tax, the amount, applicability or validity of which is being contested in good faith by appropriate

proceedings and for which adequate reserves have been established or where failure to effect such payment is not adverse in any material respect to the Holders.

4.17 **Reports**

(a) The Issuer shall make available, upon request, to any Holder or prospective purchaser of Notes in the United States, in connection with any sale thereof, the information specified in Rule 144A(d)(4) under the U.S. Securities Act, unless the Issuer is subject to Section 13 or 15(d) of the U.S. Exchange Act at or prior to the time of such request.

(b) So long as any Notes are outstanding, the Company shall furnish to the Trustee (which shall distribute the same to a Holder upon such Holder's written request):

(i) within 150 days after the end of the Company's first fiscal year ending after the Issue Date and within 120 days after the end of each fiscal year thereafter, annual reports containing the following information with a level of detail that is substantially comparable and similar in scope to the Offering Memorandum: (a) audited consolidated balance sheet of the Company as of the end of the two most recent fiscal years and audited consolidated income statements and statements of cash flow of the Company for the two most recent fiscal years (and comparative information for the end of the prior fiscal year), including complete notes to such financial statements and the report of the independent auditors on the financial statements; (b) a "Management's Discussion and Analysis of Financial Condition and Results of Operations" with respect to the periods presented; (c) material changes, in each case, in the description of business, material affiliate transactions, Indebtedness and material financing arrangements and all material debt instruments; and (d) material changes in risk factors and material recent developments (all of the foregoing financial information to be prepared on a basis substantially consistent with the corresponding financial information included in the Offering Memorandum); *provided* that (following a Public Equity Offering on a Recognized Stock Exchange and for so long as the Listing Authority and Recognized Stock Exchange require annual reports and the Company is subject to such requirements thereto) any item of disclosure that complies in all material respects with the requirements of the Listing Authority and Recognized Stock Exchange for annual reports with respect to such item will be deemed to satisfy the Company's obligations under this clause (i) with respect to such item (provided that such disclosure is prepared in English or with an English translation);

(ii) within 90 days after each of June 30, 2021 and September 30, 2021 and thereafter within 60 days following the end of the Company's first three fiscal quarters of each fiscal year, quarterly reports, in each case,

containing: (a) an unaudited condensed consolidated balance sheet as of the end of such year to date period and unaudited condensed statements of income and cash flow for the year–to–date period ending on the unaudited condensed balance sheet date, and the comparable prior year period for the Company, together with condensed note disclosure; (b) a "Management's Discussion and Analysis of Financial Condition and Results of Operations" with respect to the periods presented; and (c) material recent developments (all of the foregoing financial information to be prepared on a basis substantially consistent with the corresponding financial information included in the Offering Memorandum); *provided* that (following a Public Equity Offering on a Recognized Stock Exchange, and for so long as the Listing Authority and Recognized Stock Exchange require interim reports and the Company is subject to such requirements thereto), any item of disclosure that complies in all material respects with the requirements of the Listing Authority and Recognized Stock Exchange for interim reports with respect to such item will be deemed to satisfy the Company's obligations under this clause (ii) with respect to such item (and for the avoidance of doubt, quarterly, rather than semi-annual, reports shall be furnished) (provided that such disclosure is prepared in English or with an English translation); and

(iii) promptly after the occurrence of any material acquisition, disposition or restructuring of the Company and its Restricted Subsidiaries, taken as a whole, or any changes in the chief executive officer or chief financial officer at the Company or changes in auditors of the Company, a report containing a description of such event;

provided, *however*, that any reports referenced in this Section 4.17(b) delivered to the Trustee via e-mail or other electronic means shall be deemed to have been "furnished" to the Trustee in accordance with the terms of this Section 4.17(b). Notwithstanding the foregoing and for the avoidance of doubt, (a) the Company will not be required to furnish any information, certificates or reports required by (i) Section 302, Section 404 or Section 906 of the Sarbanes-Oxley Act of 2002, or related Items 307 or 308 of Regulation S-K or (ii) Regulation G or Item 10(e) of Regulation S-K promulgated by the SEC with respect to any non-generally accepted accounting principles financial measures contained therein, (b) the information and reports referred to in clauses (i), (ii) and (iii) in this Section 4.17(b) of this covenant will not be required to contain the separate financial statements or other information contemplated by Rule 3-05, Rule 3-09, Rule 3-10 or Rule 3-16 of Regulation S-X, (c) the information and reports referred to in clauses (i), (ii) and (iii) in this Section 4.17(b) shall not be required to present compensation or beneficial ownership information, (d) the information and reports referred to in this Section 4.17(b) shall not be required to include any exhibits required by Item 15 of Form 10-K, Item 6 of Form 10-

Q or Item 9.01 of Form 8-K, (e) trade secrets and other proprietary information may be excluded from any disclosures, (f) no required report will be required to contain any "segment reporting" and (g) no financial statements shall be required to include purchase accounting or recapitalization accounting adjustments relating to any acquisition to the extent it is not practicable to include them.

Notwithstanding Sections 4.17(a) and 4.17(b), the Company will be deemed to have provided such information to the Trustee, the Holders and prospective holders of the Notes if such information referenced in Sections 4.17(b)(i), (b)(ii) and (b)(iii) has been posted to the Company's website.

(c) All financial statements shall be prepared in accordance with IFRS as in effect on the date of such report or financial statement (or otherwise on the basis of IFRS as then in effect) and on a consistent basis for the periods presented; *provided, however,* that the reports set forth in clauses (i), (ii) and (iii) above may, in the event of a change in IFRS, present earlier periods on a basis applied to such periods. Except as provided in Section 4.17(b), no report need include separate financial statements for the Company or Subsidiaries of the Company or any disclosure with respect to the results of operations or any other financial or statistical disclosure not of a type included in the Offering Memorandum. In addition, the reports set forth above will not be required to contain any reconciliation to GAAP.

(d) If the Company has designated any of its Subsidiaries (other than the Issuer) as Unrestricted Subsidiaries and such Subsidiaries are Significant Subsidiaries, then the quarterly and annual financial information required pursuant to clauses (i) and (ii) of Section 4.17(b) will include a reasonably detailed presentation, either on the face of the financial statements, in the footnotes thereto or in the required discussion of the consolidated financial condition and results of operations of the Company, 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.

(e) The Company shall also make available copies of all reports required by clauses (i) through (iii) of Section 4.17(b) either (i) on the Company's website, (ii) on a non-public, password-protected website maintained by the Company, any Subsidiary of the Company or any direct or indirect parent of the Company or a third party or (iii) publicly available through substantially comparable means (as determined by an Officer of the Company in good faith) (it being understood that making such reports available on Bloomberg or another private electronic information service will constitute substantially comparable public availability). The Company will also make available copies of all reports

required by clauses (i) and (ii) of Section 4.17(b), if and so long as the Notes are listed on the Official List of the Exchange and the rules of the Authority so require, at the specified office of the Paying Agent. In addition, in the case of furnishing the information pursuant to clauses (i) and (ii) of Section 4.17(b), the Company will promptly thereafter hold a conference call with holders of the Notes hosted by an Officer of the Company to discuss the operations of the Company and its Subsidiaries in respect of the relevant period. The Company shall satisfy this requirement by providing an invitation by way of notices disseminated via Bloomberg or other private information system or posting on the Company's website or on a non-public, password-protected website maintained by the Company, any Subsidiary of the Company or an direct or indirect parent of the Company or a third party; *provided* that following a Public Equity Offering on a Recognized Stock Exchange the Company may satisfy this requirement by providing an invitation to its quarterly investor presentations by way of notices disseminated via Bloomberg or other private information system or postings on the Company's website following the delivery of its annual and quarterly financial reports in compliance with the rules and regulations of such Recognized Stock Exchange. Notwithstanding the foregoing, the Company will be deemed to have provided such information to the Trustee, the holders of the Notes and prospective holders of the Notes if such information referenced in clauses (i), (ii) or (iii) of Section 4.17(b) has been posted to the Company's website. The Trustee shall have no obligation to determine if and when any such information has been posted on the Company's website.

(f) Delivery of any information, documents and reports to the Trustee pursuant to this Section 4.17 is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein, including the Company's compliance with any of its covenants under this Indenture (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

(g) For purposes of Section 4.17, an acquisition or disposition shall be deemed to be material if the entity or business acquired or disposed of represents greater than 20% of the Company's (i) consolidated revenue or Consolidated Cash Flow for the most recent four quarters for which annual or quarterly financial reports have been delivered to the Trustee or (ii) Consolidated Total Assets as of the last day of the most recent quarter for which annual or quarterly financial reports have been delivered to the Trustee.

(h) The Company may satisfy its obligations and the requirements of this Section 4.17 by furnishing reports and information relating to (i) any branch account or accounts or wholly owned Subsidiary of the Company that, together with its consolidated Subsidiaries, constitutes substantially all of the assets and liabilities of the Company and its consolidated Subsidiaries ("*Qualified*

Reporting Subsidiary") or (ii) any Parent Holdco consolidating reporting at its level in a manner consistent with that described in this covenant; *provided that*, such reports and other information are accompanied by a reasonably detailed, unaudited description of any material differences between the information relating to such Parent Holdco and its Subsidiaries, on the one hand, and the information prepared on a basis substantially consistent with the financial statements included in the Offering Memorandum.

(i) Any person who requests or accesses such financial information or seeks to participate in any conference calls required by this covenant may be required to provide its email address, employer name and other information reasonably requested by the Issuer and represent to the Issuer (to the Issuer's reasonable good faith satisfaction) that:

(ii) it is a holder of the Notes, a beneficial owner of the Notes, a bona fide prospective investor in the Notes, a bona fide market maker in the Notes affiliated with any Initial Purchaser or a bona fide securities analyst providing an analysis of investment in the Notes;

(iii) it will not use the information in violation of applicable securities laws or regulations;

(iv) it will keep such provided information confidential and will not communicate the information to any Person; and

(v) it (a) will not use such information in any manner intended to compete with the business of the Company and its Subsidiaries and (b) is not a Person (which includes such Person's Affiliates) that (i) is principally engaged in a Similar Business or (ii) derives a significant portion of its revenues from operating or owning a Similar Business.

Notwithstanding anything herein to the contrary, any failure to comply with this Section 4.17(b) shall be automatically cured if the Company, any Subsidiary of the Company or any direct or indirect parent of the Company, as the case may be, provides all required reports to the Holders with a copy to the Trustee or files all required reports with the SEC or comparable securities regulator via the EDGAR (or other) filing system.

4.18 **Suspension of Covenants when Notes Rated Investment Grade**

(a) If on any date following the Issue Date:

(i) the Notes have achieved Investment Grade Status; and

(ii) no Default or Event of Default shall have occurred and be continuing on such date,

then, beginning on that day and continuing until such time, if any, at which the Notes cease to have Investment Grade Status (such period, the "**Suspension Period**"), the following sections of this Indenture will no longer be applicable to the Notes and any related default provisions of this Indenture will cease to be effective and will not be applicable to the Company and its Restricted Subsidiaries: Section 4.4; Section 4.6; Section 4.7; Section 4.8; Section 4.11; Section 4.13; Section 4.14; Section 4.15; and Section 5.1(a)(iv).

(b) The Sections listed in Section 4.18(a) shall not be of any effect with regard to the actions of the Company and the Restricted Subsidiaries properly taken during the continuance of the Suspension Period; *provided* that (i) with respect to the Restricted Payments made after the date of such reinstatement (a "**Reversion Date**"), the amount of Restricted Payments will be calculated as though Section 4.6 had been in effect prior to, but not during, the Suspension Period and (ii) all Indebtedness incurred, or Disqualified Stock or preferred stock issued, during the Suspension Period will be classified to have been incurred or issued pursuant to Section 4.4(b)(ii). In addition, (i) for purposes of the covenant described under Section 4.8, all agreements and arrangements entered into by the Company and any Restricted Subsidiary with an Affiliate during the Suspension Period prior to such Reversion Date will be deemed to have been entered pursuant to Section 4.8(b)(ix) of the second paragraph of (ii) for purposes of the covenant described under Section 4.14 all contracts entered into during the Suspension Period prior to such Reversion Date that contain any of the restrictions contemplated by such covenant will be deemed to have been entered pursuant to Section 4.14(b)(i). Upon the occurrence of a Suspension Period, the amount of Applicable Proceeds shall be reset at zero. Any Change of Control during such Suspension Period shall not require a Change of Control Offer during or after the Suspension Period. No Subsidiary may be designated as an Unrestricted Subsidiary during the Suspension Period, unless such designation would have complied with the covenant Section 4.6 as if such covenant were in effect during such period.

(c) The Company shall give the Trustee written notice of (i) any Suspension Period after such Suspension Period has occurred and (ii) any occurrence of a Reversion Date; *provided* that any failure by the Company to provide such notice shall not constitute a Default of Event of Default, nor shall such notice have any impact on the occurrence of any Suspension Period or Reversion Date. Absent such written notice the Trustee shall be entitled to assume that no Suspension Period or the occurrence of any Reversion Date has occurred.

(d) Upon the Reversion Date, the obligation to grant Note Guarantees pursuant to the covenant described under Section 4.13 will be reinstated (and the Reversion Date will be deemed to be the date on which such Indebtedness under a Credit

Facility or Public Indebtedness, as applicable, was incurred or guaranteed, as applicable, for purposes of the covenant described under Section 4.13).

(e) The Company and any Subsidiary will be permitted, without causing a Default or Event of Default or breach of any kind under this Indenture, to honor, comply with or otherwise perform any contractual commitments or obligations entered into during a Suspension Period following a Reversion Date and to consummate the transactions contemplated thereby; *provided*, however, that (a) the Company and its Subsidiaries did not Incur or otherwise enter into such contractual commitments or obligations in contemplation of the Reversion Date and (b) the Company reasonably believed that such Incurrence or actions would not cause or result in a Reversion Date. For purposes of clauses (a) and (b) in the preceding sentence, anticipation and reasonable belief may be determined by the Issuer and shall be conclusively evidenced by a board resolution to such effect adopted in good faith by the Board of Directors of the Company. In reaching their determination, the Board of Directors may, but need not, consult with the Rating Agencies. To the extent any such commitment or obligation results in the making of a Restricted Payment, such Restricted Payment shall be made under Section 4.6(a)(iii) or 4.6(b) and if not permitted by any of such provisions, such Restricted Payment shall be deemed permitted under Section 4.6(a)(iii) and shall be deducted for purposes of calculating the amount pursuant to Section 4.6(a)(iii) (which may not be less than zero).

(f) The Company shall notify the Trustee and the Holders that the two conditions set forth in clauses (i) and (ii) of Section 4.18(a) have been satisfied, *provided* that such notification shall not be a condition for the suspension of the Sections set forth in Section 4.18(a) to be effective. The Trustee shall not be obligated to notify Holders that the two conditions set forth in Section 4.18(a) have been satisfied.

4.19 **Financial Calculations for Limited Condition Acquisitions**

When calculating the availability under any basket or ratio under this Indenture (including those based upon Consolidated Total Assets, Fixed Charge Coverage Ratio, Consolidated Net Leverage Ratio and/or Consolidated Senior Secured Net Leverage Ratio), in each case, in connection with (x) any acquisition, disposition, merger, amalgamation, joint venture, investment, incurrence, or other similar transaction where there is a time difference between commitment and closing or incurrence (including in respect of Incurrence of Indebtedness, Restricted Payments and Permitted Investments) and (y) repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock with respect to which a notice of repayment (or similar notice), which may be conditional, has been delivered (each transaction referred to in clause (x) and (y), a "Tested Transaction"), the date of determination of such basket or ratio and of any Default or Event of Default shall, at the option of the Company or any of its Restricted Subsidiaries, any direct or indirect

parent of the Company, any successor entity or any of the foregoing or a third party (the "Testing Party"), be the date the definitive agreements for such Tested Transaction are entered into, the date of declaration of such Restricted Payment, the date a public announcement of such Tested Transaction is made or the date of any notice, which may be conditional, of such Tested Transaction is given to the holders of such Indebtedness, Disqualified Stock or preferred stock (any such date, the "Transaction Commitment Date") and such baskets (including any "grower" portions thereof) or ratios shall be calculated on a *pro forma* basis after giving effect to such Tested Transaction and the other transactions to be entered into in connection therewith (including any Restricted Payment, Permitted Investment, Asset Disposition, incurrence of Indebtedness and the use of proceeds thereof) as if they occurred at the beginning of the applicable reference period for purposes of determining the ability to consummate any such transaction (and not for purposes of any subsequent availability of any basket or ratio). For the avoidance of doubt, (x) if any of such baskets or ratios are exceeded as a result of fluctuations in such basket or ratio (including due to fluctuations in Consolidated Cash Flow, Indebtedness, Consolidated Total Assets, or Cash and Cash Equivalents of the Company or the target company) or the applicable exchange rate utilized in calculating compliance with any U.S. dollar-based provision of this Indenture subsequent to such date of determination and at or prior to the consummation of the relevant transaction, such baskets or ratios will not be deemed to have been exceeded as a result of such fluctuations solely for purposes of determining whether the transactions are permitted hereunder; (y) such baskets or ratios shall not be tested at the time of consummation of such transaction or related transactions (and for the avoidance of doubt, compliance with any requirement relating to the absence of a Default or Event of Default may be determined as of the Transaction Commitment Date and not as of any later date); (3) if financial statements for one or more subsequent fiscal quarters shall have become available, the Testing Party may elect, in its sole discretion, to re-determine all such baskets, ratios and financial metrics on the basis of such financial statements, in which case such date of redetermination shall thereafter be deemed to be the applicable Transaction Commitment Date for purposes of such baskets, ratios and financial metrics; and (4) consolidated interest expense for purposes of the Fixed Charge Coverage Ratio will be calculated using an assumed interest rate based on an indicative interest rate as reasonably determined by the Testing Party in good faith; *provided, further*, that if the Testing Party elects to have such determinations occur at the time of entry into such definitive agreement, any such transactions (including any Restricted Payment, Permitted Investment, Asset Disposition, repayment or redemption or incurrence of Indebtedness and the use of proceeds thereof or incurrence of a Lien) shall be deemed to have occurred on the date the definitive agreements are entered and outstanding thereafter for purposes of calculating any baskets or ratios under this Indenture after the date of such agreement and before the consummation of such transactions.

Notwithstanding anything in this Indenture to the contrary unless the Company elects otherwise, if, on any date, the Company or its Restricted Subsidiaries (A) incurs Indebtedness or any Lien, issues Disqualified Stock or preferred stock or undertakes any other transaction or series of transaction as permitted by a ratio-based or ratio-referent basket and (B) incurs Indebtedness or any Lien, issues Disqualified Stock or preferred stock or undertakes any other transaction or series of related transactions under a non-ratio-based or ratio-referent basket, then the applicable ratio will be calculated on such date with respect to any incurrence, issuance or transaction or series of related transactions under the applicable ratio-based or ratio-referent basket without giving effect to the incurrence, issuance or transaction or series of related transactions under such non-ratio-based or non-ratio-referent basket.

Notwithstanding anything to the contrary herein, so long as an action was taken (or not taken) in reliance upon a basket, ratio or financial metric that was calculated or determined in good faith by a responsible financial or accounting officer of a Testing Party based upon financial information available to such officer at such time and such action (or inaction) was permitted hereunder at the time of such calculation or determination, any subsequent restatement, modification or adjustments made to such financial information (including any restatement, modification or adjustment that would have caused such basket or ratio to be exceeded as a result of such action or inaction) shall not result in any Default or Event of Default.

To the extent the date of any delivery of any document required to be delivered pursuant to any provision of this Indenture falls on a day that is not a Business Day, the applicable date of delivery shall be deemed to be the next succeeding Business Day.

For purposes of determining the maturity date of any Indebtedness, customary bridge loans that are subject to customary conditions (including no payment or bankruptcy event of default) that would either automatically be extended as, converted into or required to be exchanged for permanent refinancing shall be deemed to have the maturity date as so extended, converted or exchanged.

5. SUCCESSORS

5.1 Merger, Consolidation or Sale of Assets

(a) *The Company and the Issuer*.

Neither the Company nor the Issuer shall, directly or indirectly (1) consolidate, amalgamate or merge with or into another Person (whether or not the Company or the Issuer is the surviving corporation) or (2) in the case of the Company, sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries, taken as a whole, in one or more related transactions, to another Person, unless:

(i) either: (a) the Company or the Issuer is the surviving corporation; or (b) the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Company or the Issuer, as the case may be) or to which such sale, assignment, transfer, lease, conveyance or other disposition has been made is an entity organized or existing under the laws of any member state of the European Union (as it is constituted on the Issue Date) or the United Kingdom, Switzerland, Norway, Canada, Australia, Japan, Bermuda, Panama, the Cayman Islands, any state of the United States or the District of Columbia;

(ii) the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Company or the Issuer, as the case may be) or the Person to which such sale, assignment, transfer, conveyance, lease or other disposition has been made assumes all the obligations of the Company or the Issuer, as the case may be, under the Notes or the Note Guarantee, as applicable, and this Indenture pursuant to a supplemental indenture in a form reasonably acceptable to the Trustee;

(iii) immediately after such transaction or transactions, no Default or Event of Default exists;

(iv) the Company or the Issuer, as the case may be, or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Company or the Issuer, as the case may be), or to which such sale, assignment, transfer, conveyance, lease or other disposition has been made, would, on the date of such transaction after giving *pro forma* effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter reference period, (A) be permitted to incur at least $1.00 of Ratio Debt or (B) (x) have a Fixed Charge Coverage Ratio not less than it was immediately prior to giving effect to such transaction or (y) have a Consolidated Net Leverage Ratio not greater than it was immediately prior to giving effect to such transaction; and

(v) the Company or the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, amalgamation, merger or disposition and such supplemental indenture (if any) comply with this covenant; *provided* that in giving an Opinion of Counsel, counsel may rely on an Officer's Certificate as to any matters of fact.

(b) *The Subsidiary Guarantors.*

A Guarantor (other than any Guarantor whose Note Guarantee is to be released in accordance with the terms of the Note Guarantee and Section 10.12 and

excluding the Company) may not sell or otherwise dispose of all or substantially all of its properties or assets to, or consolidate with, amalgamate or merge with or into (whether or not such Guarantor is the surviving Person), another Person, other than the Issuer, the Company or another Guarantor, unless:

(i) immediately after giving effect to that transaction, no Default or Event of Default exists; and

(ii) either:

(A) such Guarantor is the surviving entity;

(B) the Person acquiring the property in any such sale or other disposition or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Issuer, the Company or another Guarantor) unconditionally assumes, pursuant to a supplemental indenture substantially in the form specified in Schedule 5 hereto, all the obligations of such Guarantor under such Indenture and its Note Guarantee on the terms set forth therein; or

(C) the Net Proceeds of such sale or other disposition are applied in accordance with Section 4.7.

(c) Clauses (iii) and (iv) of Section 5.1(a) and clause (i) of Section 5.1(b) will not apply to any merger, consolidation or amalgamation of the Issuer, the Company or any Restricted Subsidiary with or into an Affiliate solely for the purpose of reincorporating the Issuer, the Company or such Restricted Subsidiary in another jurisdiction. Nothing in this Indenture will prevent and this covenant will not restrict (and will not apply to): (i) any Restricted Subsidiary that is not a Guarantor from consolidating with, merging, amalgamating or liquidating into or transferring all or substantially all of its properties and assets to the Issuer, a Guarantor or any other Restricted Subsidiary that is not a Guarantor; (ii) a Guarantor from merging, amalgamating or liquidating into or transferring all or part of its properties and assets to the Issuer or another Guarantor; (iii) a Guarantor transferring all or part of its properties and assets to a Restricted Subsidiary that is not a Guarantor in order to comply with any law, rule, regulation or order, recommendation or directions of, or agreement with, any regulatory authority having jurisdiction over the Company or any of its Restricted Subsidiaries; (iv) any consolidation, amalgamation or merger of the Issuer into any Guarantor; *provided* that, if the Issuer is not the surviving entity of such merger, amalgamation or consolidation, the relevant Guarantor will assume the obligations of the Issuer under the Notes and this Indenture and clauses (i) and (v) of Section 5.1(a) shall apply to such transaction; (v) the Issuer or any Guarantor changing the legal form of such entity or consolidating into or amalgamating or merging or combining with an Affiliate incorporated or

organized for the purpose of changing the legal domicile of such entity, reincorporating such entity in another jurisdiction, or changing the legal form of such entity; *provided, however*, that clauses (i), (iii) and (v) of Section 5.1(a) or clauses (ii)(A) and (ii)(B) of Section 5.1(b), as the case may be, shall apply to any such transaction; and (vi) the Issuer and any Guarantor changing its name.

5.2 **Successor Substituted**

Upon any consolidation, amalgamation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Issuer, the Company and its Restricted Subsidiaries, taken as a whole, in accordance with Section 5.1, any surviving entity formed by such consolidation or amalgamation or into which the Issuer, the Company or a Guarantor, as applicable, is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such transaction, the provisions of this Indenture referring to the "Company", the "Issuer" or the "Guarantor", as applicable, shall refer instead to the surviving entity and not to the Issuer, the Company or a Guarantor, as applicable), and may exercise every right and power of, the Issuer, the Company or a Guarantor, As applicable, under this Indenture with the same effect as if such surviving entity had been expressly named as the Issuer, the Company or a Guarantor, as applicable, herein; *provided, however*, that the predecessor Issuer, Company or relevant Guarantor, as applicable, shall not be released from its obligation to pay the principal of, premium, if any, or interest on the Notes in the case of a lease of all or substantially all of the Issuer's, the Company's or such Guarantor's, as applicable, properties or assets.

6. EVENTS OF DEFAULT AND REMEDIES

6.1 Events of Default

(a) Each of the following is an "**Event of Default**":

(i) default in the payment when due of interest or Additional Amounts, if any, with respect to the Notes, continued for 30 days;

(ii) default in the payment when due (at final maturity, upon redemption or otherwise) of the principal of, or premium, if any, on, the Notes;

(iii) failure by the Issuer or any Guarantor to comply with Article 5;

(iv) failure by the Issuer to comply with Section 4.9 for 30 days after written notice to the Issuer by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding;

(v) failure by the Issuer or relevant Guarantor for 60 days after written notice delivered to the Issuer by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding to comply with

any of the other agreements in this Indenture (other than a default in performance, or breach, of a covenant or agreement which is specifically dealt with in clause (i), (ii), (iii) or (iv) of this Section 6.1(a)); provided that in the case of a failure to comply with the provisions described under Section 4.17, such period of continuance of such default or breach shall be 90 days after written notice described in this clause (v) has been given;

(vi) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries (or the payment of which is Guaranteed by the Company or any of its Restricted Subsidiaries), whether such Indebtedness or Guarantee now exists, or is created, after the Issue Date, if that default:

(A) is caused by a failure to pay principal of such Indebtedness at final maturity thereof after giving effect to any applicable grace periods provided in such Indebtedness and such failure to make any payment has not been waived or the maturity of such Indebtedness has not been extended (a "**Payment Default**"); or

(B) results in the acceleration of such Indebtedness prior to its express maturity,

and, in each case, the principal amount of any such Indebtedness, is $50.0 million or more;

(vii) failure by the Issuer, the Company or any Significant Subsidiary or group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, to pay final and non-appealable judgments entered by a court or courts of competent jurisdiction aggregating in excess of $50.0 million (net of any amount with respect to which a reputable and solvent insurance company has acknowledged liability in writing), which judgments are not paid, discharged, stayed or fully bonded for a period of 60 days (or, if later, the date when payment is due pursuant to such judgment);

(viii) except as permitted by this Indenture (including with respect to any limitations), any Note Guarantee of a Significant Subsidiary 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 Guarantor that is a Significant Subsidiary or any Person acting on behalf of any such Guarantor that is a Significant Subsidiary, denies or disaffirms its obligations under its Note Guarantee;

(ix) the entry by a court of competent jurisdiction of (A) a decree or order for relief in respect of the Issuer, the Company, any Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary in an involuntary case or proceeding under any applicable Bankruptcy Law or (B) a decree or order adjudging the Issuer, the Company, any Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary bankrupt or insolvent or, other than on a solvent basis, seeking reorganization, arrangement, adjustment or composition of or in respect of the Issuer, the Company, any Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary under any applicable law, or other than on a solvent basis, appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Issuer, the Company, any Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary or of any substantial part of their respective properties or, other than on a solvent basis, ordering the winding up or liquidation of their affairs, in each case other than a decree, order or appointment entered with respect to any Restricted Subsidiary on a solvent basis, and any such decree, order or appointment pursuant to any Bankruptcy Law for relief shall continue to be in effect, or any such other decree, appointment or order shall be unstayed and in effect, for a period of 60 consecutive days; and

(x) (A) the Issuer, the Company, any Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary (x) commences a voluntary case or proceeding under any applicable Bankruptcy Law or any other case or proceeding to be adjudicated bankrupt or insolvent, or (y) consents to the filing of a petition, application, answer or consent seeking reorganization or relief under any applicable Bankruptcy Law or (z) with respect to any Significant Subsidiary organized under the laws of Switzerland such Significant Subsidiary is over-indebted within the meaning of Article 725 II of the Swiss code of obligations, (B) the Issuer, the Company, any Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary consents to the entry of a decree or order for relief in respect of the Issuer, the Company, such Significant Subsidiary or such group in an involuntary case or proceeding under any applicable Bankruptcy Law or to the commencement of any bankruptcy or insolvency case or proceeding against it or, (C) the Issuer, the Company, any Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary (x) consents to the appointment

of, or taking possession by, a custodian, receiver, liquidator, administrator, supervisor, assignee, trustee, sequestrator or similar official of the Issuer, the Company, such Significant Subsidiary or such group of any substantial part of their respective properties, or (y) makes an assignment for the benefit of creditors, except in each case for any consent or assignment made on a solvent basis.

(b) Notwithstanding Section 6.1(a), (i) if a Default occurs for a failure to deliver a report or a required certificate in connection with another default (an "**Initial Default**"), then at the time such Initial Default is cured such Default for a failure to deliver a report or required certificate in connection with the Initial Default will also be cured without any further action and (ii) any Default or Event of Default for the failure to comply with the time periods prescribed in Section 4.17 or otherwise to deliver any notice or certificate pursuant to any other provision of this Indenture shall be deemed to be cured upon the delivery of any such report, notice or certificate, even though such delivery is not within the prescribed period specified in this Indenture.

6.2 **Acceleration**

(a) In the case of an Event of Default arising under Section 6.1(a)(ix) or (x) with respect to the Issuer or the Company, all then outstanding Notes will become due and payable immediately without further action or notice. If an Event of Default (other than an Event of Default arising under Section 6.1(a)(ix) or (x)), occurs and is continuing, (i) the Trustee, by notice to the Issuer; or (ii) the Holders of at least 25% in aggregate principal amount of the outstanding Notes under this Indenture, by written notice to the Issuer and the Trustee, may, and the Trustee at the request of such Holders shall, declare the principal of, premium, if any, and accrued and unpaid interest on all the Notes under this Indenture to be due and payable. Upon such a declaration, such principal, premium and accrued and unpaid interest will be due and payable immediately. In the event an Event of Default arising under Section 6.1(a)(vi) has occurred and is continuing, such Event of Default and all consequences thereof will be annulled, waived and rescinded, automatically and without any action by the Trustee or the holders of the Notes, if prior to 30 days after such Event of Default arose, (x) the Indebtedness or guarantee that is the basis for such Event of Default has been discharged, (y) the requisite amount of holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default or (z) the default that is the basis for such Event of Default has otherwise been cured.

(b) If a Default or Event of Default of which notice has been provided to the Trustee in accordance with this Indenture has occurred and is continuing, the Trustee shall transmit to each Holder or the Depositary a notice of the Default or Event of Default, within 10 Business Days after notice has been provided to the

Trustee in accordance with this Indenture of such Default or Event of Default, specifying such event, notice or other action, its status and what action the Company is taking or proposes to take with respect thereto. Except in the case of a Default or an Event of Default in payment of principal of, premium, if any, on the Notes or interest, if any, or Additional Amounts, if any, on any Note, the Trustee may withhold the notice to the Holders if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders. The Trustee shall not be deemed to have knowledge of a Default unless a Responsible Officer has actual knowledge of such Default or written notice of such Default or Event of Default has been received by the Responsible Officers of the Trustee at its Corporate Trust Office, which notice references this Indenture or the Notes.

(c) The Holders of a majority in principal amount of the outstanding Notes under this Indenture by written notice to the Trustee may, on behalf of all Holders, waive all past or existing Defaults or Events of Default (except with respect to non-payment of principal, premium, interest or Additional Amounts, if any, which may only be waived with the consent of Holders of not less than 90% of the aggregate principal amount of the outstanding Notes) and rescind any such acceleration with respect to such Notes and its consequences if rescission would not conflict with any judgment or decree of a court of competent jurisdiction. Upon any waiver of a Default or Event of Default with respect to the Notes, such Default or Event of Default shall cease to exist with respect to the Notes, and any Event of Default with respect to the Notes arising therefrom shall be deemed to have been cured for every purpose of this Indenture.

6.3 **Other Remedies**

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

All rights of action and claims under this Indenture or the Notes 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 in respect of which such judgment has been recovered.

6.4 **Waiver of Past Defaults**

The Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may, on behalf of the Holders of all the Notes, waive any existing Default or Event of Default hereunder and its consequences, except a continuing Default or Event of Default:

(a) in respect of the payment of the principal of (or premium, if any), Additional Amounts, if any or interest on any Note held by a non-consenting Holder (it being understood that any such payment may only be waived with the consent of Holders of at least 90% of the aggregate principal amount of the then-outstanding Notes); or

(b) in respect of a covenant or provision hereof which under Article 9 cannot be modified or amended without the consent of the Holders of at least 90% of the aggregate principal amount of the then outstanding Notes.

6.5 **Control by Majority**

The Holders of a majority in aggregate principal amount of the then outstanding Notes may direct, in writing, the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee under this Indenture; *provided* that:

(a) the Trustee may refuse to follow any direction that conflicts with law or this Indenture or the Notes or that the Trustee determines in good faith may be unduly prejudicial to the rights of Holders not joining in the giving of such direction;

(b) the Trustee may refuse to follow any direction that the Trustee determines is unduly prejudicial to the rights of other Holders or would involve the Trustee in personal liability; and

(c) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction.

Prior to taking any such action hereunder, the Trustee shall be entitled to indemnification by such Holders satisfactory to it against all fees, losses liabilities and expenses (including attorney's fees and expenses) caused by or that might be caused by taking or not taking such action.

6.6 **Limitation on Suits**

Except (subject to Article 9) to enforce the right to receive payment of principal, premium, if any, or interest or Additional Amounts when due, no Holder may pursue any remedy with respect to this Indenture or the Notes unless:

(a) the Holder has previously given the Trustee notice of a continuing Event of Default;

(b) the Holders of at least 25% in aggregate principal amount of the then outstanding Notes shall have made a request to the Trustee to pursue the remedy;

(c) such Holder or Holders have offered the Trustee security and/or indemnity satisfactory to the Trustee against any loss, liability or expense;

(d) the Trustee has not complied with the request within 60 days after the receipt of the request and the offer of security and/or indemnity; and

(e) Holders of a majority in aggregate principal amount of the then outstanding Notes have not given the Trustee a direction that is inconsistent with the request within such 60-day period.

A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder. In any event, the Trustee shall have no obligation to ascertain whether the Holders' actions are unduly prejudicial to other Holders.

6.7 **Right of Holders to Receive Payment**

Notwithstanding any other provision of this Indenture, the right of any Holder to bring suit for the enforcement of any payment of principal of, or premium, if any, Additional Amounts, if any, and interest on, the Notes held by such Holder, on or after the respective due dates expressed in the Notes shall not be impaired or affected without the consent of such Holder other than as provided in Section 9.2.

6.8 **Collection Suit by Trustee**

The Issuer covenants that if default is made in the payment of:

(a) 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

(b) the principal of (or premium, if any, on) any Note at the Maturity thereof,

the Issuer shall, 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), Additional Amounts, if any and interest, plus 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 installments of interest and Additional Amounts (without regard to any applicable grace periods), in each case at the rate specified in the Notes, and, in addition thereto, such further amount as shall be sufficient to cover the amounts provided for in Section 7.6 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.

(c) If the Issuer 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 Issuer 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 Issuer or any other obligor upon the Notes, wherever situated.

6.9 **Trustee May File Proofs of Claim**

The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the properly incurred compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.6) and the Holders allowed in any judicial proceedings relative to the Issuer or any Guarantor, their creditors or their property and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders at their direction in any election of a trustee in bankruptcy or other Person performing similar functions, and any custodian in any such judicial proceeding is hereby authorized by each Holder to make 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 it for the properly incurred compensation, expenses, disbursements and advances of the Trustee, its agents and their counsel, and any other amounts due the Trustee and the Agents under Section 7.6.

Nothing herein contained shall be deemed to empower the Trustee to authorize or consent to, or accept or adopt on behalf of any Holder, any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

6.10 **Priority of Payment**

(a) If the Trustee collects any money pursuant to this Article 6, it shall pay out the money in the following order of priority:

(i) first, in payment of any fees, costs, indemnities, charges, disbursements, liabilities and expenses and all other amounts payable to the Trustee and any of the Agents pursuant to this Indenture;

(ii) second, in payment to the Holders of the Notes of an amount equal to all amounts (including principal) then due and payable to such Holders under this Indenture; and in case such money shall be insufficient to pay in full

the whole amount so due and unpaid upon the Notes, then to the payment of such principal and premium, if any, and interest, without preference or priority of principal and premium, if any, over interest, or of interest over principal and premium, if any, or of any installment of interest over any other installment of interest ratably to the aggregate of such principal and premium, if any, and interest; and

(iii) third, the balance, if any, to the Issuer or as otherwise directed by a court of competent jurisdiction.

(b) The Issuer shall provide the Trustee with any requested additional information in its possession necessary for the Trustee to make the payments mentioned in Section 6.10(a).

(c) The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 6.10.

6.11 **Undertaking for Costs**

A court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in the suit of an undertaking to pay the costs of such suit, and such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by Holders of more than 10% in aggregate principal amount of the outstanding Notes or to any suit by any Holder pursuant to Section 6.7.

6.12 **Restoration of Rights and Remedies**

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

6.13 **Rights and Remedies Cumulative**

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.7, 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 of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

6.14 **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 6 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.

6.15 **Record Date**

The Issuer may set a record date for purposes of determining the identity of Holders entitled to vote or to consent to any action by vote or consent authorized or permitted by Sections 6.4 and 6.5. Unless this Indenture provides otherwise, such record date shall be the later of the date specified by the Issuer and 30 days prior to the first solicitation of such consent.

6.16 **Waiver of Stay or Extension Laws**

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

7. **TRUSTEE**

7.1 **Duties of Trustee**

(a) If an Event of Default of which notice has been provided to the Trustee in accordance with this Indenture has occurred and is continuing, the Trustee shall exercise such rights and powers vested in it by this Indenture and be required, in the exercise of its power, to use the degree of care and skill of a prudent person in the conduct of his or her own affairs.

(b) Except during the continuance of an Event of Default of which a Responsible Officer of the Trustee has actual knowledge:

(i) the Trustee undertakes to perform such duties and only such duties as 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

(ii) in the absence of gross negligence, wilful misconduct or fraud 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. In the case of any such certificates or opinions which by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall examine same to determine whether they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee shall not be relieved from liability for its own grossly negligent action, its own grossly negligent failure to act or its own fraud or willful misconduct, except that:

(i) this Section 7.1(c) does not limit the effect of Section 7.1(b);

(ii) 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 grossly negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.2 or 6.5.

(d) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuer or the Guarantors. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur 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 to believe that repayment of such funds or adequate indemnity or security against such risk or liability is not reasonably assured to it.

(f) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to this Section 7.1.

(g) The Trustee shall not be deemed to have notice or any knowledge of any matter (including without limitation Defaults or Events of Default) unless written notice or information thereof is received by the Trustee in accordance with this

Indenture and such notice clearly references the Notes, the Issuer or this Indenture.

7.2 **Certain Rights of Trustee**

(a) Subject to Section 7.1:

(i) the Trustee may 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 or document believed by it to be genuine and to have been signed or presented by the proper person;

(ii) before the Trustee acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel, which shall conform to Section 11.5, and the Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such certificate or opinion;

(iii) the Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any attorney or agent appointed with due care by it hereunder;

(iv) the Trustee shall be under no obligation to exercise any of its rights or powers vested in it by this Indenture at the request of any Holder, unless such Holder shall have offered to the Trustee (and if requested, provided) indemnity and/or security satisfactory to it against any loss, liability or expense;

(v) 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 its rights or powers, *provided* that the Trustee's conduct does not constitute gross negligence, fraud or wilful misconduct;

(vi) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer personally or by agent or attorney and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation;

(vii) the Trustee, the Agents and the Authenticating Agent shall not under any circumstances be liable for any consequential, special, indirect or

speculative loss or damage (being loss of business, goodwill, opportunity or profit of any kind) that arises out of or in connection with this Indenture, even if advised of it in advance and even if foreseeable;

(viii) The Trustee shall not have any obligation or duty to monitor, determine or inquire as to compliance, and shall not be responsible or liable for compliance, with restrictions on transfer, exchange, redemption, purchase or repurchase, as applicable, of minimum denominations imposed under this Indenture or under applicable law or regulation with respect of any transfer, exchange, redemption, purchase or repurchase, as applicable, of interest in any Note;

(ix) The Trustee is not required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Indenture;

(x) In the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of Holders, each representing less than a majority in aggregate principal amount of the Notes then outstanding, pursuant to the provisions of this Indenture, the Trustee, in its sole discretion, may determine what action, if any, will be taken and shall not incur any liability for its failure to act until such inconsistency or conflict is resolved;

(xi) The permissive rights of the Trustee to take or refrain from taking any action enumerated in this Indenture will not be construed as an obligation or duty to do so;

(xii) The Trustee shall have no duty to inquire as to the performance of the covenants of the Company and/or its Restricted Subsidiaries. In addition, the Trustee shall not be deemed to have knowledge of any Default or Event of Default except:

(A) any Event of Default occurring pursuant to clause (i) or (ii) of Section 6.1 (provided it is acting as Paying Agent); and

(B) any Default or Event of Default of which a Responsible Officer of the Trustee shall have received written notification;

(xiii) The Trustee will not be liable to any person if prevented or delayed in performing any of its obligations or discretionary functions under this Indenture by reason of any present or future law applicable to it, by any governmental or regulatory authority or by any circumstances beyond its control;

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

(xv) No provision of this Indenture shall require the Trustee to do anything which, in its opinion, may be illegal or contrary to applicable law or regulation;

(xvi) The Trustee may refrain from taking any action in any jurisdiction if the taking of such action in that jurisdiction would, in its opinion, based upon legal advice in the relevant jurisdiction, be contrary to any law, directive or regulation of any agency of that jurisdiction or, to the extent applicable, the State of New York, and may without liability do anything which is, in its reasonable opinion, necessary to comply with any such law, directive or regulation; and

(xvii) The Trustee may retain professional advisors to assist it in performing its duties under this Indenture. The Trustee may consult with such professional advisors or with counsel, and the advice or opinion of such professional advisors or counsel with respect to legal or other matters relating to this Indenture and the Notes shall be full and complete authorization and protection from liability in respect of any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(xviii) The Trustee shall not be deemed to have notice of any Default or Event of Default (other than a Default under Section 6.01(a)(i) and (ii)) unless a written notice of any event which is in fact such a default is received by a Responsible Officer of the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(b) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer will be sufficient if signed by an Officer of the Issuer.

7.3 **Individual Rights of Trustee**

The Trustee, any Paying Agent, the Registrar or any other agent of the Issuer or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes, may make loans to, accept deposits from, and perform services for the Issuer or any of its Affiliates and may otherwise deal with the Issuer with the same rights it would have if it were not Trustee, Paying Agent, Registrar or such other agent.

The Trustee will be permitted to engage in other transactions; *however*, if it acquires any conflicting interest it must eliminate such conflict within 90 days or resign as Trustee.

7.4 **Trustee's Disclaimer**

The Trustee will not be responsible for and makes no representation as to the validity or adequacy of this Indenture, the Notes and the Guarantees and it shall not be accountable for the Issuer's use of the proceeds from the Notes or any money paid to the Issuer or upon the Issuer's direction under any provision of this Indenture, it will not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it will 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 delivered on the Issue Date).

7.5 **Notice of Listing/Delisting**

The Issuer shall promptly notify the Trustee whenever the Notes become listed on any securities exchange and of any delisting thereof.

7.6 **Compensation and Indemnity**

(a) The Issuer shall pay to the Trustee from time to time such compensation as shall be agreed in writing for its services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee upon request for all reasonable out–of–pocket expenses incurred or made by it, including costs of collection, in addition to the compensation for its services. Such expenses shall include the compensation and reasonable out–of–pocket expenses of the Trustee's agents and counsel. In each case, any reimbursement by the Issuer shall exclude any amount in respect of value added tax (or other similar Tax) which is recoverable by the incurring party by way of credit or refund.

(b) The Issuer, failing which the Guarantors, jointly and severally, shall indemnify the Trustee, its officers, directors, employees and agents to the fullest extent permitted by applicable law for any and all claims, liabilities and expenses incurred without gross negligence, fraud or willful misconduct on its part, arising out of or in connection with its duties hereunder (including the costs and expenses of defending itself against any claim, whether asserted by the Issuer, the Guarantors, any Holder or any other Person). The Trustee or any such other indemnified party shall notify the Issuer promptly of any claim for which it or any other such indemnified party may seek indemnity. Failure by the Trustee or such other indemnified party to so notify the Issuer shall not relieve the Issuer of its obligations hereunder. The Issuer shall defend the claim and the Trustee or such other indemnified party shall cooperate in such defense. The Trustee or such other indemnified party may have separate counsel and the Issuer shall pay

the reasonable fees and expenses of such counsel if the Issuer shall not have employed counsel satisfactory to the Trustee or such other indemnified party (in the Trustee's or such other indemnified party's good faith determination) or if the Issuer agrees to pay the cost of such separate counsel or if the Trustee or such other indemnified party shall have been advised by counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the Issuer. The Issuer shall not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee: (i) through the Trustee's own gross negligence, fraud or willful misconduct as determined in a final non-appealable judgment by a court of competent jurisdiction; or (ii) to the extent such loss, liability or expense relates to Taxes on income, profits or gains of the Trustee.

(c) To secure the Issuer's and the Guarantors' payment obligations in this Section 7.6, the Trustee shall have a lien prior to the Notes on all money or property held or collected by the Trustee, in its capacity as Trustee, except money or property held in trust to pay principal of, premium, if any, and interest on particular Notes.

(d) When the Trustee incurs expenses after the occurrence of a Default specified in Section 6.1(a)(ix) or 6.1(a)(x) with respect to the Issuer, any Guarantor, or any Restricted Subsidiary, the expenses are intended to constitute expenses of administration under Bankruptcy Law.

(e) In the event of the occurrence of an Event of Default, where the Trustee reasonably considers it necessary or is being requested by the Issuer to undertake duties which the Trustee and Issuer reasonably believe to be of an exceptional nature or otherwise outside the scope of the normal duties of the Trustee, the Issuer shall pay to the Trustee such additional remuneration for such duties as may be agreed between them.

(f) The Issuer and Guarantors expressly acknowledge and agree that the Issuer's and the Guarantors' obligations under this Section 7.6 and any claim arising hereunder shall survive the resignation or removal of any Trustee, the satisfaction and discharge of the Issuer's obligations pursuant to Article 8 and any rejection or termination under any Bankruptcy Law, and the termination of this Indenture.

7.7 **Replacement of Trustee**

(a) A resignation or removal of the Trustee by the Issuer or otherwise and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.7.

(b) The Trustee may resign with 30 days' prior notice by so notifying the Issuer in writing. The Holders of a majority in aggregate principal amount of the

outstanding Notes or the Issuer with 30 days' prior notice may remove the Trustee by so notifying the Trustee and, if applicable, the Issuer in writing. The Issuer shall remove the Trustee if:

(i) the Trustee fails to comply with Section 7.9;

(ii) the Trustee is adjudged bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(iii) a receiver or other public officer takes charge of the Trustee or its property; or

(iv) the Trustee otherwise becomes incapable of acting.

(c) If the Trustee resigns or is removed, or if a vacancy exists in the office of the Trustee for any reason, the Issuer shall promptly appoint a successor Trustee; *provided, however*, in the case of the bankruptcy of the Issuer, the resigning Trustee shall have the right to appoint a successor Trustee within 10 Business Days after giving its notice of resignation if a successor Trustee has not already been appointed and has accepted such appointment. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer. If the successor Trustee does not deliver its written acceptance required by Section 7.7(d) within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Issuer or the Holders of a majority in aggregate principal amount of the outstanding Notes may, at the expense of the Issuer, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(d) A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. 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 transmit 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.

(e) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Issuer or the Holders of at least 25% in aggregate principal amount of the outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee at the expense of the Issuer.

(f) If the Trustee fails to comply with Section 7.9, any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(g) Notwithstanding the replacement of the Trustee pursuant to this Section 7.7, the Issuer's and the Guarantors' obligations under Section 7.6 shall continue for the benefit of the retiring Trustee.

7.8 **Successor Trustee by Merger**

Any corporation or company into which the Trustee may be merged, amalgamated or converted or with which it may be consolidated, or any corporation or company resulting from any merger, amalgamation, conversion or consolidation to which the Trustee shall be a party, or any company or corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder; *provided* such company or corporation shall be otherwise qualified and eligible under this Article 7, without the execution or filing of any document or any further act on the part of any of the parties hereto. The successor Trustee, however, shall promptly notify the Issuer and the Holder of its successor to the Office of the Trustee. In case any Notes shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, amalgamation, 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. 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. In all such cases such certificates shall have the full force and effect which this Indenture provides for the certificate of authentication of the Trustee shall have; *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, amalgamation, conversion or consolidation.

7.9 **Eligibility**

There will at all times be a Trustee hereunder that is an entity established or registered under the laws of England and Wales, or the United States of America or any state thereof, or a European Union Member State or a political subdivision thereof that is authorized under such laws to exercise corporate trustee power and that is generally recognized as a corporation that customarily performs such corporate trustee roles and provides such corporate trustee services in transactions similar in nature to the offering of the Original Notes as described in the Offering Memorandum. No obligor under the Notes or Person directly controlling, controlled by, or under common control with such obligor shall serve as Trustee.

7.10 **Appointment of Co–Trustee**

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture, and in particular in case of the enforcement thereof on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted or take any action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an individual or institution as a separate or co–trustee. The following provisions of this Section 7.10 are adopted to these ends.

(b) In the event that the Trustee appoints an individual or institution as a separate or co–trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co–trustee but only to the extent necessary to enable such separate or co–trustee to exercise such powers, rights and remedies, and only to the extent that the Trustee by the laws of any jurisdiction is incapable of exercising such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co–trustee shall run to and be enforceable by either of them.

(c) Should any instrument in writing from the Issuer be required by the separate or co–trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer; *provided*, *however*, that if an Event of Default shall have occurred and be continuing, if the Issuer does not execute any such instrument within 15 days after request therefor, the Trustee shall be empowered as an attorney–in–fact for the Issuer to execute any such instrument in the Issuer's name and stead. In case any separate or co–trustee or a successor to either shall die, become incapable or acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate or co–trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate or co–trustee.

(d) Each separate trustee and co–trustee shall, to the extent permitted by law, be appointed and act subject to the following provisions and conditions:

(i) all rights and powers, conferred or imposed upon the Trustee shall be conferred or imposed upon and may be exercised or performed by such separate trustee or co–trustee; and

(ii) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder.

(e) Any notice, request or other writing given to the Trustee shall be deemed to have been given to each of the then separate trustees and co–trustees, as effectively as if given to each of them. Every instrument appointing any separate trustee or co–trustee shall refer to this Indenture and the conditions of this Article 7.

(f) Any separate trustee or co–trustee may at any time appoint the Trustee as its agent or attorney–in–fact with full power and authority, to the extent not prohibited by law, to do any lawful act under or in respect of this Indenture on its behalf and in its name. If any separate trustee or co–trustee shall become incapable of acting, resign or be removed, all of its estates, properties, rights, remedies and trusts shall vest in and be exercised by the Trustee, to the extent permitted by law, without the appointment of a new or successor Trustee.

7.11 Rights of Other Agents

The rights, privileges, protections, immunities and benefits given to the Trustee in this Article 7, including its right to be indemnified and/or secured satisfactory to it, are extended to, and shall be enforceable by, the Paying Agent, the Transfer Agent, the Authenticating Agent and the Registrar as if such Person were named as the Trustee herein.

7.12 Preferential Collection of Claims Against Issuer

If the Trustee becomes a creditor of the Issuer or any Guarantor, the right of the Trustee to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise, will be limited.

8. DEFEASANCE, SATISFACTION AND DISCHARGE

8.1 Issuer's Option to Effect Legal Defeasance or Covenant Defeasance

The Issuer may, at its option, at any time, elect to have either Section 8.2 or Section 8.3 be applied to all outstanding Notes upon compliance with the conditions set forth in this Article 8.

8.2 **Legal Defeasance and Discharge**

Upon the Issuer's exercise under Section 8.1 of the option applicable under this Section 8.2, the Issuer and each of the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.4, be deemed to have been discharged from their obligations with respect to all outstanding Notes (including the Note Guarantees) on the date the conditions set forth in Section 8.4 are satisfied ("**Legal Defeasance**"). For this purpose, Legal Defeasance means that the Issuer and the Guarantors will be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes (including the Note Guarantees), which will thereafter be deemed to be "outstanding" only for the purposes of Section 8.8 and the other Sections of this Indenture referred to in clauses (a) and (b) of this Section 8.2, and to have satisfied all their other obligations under such Notes, the Note Guarantees and this Indenture (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments provided to it by the Issuer acknowledging the same), except for the following provisions which will survive until otherwise terminated or discharged hereunder:

(a) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, or interest (including Additional Amounts) or premium, if any, on, such Notes when such payments are due from the trust referred to in Section 8.4;

(b) the Issuer's obligations with respect to the Notes under Sections 2.3, 2.4, 2.6 and 2.7;

(c) the rights, powers, trusts, duties and immunities of the Trustee, and the Issuer's and the Guarantors' obligations in connection therewith; and

(d) this Article 8.

8.3 **Covenant Defeasance**

Upon the Issuer's exercise under Section 8.1 of the option applicable to this Section 8.3, the Issuer and the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.4, be released from each of their obligations under any covenant contained in Sections 4.4 through 4.9, Sections 4.11 through 4.15, Sections 4.17 through 4.19 and Section 5.1 (other than with respect to clauses (i) and (ii) of Section 5.1(a) ("**Covenant Defeasance**"), and the Notes will 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 will continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes will not be deemed outstanding for accounting purposes to the extent permitted by IFRS). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes and Note Guarantees, the Issuer and the Guarantors may omit to comply with and will 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 will not constitute a Default or an Event of Default under Section 6.1, but, except as specified in this Section 8.3, the remainder of this Indenture and such Notes and Note Guarantees will be unaffected thereby. In addition, upon the Issuer's exercise of this Section 8.3, subject to the satisfaction of the conditions set forth in Section 8.4, Sections 6.1(a)(iii) in relation to Section 5.1(a)(iv) only, Section 6.1(a)(iv), Section 6.1(a)(v), Section 6.1(a)(vi), Section 6.1(a)(vii), Section 6.1(a)(viii), Section 6.1(a)(ix) (with respect only to Significant Subsidiaries) and Section 6.1(a)(x) (with respect only to Significant Subsidiaries) will not constitute Events of Default.

8.4 **Conditions to Defeasance**

In order to exercise either Legal Defeasance or Covenant Defeasance under Sections 8.1, 8.2 and 8.3:

(a) the Issuer must irrevocably deposit with the Trustee (or such other entity designated or appointed as agent by the Trustee for this purpose), for the benefit of the Holders, cash in U.S. dollars, non–callable U.S. Government Obligations or a combination thereof (or in the case of Additional Notes not denominated in U.S. dollars, cash in the currency in which such Additional Notes are denominated, non-callable government obligations of such currency or a combination thereof), in amounts as will be sufficient to pay the principal of, or interest (including Additional Amounts) and premium, 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 Issuer 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 Legal Defeasance, the Issuer must deliver to the Trustee an opinion of United States counsel reasonably acceptable to the Trustee confirming that (a) the Issuer has received from, or there has been published by, the U.S. Internal Revenue Service a ruling or (b) since the Issue Date, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such opinion of counsel will confirm that, the beneficial owners of the outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of Covenant Defeasance, the Issuer must deliver to the Trustee an opinion of United States counsel reasonably acceptable to the Trustee

confirming that the beneficial owners of the outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(e) the Issuer must deliver to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuer with the intent of preferring the Holders over the other creditors of the Issuer with the intent of defeating, hindering, delaying or defrauding any creditors of the Issuer or others; and

(f) the Issuer must deliver to the Trustee an Officer's Certificate and an Opinion of Counsel, subject to customary assumptions and qualifications, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

8.5 **Satisfaction and Discharge of Indenture**

(a) This Indenture and rights of the Trustee and the Holders shall be discharged and shall cease to be of further effect (except as otherwise provided in Section 8.6) as to all outstanding Notes when:

(i) either:

(A) all the Notes previously authenticated and delivered (other than certain lost, stolen or destroyed Notes, and certain Notes for which provision for payment was previously made and thereafter the funds have been released to the Issuer) have been delivered to the Paying Agent for cancellation; or

(B) all Notes not previously delivered to the Paying Agent for cancellation (i) have become due and payable, (ii) will become due and payable at their Stated Maturity within one year or (iii) are to be called for redemption within one year under arrangements reasonably satisfactory to the Trustee for the giving of notice of redemption by the Paying Agent in the name, and at the expense, of the Issuer;

(ii) the Issuer has deposited or caused to be deposited with the Trustee (or another entity designated or appointed (as agent) by the Trustee for this purpose), with respect to the Notes, money in U.S. dollars or U.S.

Government Obligations, or a combination thereof (or in the case of Additional Notes not denominated in U.S. dollars, cash in the currency in which such Additional Notes are denominated, non-callable government obligations of such currency or a combination thereof) in an amount sufficient to pay and discharge the entire Indebtedness on the Notes not previously delivered to the Paying Agent for cancellation, for principal, premium, if any, and interest to the date of deposit (in the case of Notes that have become due and payable), or to the Stated Maturity or redemption date, as the case may be, *provided* that upon any redemption that requires the payment of the Applicable Premium, the amount deposited shall be sufficient for purposes of this Indenture to the extent that an amount deposited with the Trustee equal to the Applicable Premium calculated as of the date of the notice of redemption, with any deficit only required to be deposited with the Trustee on or prior to the date of redemption, and any deficit shall be set forth in an Officer's Certificate delivered to the Trustee simultaneously with the deposit of such deficit that confirms that such deficit shall be applied toward such redemption;

(iii) the Issuer has paid or caused to be paid all other sums payable under this Indenture;

(iv) the Issuer has delivered irrevocable instructions to the Trustee 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

(v) the Issuer has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel (*provided* that such counsel may not be an employee of the Company or any of its Subsidiaries) each to the effect that all conditions precedent to satisfaction and discharge have been satisfied; provided that any such counsel may rely on any Officer's Certificate as to matters of fact (including as to compliance with clauses (i), (ii), and (iii) of this Section 8.5(a)).

(b) If requested in writing by the Issuer to the Trustee and Paying Agent (which request may be included in the applicable notice of redemption or pursuant to the Officer's Certificate delivered pursuant to 8.5(a)(v), the Trustee shall distribute any amounts deposited to the Holders prior to Stated Maturity or the redemption date, as the case may be. For the avoidance of doubt, the distribution and payment to Holders prior to the maturity or redemption date as set forth above shall not include any negative interest, present value adjustment, break cost or any additional premium on such amounts. To the extent the Notes are represented by Global Notes deposited with a depositary for a clearing system, any payment to the beneficial holders holding interests as a participant of such

clearing system shall be subject to the then Applicable Procedures of the clearing system.

8.6 **Survival of Certain Obligations**

Notwithstanding Sections 8.1 through 8.5, any obligations of the Issuer and the Guarantors in Sections 2.3, 2.4, 2.6, 2.7, 7.6 and 7.7 shall survive until the Notes have been paid in full. Thereafter, only the obligations of the Issuer and the Guarantors in Section 7.6 shall survive. Nothing contained in this Article 8 shall abrogate any of the obligations or duties of the Trustee under this Indenture.

8.7 **Acknowledgment of Discharge by Trustee**

Subject to Section 8.9, after the conditions of Section 8.2 or 8.5 have been satisfied, the Trustee upon written request shall acknowledge in writing the discharge of all of the Issuer's obligations under this Indenture except for those surviving obligations specified in this Article 8.

8.8 **Application of Trust Money**

Subject to Section 8.9, the Trustee (or such other entity designated or appointed as agent by the Trustee in accordance with this Article 8) shall hold in trust cash in U.S. dollars or U.S. Government Obligations deposited with it pursuant to this Article 8. It shall apply the deposited cash or U.S. Government Obligations through a Paying Agent and in accordance with this Indenture to the payment of principal of, premium, if any, interest, and Additional Amounts, if any, on the Notes; but such money need not be segregated from other funds except to the extent required by law. Prior to the maturity of the Notes, the Trustee may, upon receipt of an Issuer Order, invest such cash in U.S. Government Obligations.

8.9 **Repayment to Issuer**

Subject to Sections 7.6 and 8.1 through 8.5, the Trustee and the Paying Agent shall promptly pay to the Issuer upon request set forth in an Issuer Order any excess money held by them at any time and thereupon shall be relieved from all liability with respect to such money. Subject to any applicable escheat or abandoned property law, the Trustee and any Paying Agent shall pay to the Issuer upon written request any money held by them for the payment of principal, premium, if any, interest or Additional Amounts, if any, that remains unclaimed for two years.

8.10 **Indemnity for Government Securities**

The Issuer shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against deposited U.S. Government Obligations or the principal, premium, if any, interest, if any, and Additional Amounts, if any, received on such U.S. Government Obligations.

8.11 **Reinstatement**

If the Trustee or a Paying Agent is unable to apply cash in U.S. dollars or U.S. Government Obligations in accordance with this Article 8 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuer and the Guarantors' obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to this Article 8 until such time as the Trustee or any such Paying Agent is permitted to apply all such cash or U.S. Government Obligations in accordance with this Article 8; *provided, however*, that, if the Issuer has made any payment of principal of, premium, if any, interest, if any, and Additional Amounts, if any, on any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the cash in U.S. dollars or U.S. Government Obligations held by the Trustee or any such Paying Agent.

9. AMENDMENT, SUPPLEMENT AND WAIVER

9.1 Without Consent of Holders

Notwithstanding Section 9.2, without the consent of any Holder, the Issuer, the Guarantors and the Trustee, subject to Section 9.7, may amend or supplement this Indenture, the Notes and the Note Guarantees:

(a) to cure any ambiguity, defect or inconsistency;

(b) to provide for uncertificated Notes in addition to or in place of certificated Notes, *provided* that such uncertificated notes are issued in registered form under Section 163(f)(5) of the Code;

(c) to provide for the assumption of the Issuer's or a Guarantor's obligations to the Holders of Notes and Note Guarantees in the case of a transaction subject to Article 5;

(d) 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;

(e) to conform the text of this Indenture, the Notes or the Note Guarantees to any provision of the "*Description of the Notes*" section of the Offering Memorandum, to the extent that such provision in that "*Description of the Notes*" was intended to be a verbatim recitation of a provision of this Indenture, the Notes or the Note Guarantees;

(f) to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture as of the Issue Date;

(g) to: (x) allow any Guarantor to Guarantee the Notes or to evidence the release of Note Guarantees pursuant to the terms of this Indenture or (y) add additional co-issuers of the Notes;

(h) to the extent necessary to provide for the granting of a security interest for the benefit of any Person; *provided* that the granting of such security interest is not prohibited under this Indenture;

(i) to evidence and provide for the acceptance and appointment of a successor Trustee under this Indenture; or

(j) to make any amendment to the provisions of this Indenture relating to the transfer and legending of the Notes as permitted by this Indenture, including, without limitation, to facilitate the issuance and administration of the Notes; provided, however, that such amendment does not materially and adversely affect the rights of holders to transfer the Notes;

9.2 **With Consent of Holders**

(a) Except as provided in Section 9.1 and in this Section 9.2, this Indenture, the Notes or the Note Guarantees may be amended, supplemented or otherwise modified with the consent of the Issuer and the Holders of 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 any existing Default or Event of Default or compliance with any provision of this Indenture, the Notes or the Note Guarantees 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); *provided* that, if any amendment, waiver or other modification will only amend, waive or modify one series of the Notes, only the consent of a majority in aggregate principal amount of the then outstanding Notes of such series shall be required.

(b) Unless consented to by the Holders of at least 90% of the aggregate principal amount of then outstanding Notes, or if any amendment, waiver or other modification will only amend, waive or modify one series of the Notes, without the consent of holders of at least 90% of the aggregate principal amount of the then outstanding Notes of such series (including, in each case, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), without the consent of the Issuer and each Holder affected, an amendment, supplement or waiver may not (with respect to any Notes, or if applicable, such series of Notes, held by a non–consenting Holder):

(i) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(ii) reduce the principal of or change the fixed maturity of any Note or alter the provisions with respect to the redemption or repurchase of the Notes (other than (x) any change to the notice periods with respect to such redemptions and (y) provisions relating to Section 4.7 or 4.9);

(iii) reduce the rate of or change the time for payment of interest, including default interest, on any Note;

(iv) waive a Default or Event of Default in the payment of principal of, or interest, Additional Amounts or premium, if any, on, the Notes (except a rescission of acceleration of the Notes by the Holders of a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);

(v) make any Note payable in money other than that stated in the Notes;

(vi) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of holders of Notes to receive payments of principal of, or interest, Additional Amounts or premium, if any, on, the Notes (other than as permitted in clause (vii) below);

(vii) waive a redemption or repurchase payment with respect to any Note (other than a payment required by Section 4.7 or 4.9);

(viii) modify or release any of the Note Guarantees in any material manner adverse to the Holders, other than in accordance with the terms of this Indenture;

(ix) impair the right of any Holder to institute suit for the enforcement of any payment on or with respect to such Holder's Notes or any Note Guarantee in respect thereof;

(x) make any change to the ranking of the Notes or Note Guarantees, in each case in a manner that materially adversely affects the rights of the Holders; or

(xi) make any change to Section 9.1 or this Section 9.2.

Any amendment, supplement or waiver consented to by at least 90% of the aggregate principal amount of the then outstanding Notes will be binding against any non-consenting Holders. For purposes of determining whether holders of the requisite aggregate principal amount of Notes of a series have taken any action under this Indenture, the aggregate principal amount of any series of Notes will be deemed to be the U.S. dollar-equivalent of the aggregate principal amount of such Notes as of (i) such date (if a record date has been set with respect to the taking of such action) or (ii) the date the taking of such action by holders of the requisite aggregate principal

amount of such Notes has been certified to the Trustee by the Issuers (if no such record date has been set).

The consent of the Holders is not necessary hereunder to approve the particular form of any proposed amendment. It is sufficient if such consent approves the substance of the proposed amendment.

For the avoidance of doubt, no amendment to, or deletion of any of the covenants contained in this Indenture, or action taken in compliance with the covenants in effect at the time of such action, shall be deemed to impair or affect any rights of any Holder to receive payment of principal of, or premium, if any, or interest on, the Notes.

Notwithstanding anything to the contrary in the paragraphs above, in order to effect an amendment authorized by clause (vii) above to add a Guarantor under this Indenture, it shall only be necessary for the supplemental indenture providing for the accession of such additional Guarantor to be duly authorized and executed by (A) the Issuer, (B) such additional Guarantor and (C) the Trustee. Any other amendments permitted by this Indenture need only be duly authorized and executed by the Issuer and the Trustee.

9.3 **Effect of Supplemental Indentures**

Upon the execution of any supplemental indenture under this Article 9, this Indenture shall be deemed modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

9.4 **Notation on or Exchange of Notes**

If an amendment, modification or supplement changes the terms of a Note, the Issuer or Trustee may require the Holder to deliver it to the Trustee. The Trustee may place an appropriate notation on the Note and on any Note subsequently authenticated regarding the changed terms and return it to the Holder. Alternatively, if the Issuer so determines, the Issuer in exchange for the Note shall issue and the Trustee shall authenticate upon receipt of an Issuer Order a new Note that reflects the changed terms. Failure to make the appropriate notation or to issue a new Note shall not affect the validity of such amendment, modification or supplement.

9.5 **Revocation and Effect of Consents**

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder 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 or subsequent Holder may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the amendment, supplement or waiver becomes

effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

9.6 **Notice of Amendment or Waiver**

As soon as reasonably practicable, after the execution by the Issuer and the Trustee of any supplemental indenture or waiver pursuant to Section 9.2, the Issuer shall give notice thereof to the Holders of each outstanding Note affected, in the manner provided for in Section 11.2, setting forth in general terms the substance of such supplemental indenture or waiver.

9.7 **Trustee to Sign Amendments, Etc.**

The Trustee and the Issuer will sign any amended or supplemental indenture or authorized pursuant to this Article 9 if the amendment or supplement does not impose any personal obligations on the Trustee or, in the reasonable opinion of the Trustee, adversely affect the rights, duties, liabilities or immunities of the Trustee under this Indenture. In executing any amended or supplemental indenture, the Trustee will be entitled to receive and (subject to Section 7.1 hereof) will be fully protected in relying upon, in addition to the documents required by Section 11.4 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture. Notwithstanding the foregoing, no Opinion of Counsel will be required for the Trustee to execute any amendment or supplement adding a new Guarantor or a new co-issuer under this Indenture or releasing a Note Guarantee by a Guarantor pursuant to Section 10.12.

9.8 **[Reserved]**

10. NOTE GUARANTEES

10.1 **Note Guarantee**

(a) Each of the Guarantors hereby fully, unconditionally and irrevocably guarantees, on a senior subordinated, joint and several basis, to each Holder and to the Trustee and its successors and assigns on behalf of each Holder, that: the principal of, premium, if any, interest, if any, and Additional Amounts, if any on, the Notes will be promptly paid in full when due, whether at Stated Maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of, premium on, if any, interest and Additional Amounts, if any, on, the Notes, if lawful, and all other monetary obligations of the Issuer to the Holders or the Trustee hereunder (including obligations to the Trustee and the Agents hereunder and the obligation to pay Additional Amounts, if any) will be promptly and completely paid in full or performed, all in accordance with the terms hereof (all the foregoing being hereinafter collectively called the "**Note Obligations**"). The Guarantors further agree that the Note Obligations may be extended or renewed, in whole or in part, without notice or further assent from the Guarantors and that the Guarantors will remain bound under this Article 10

notwithstanding any extension or renewal of any Note Obligation. All payments under such Note Guarantee will be made in U.S. dollars. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and performance and not a guarantee of collection.

(b) Each of the Guarantors hereby agrees that its obligations hereunder shall be as if it were principal debtor and not merely surety, unaffected by, and irrespective of, any invalidity, irregularity or unenforceability of any Note or this Indenture, any failure to enforce any Note or this Indenture, any amendment, waiver, modification or indulgence granted to the Issuer with respect thereto by the Holders or the Trustee, the recovery of any judgment against the Issuer, any action to enforce the same, any change in the corporate structure or existence of the Issuer, or any other circumstance which may otherwise constitute a legal or equitable discharge of a surety or guarantor (except payment in full); *provided*, *however*, that, notwithstanding the foregoing, no such waiver, modification, indulgence or circumstance shall without the prior written consent of the relevant Guarantor increase the aggregate principal amount of the Original Notes or any Additional Notes or the interest rate thereon or change the currency of payment with respect to any Note, or alter the Stated Maturity thereof. Without limiting the generality of the foregoing, each Guarantor's liability under this Note Guarantee shall extend to all obligations under the Notes and this Indenture (including, without limitation, interest, fees, costs and expenses) that would be owed but for the fact that they are unenforceable or not allowable due to any proceeding under Bankruptcy Law involving the Issuer or any Guarantor. Each of the Guarantors hereby waives diligence, presentment, demand of payment, marshalling, filing of claims with a court in the event of merger, amalgamation, insolvency or bankruptcy of the Issuer, any right to require that the Trustee pursue or exhaust its legal or equitable remedies against the Issuer prior to exercising its rights under the Note Guarantees (including, for the avoidance of doubt, any right which any Guarantor may have to require the seizure and sale of the assets of the Issuer to satisfy the outstanding principal of, interest on or any other amount payable under each Note prior to recourse against any Guarantor or its assets), protest or notice with respect to any Note or the Indebtedness evidenced thereby and all demands whatsoever, and covenants that its Note Guarantee will not be discharged with respect to any Note except by payment in full of the principal thereof and interest thereon or as otherwise provided in this Indenture, including Section 10.7, and covenants that this Indenture and the obligations of each Guarantor under its Note Guarantee shall not be subject to any reduction, limitation, impairment, set-off, defense, counterclaim, discharge or termination for any reason other than the complete payment and performance of the obligations contained in the Notes

and this Indenture (except as explicitly provided for herein). If at any time any payment of principal of, premium, if any, interest, if any, or Additional Amounts, if any, on such Note is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of the Issuer, the Guarantors' obligations hereunder with respect to such payment shall be reinstated as of the date of such rescission, restoration or returns as though such payment had become due but had not been made at such times.

(c) Each of the Guarantors also agrees to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or any Holder in enforcing any rights under this Section 10.1.

10.2 **[Reserved]**

10.3 **[Reserved]**

10.4 **[Reserved]**

10.5 **[Reserved]**

10.6 **Subrogation**

(a) Each Guarantor shall be subrogated to all rights of the Holders against the Issuer in respect of any amounts paid to such Holders by each Guarantor pursuant to its Note Guarantee.

(b) Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any Note Obligations guaranteed hereby until payment and performance in full of all Note Obligations. Each Guarantor further agrees that, as between it, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the Note Obligations guaranteed hereby may be accelerated as provided in Section 6.2 for the purposes of its Note Guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Note Obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Section 6.2, such Note Obligations (whether or not due and payable) shall forthwith become due and payable by the relevant Guarantor for the purposes of this Note Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Note Guarantees.

10.7 **Limitation of Note Guarantee**

(a) Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Note Guarantee of such 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 law or voidable preference,

financial assistance or improper corporate benefit, or violate the corporate purpose of the relevant Guarantor or any applicable capital maintenance or similar laws or regulations affecting the rights of creditors generally under any applicable law or regulation to the extent applicable to any Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will be limited to the maximum amount (as may be set forth in a supplemental indenture to the extent reasonably determined by the Issuer) that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 10, result in the obligations of such Guarantor under its Note Guarantee not constituting either a fraudulent transfer or conveyance or voidable preference, financial assistance or improper corporate benefit, or violating the corporate purpose of the relevant Guarantor or any applicable capital maintenance or, in each case, any similar laws or regulations affecting the rights of creditors generally under any applicable law or regulation. To the fullest extent permitted by applicable law, this Section 10.7 shall be for the benefit solely of creditors and representatives of creditors of each Guarantor and not for the benefit of such Guarantor or the holders of any Equity Interest in such Guarantor.

(b) Notwithstanding any other provision in this Indenture, no guarantee or indemnity provision shall extend to include any obligation or liability of any Guarantor incorporated in England or Wales if, and to the extent that, such obligation or liability would constitute unlawful financial assistance within the meaning of sections 678 or 679 of the UK Companies Act 2006.

(c) The following limitations shall apply to any Note Guarantee granted by each of the Guarantors incorporated or established in Switzerland and/or qualifying as a Swiss resident pursuant to article 9 of the Swiss Federal Act on the Withholding Tax of 13 October 1965 (the "**Swiss Withholding Tax Act**"), (for the purposes of this Clause, each a "**Swiss Guarantor**").

If and to the extent a Swiss Guarantor becomes liable pursuant to a Note Guarantee granted for the benefit of each Holder and to the Trustee and its successors and assigns on behalf of each Holder (the "**Secured Parties**") for obligations of the Issuer and/or any other Guarantor under this Indenture (other than the respective Swiss Guarantor and its direct or indirect subsidiaries) and that such Note Guarantee is enforced and the use of the proceeds of such enforcement (the "**Enforcement**") would constitute a repayment of capital (*Einlagerückgewähr*), a violation of the legally protected reserves (*gesetzlich geschützte Reserven*), or the payment of a (constructive) distribution of profits

(*Gewinnausschüttung*) by such Swiss Guarantor or would otherwise be restricted under Swiss law and practice then applicable, the amount of the proceeds of the Enforcement used by the Secured Parties shall not exceed the amount of such Swiss Guarantor's freely disposable equity (being presently the total shareholder equity less the total of (1) the aggregate share capital and (2) its statutory reserves (including reserves for own shares and revaluations), to the extent such reserves cannot be transferred into unrestricted, distributable reserves, and (3)any upstream or cross-stream loans not granted on arm's length terms) at the time of the Enforcement (the "**Freely Disposable Amount**").

This limitation shall only apply to the extent that it is a requirement under applicable Swiss corporate law at the time of the Enforcement. Such limitation shall not free such Swiss Guarantor from its obligations in excess of the Freely Disposable Amount, but merely postpone the performance date thereof until such time(s) when the Swiss Guarantor has again freely disposable equity and if and to the extent such freely disposable equity is available.

The respective Swiss Guarantor shall, and any parent of that Swiss Guarantor shall procure that that Swiss Guarantor will, promptly take and cause to be taken all and any action, including, without limitation, (i) the passing of any shareholders' resolutions to approve any payment or performance of other obligations, (ii) the provision of an audited interim balance sheet, (iii) the provision of a confirmation from the auditors that a payment in an amount corresponding to the Freely Disposable Amount or the performance of other obligations is in compliance with the provisions of Swiss corporate law which are aimed at protecting the share capital and legal reserves, (iv) to the extent permitted by applicable law write up or realise any of its assets that are shown in its balance sheet with a book value that is significantly lower than the market value of the assets, in case of realisation, however, only if such assets are not necessary for that Swiss Guarantor's business (*nicht betriebsnotwendig*) and/or convert statutory reserves into freely available reserves to the extent such statutory reserves do not need to be maintained by Swiss mandatory law, in order to allow a prompt payment or performance of other obligations with a minimum of limitations.

If so required under applicable law(s) (including tax treaties) at the time of Enforcement, the Swiss Guarantor:

(i) shall use its best efforts to ensure that the proceeds of any Enforcement can be used without deduction on account of Swiss withholding tax as imposed under the Swiss Withholding Tax Act, or with deduction of the taxes imposed under the Swiss Withholding Tax Act (the "**Swiss Withholding Tax**") at a reduced rate, by discharging the liability to such

tax by notification pursuant to applicable law (including tax treaties) rather than payment of the tax;

(ii) shall deduct the Swiss Withholding Tax at such rate (being 35% on the date hereof) as in force from time to time if the notification procedure pursuant to sub-paragraph (i) above does not apply, or shall deduct the Swiss Withholding Tax at the reduced rate resulting after discharge of part of such tax by notification if the notification procedure pursuant to sub-paragraph (i) applies for a part of the Swiss Withholding Tax only, and shall pay within the time allowed any such taxes deducted to the Swiss Federal Tax Administration; and

(iii) shall promptly notify the Trustee that such notification or, as the case may be, deduction has been made, and provide the Trustee with evidence that such a notification of the Swiss Federal Tax Administration has been made or, as the case may be, such taxes deducted have been paid to the Swiss Federal Tax Administration.

The Trustee shall, if being notified by the Swiss Guarantor in writing within 20 days after an Enforcement that Swiss Withholding Tax is due by the respective Swiss Guarantor in relation to the Enforcement proceeds, deduct the Swiss Withholding Tax at the then applicable rate as determined in accordance with the preceding paragraph from the Enforcement proceeds and shall pay such amount to the competent Swiss financial authorities in satisfaction of the Swiss Withholding Tax payment due by the Swiss Guarantor in relation to such Enforcement proceeds.

In the case of a deduction of Swiss Withholding Tax, the Swiss Guarantor shall use its best efforts to ensure that any person that is entitled to a full or partial refund of the Swiss Withholding Tax deducted from such payment under this Note Guarantee, will, as soon as possible after such deduction:

(i) request a refund of the Swiss Withholding Tax under applicable law (including tax treaties); and

(ii) pay to the Trustee upon receipt any amount so refunded.

(iii) The Trustee shall co-operate (at the cost of the Swiss Guarantor) with the Swiss Guarantor to secure such refund.

10.8 **Notation Not Required**

Neither the Issuer nor the Guarantors shall be required to make a notation on the Notes to reflect any Note Guarantee or any release, termination or discharge thereof.

10.9 **Successors and Assigns**

This Article 10 shall be binding upon the Guarantors and each of their successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the Holders and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges conferred upon that party in this Indenture and in the Notes shall automatically extend to and be vested in such transferee or assigns, all subject to the terms and conditions of this Indenture.

10.10 **No Waiver**

Neither a failure nor a delay on the part of either the Trustee or the Holders in exercising any right, power or privilege under this Article 10 shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the Holders herein expressly specified are cumulative and are not exclusive of any other rights, remedies or benefits which either may have under this Article 10 at law, in equity, by statute or otherwise.

10.11 **Modification**

No modification, amendment or waiver of any provision of this Article 10, nor the consent to any departure by any Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the Trustee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on any Guarantor in any case shall entitle such Guarantor to any other or further notice or demand in the same, similar or other circumstance.

10.12 **Note Guarantees Release**

The Note Guarantee of a Guarantor shall be automatically and unconditionally released and discharged without any further action by the Issuer, such Guarantor or the Trustee, and such Guarantor's obligations under its Note Guarantee and this Indenture will terminate and be of no further force and effect:

(a) other than the Note Guarantee of the Company, in connection with any sale or other disposition of all or substantially all of the properties or assets of that Guarantor (including by way of merger, amalgamation or consolidation) to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary of the Company, if the sale or other disposition does not violate Section 4.7, and, in each case, as not prohibited by this Indenture;

(b) other than the Note Guarantee of the Company, in connection with any sale or other disposition of the Capital Stock of that Guarantor (or Capital Stock of any Parent Holdco of such Guarantor (other than the Company)) (whether by direct sale or through a holding company) to a Person that is not (either before or after

giving effect to such transaction) the Company or a Restricted Subsidiary of the Company, if the sale or other disposition does not violate Section 4.7 and as a result of such disposition such Guarantor no longer qualifies as a Subsidiary of the Company;

(c) if the Company designates such Guarantor (or any parent entity thereof) as an Unrestricted Subsidiary in accordance with Section 4.15;

(d) upon repayment in full of the Notes or upon Legal Defeasance or Covenant Defeasance as provided for in Article 8 or upon satisfaction and discharge of this Indenture as provided for in Section 8.5;

(e) other than the Note Guarantee of the Company, upon the liquidation, bankruptcy or dissolution of such Guarantor; *provided* no Default or Event of Default has occurred and is continuing;

(f) as described under Article 9;

(g) upon such Guarantor consolidating or amalgamating with, merging into or transferring all of its properties or assets to the Issuer or another Guarantor, and as a result of, or in connection with, such transaction such Guarantor dissolving or otherwise ceasing to exist as a separate legal Person;

(h) as described in Section 4.13(d);

(i) upon the release or discharge of the Note Guarantee by, or direct obligation of, such Guarantor of the Obligations under the Revolving Credit Facility; provided that such Guarantor would not otherwise be required to Guarantee the Notes pursuant to the covenant described under Section 4.13(d); or

(j) in the case of any Restricted Subsidiary that after the Issue Date is required to Guarantee the Notes pursuant to the covenant described under Section 4.13(d) (x) upon the release or discharge of the Note Guarantee by such Restricted Subsidiary (or the co-issuer or co-borrower obligation of such Restricted Subsidiary) of Indebtedness of the Issuer or any Restricted Subsidiary or (y) upon the repayment of the Indebtedness or Disqualified Stock, in each case, that resulted in the obligation to Guarantee the Notes.

Upon any occurrence giving rise to a release as specified above, the Trustee will execute, at the cost of the Issuer, any documents reasonably requested by the Issuer in order to evidence the release, discharge and termination in respect of such Note Guarantee. Neither the Issuer nor any Guarantor will be required to make a notation on the Notes to reflect any such release, termination or discharge.

10.13 **Additional Guarantors to Execute Supplemental Indenture**

The Company shall cause any Restricted Subsidiary that becomes a Guarantor after the Issue Date to do so by executing a supplemental indenture substantially in the form attached as Schedule 5 hereto.

11. MISCELLANEOUS

11.1 USA 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 each of the Agents such information as it may request, from time to time, in order for such Agent 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.

11.2 Notices

(a) Any notice or other communication shall be in writing and shall be deemed to have been duly given if delivered in person, mailed by first class mail or transmitted and confirmed by any standard form of telecommunication addressed as follows:

if to the Issuer or any Guarantor:

SierraCol Energy Andina, LLC
Calle 77ª #11-32
Bogotá, Colombia

Telephone: +57 1 345 41 55
Attention: Sébastien Garnier, Chief Financial Officer
Email: sebastien_garnier@sierracol.com

With copies to:

The Carlyle Group
1 St James's Market, London SW1Y 4AH

Telephone: +44 20 7894 1200
Attention: Parminder Singh
Email: parminder.singh@carlyle

and

Latham & Watkins LLP
555 Eleventh Street, NW
Suite 1000
Washington, D.C. 20004-1304
Telephone: +1 202 637 2200
Attention: Jason M. Licht

if to the Trustee, Paying Agent, Transfer Agent and Registrar:

Deutsche Bank Trust Company Americas
Trust & Agency Services
60 Wall Street, MS NYC60-2405
New York, New York 10005
USA
Attn: Corporate Teams, SierraCol, SF5450
Facsimile: +1 732 578 4635

The Issuer, the Guarantors or the Trustee by notice to the others may designate additional or different addresses for subsequent notices or communications. All communications delivered to the Trustee shall be deemed effective when received.

(b) Notices to the Holders regarding the Notes shall be:

(i) if and so long as the Notes are listed on the Exchange and the rules of the Authority so require, published by the Issuer on the official website of the Authority to the extent and in the manner required by such rule; and

(ii) in the case of Definitive Registered Notes, sent to each Holder by first–class mail at such Holder's address as it appears in the Security Register.

Notices given by first–class mail shall be deemed given five calendar days after mailing and notices given by publication shall be deemed given on the first date on which publication is made. Failure to mail a notice or other communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or other communication is mailed in the manner provided in this Section 11.2(b), it is duly given, whether or not the addressee receives it.

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

(c) If and so long as the Notes are listed on any securities exchange instead of or in addition to the Exchange, notices shall also be given in accordance with any applicable requirements of such alternative or additional securities exchange.

(d) If and so long as the Notes are represented by Global Notes, any notice to Holders, in lieu of being given in accordance with Section 11.2(b), shall be given by delivery to the Depositary, Euroclear or Clearstream in accordance with its Applicable Procedures.

(e) 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.

(f) Notwithstanding anything herein to the contrary, any notices required to be delivered to the Trustee hereunder or under the Notes shall not be considered to have been delivered to the Trustee unless (i) a Responsible Officer has received such notice, or (ii) such notice shall have been given to the Trustee by the Issuer or by any Holder at the Corporate Trust Office of the Trustee and such notice references this Indenture or the Notes.

11.3 **[Reserved]**

11.4 **Certificate and Opinion as to Conditions Precedent**

Upon any request or application by the Issuer or any Guarantor to the Trustee to take or refrain from taking any action under this Indenture (except in connection with the original issuance of the Notes on the date hereof), the Issuer or any Guarantor, as the case may be, shall furnish upon request to the Trustee:

(a) an Officer's Certificate in form reasonably satisfactory to the Trustee stating that, in the opinion of the signer, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel in form reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Any Officer's Certificate may be based, insofar as it relates to legal matters, upon an Opinion of Counsel. Any Opinion of Counsel may be based and may state that it is so based, insofar as it relates to factual matters, upon an Officer's Certificate stating that the information with respect to such factual matters is in the possession of the Company or a Subsidiary of the Company.

11.5 **Statements Required in Certificate or Opinion**

Every Officer's Certificate or Opinion of Counsel with respect to compliance with a condition or covenant provided for in this Indenture shall include:

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

(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 each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

11.6 **Rules by Trustee, Paying Agents and Registrar**

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar and any Paying Agent may make reasonable rules for their functions.

11.7 **Legal Holidays**

If an Interest Payment Date or other payment date is not a Business Day, payment shall be made on the next succeeding day that is a Business Day, and no interest shall accrue for the intervening period or other payment made as a result of any such delay. If a Record Date is not a Business Day, the Record Date shall not be affected.

The rights of holders of beneficial interests in the Notes to receive payments on the Notes are subject to Applicable Procedures of DTC, Euroclear and Clearstream.

11.8 **Governing Law**

THIS INDENTURE AND THE NOTES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH OF THE PARTIES HERETO, AND EACH HOLDER OF A NOTE BY ITS ACCEPTANCE THEREOF, HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS INDENTURE, THE SECURITIES OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

11.9 **Jurisdiction**

The Issuer and the Guarantors agree that any suit, action or proceeding against the Issuer or the Guarantors brought by any Holder or the Trustee arising out of or based upon this Indenture, the Note Guarantees or the Notes may be instituted in any competent U.S. federal or New York court located in the City of New York, New York, and any appellate court from any thereof, and each of them irrevocably submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding. The Issuer and Guarantors irrevocably waive, to the fullest extent permitted by applicable law, any objection to any suit, action, or proceeding that may be brought in connection with this Indenture, the Note Guarantees or the Notes, including such actions, suits or proceedings relating to securities laws of the United States of America or any state thereof, in such courts whether on the grounds of venue, residence or domicile or on the ground that any such suit, action or proceeding has been brought in an inconvenient forum. The Issuer and the Guarantors agree that final judgment in any such suit, action or proceeding brought in such court shall be conclusive and binding upon the Issuer or the Guarantors, as the case may be, and may be enforced in any court to the jurisdiction of which the Issuer or the Guarantors, as the case may be, is subject by a suit upon such judgment; *provided*, *however*, that service of process is effected upon the Issuer or the Guarantors, as the case may be, in the manner provided by this Indenture or by any other legal means. Each Guarantor formed or incorporated outside of the United States has appointed SierraCol Energy Andina, LLC, with offices on the date hereof at c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, as its agent (the

"**Authorized Agent**"), for service of process in any suit, action or proceeding arising out of or based upon this Indenture, the Notes or the Note Guarantees which may be instituted in any competent U.S. federal or New York state court located in the City of New York, New York, by any Holder or the Trustee, and expressly accepts the non–exclusive jurisdiction of any such court in respect of any such suit, action or proceeding. Each such Guarantor hereby represents and warrants that the Authorized Agent has accepted such appointment and has agreed to act as said agent for service of legal process, and each such Guarantor agrees to take any and all action, including the filing of any and all documents that may be necessary to continue such respective appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon the applicable Guarantors, respectively. Each applicable Guarantor agrees to take any and all action as may be necessary to maintain the designation and appointment of an agent in full force and effect until the Stated Maturity of the Notes (or earlier, if the Notes are prepaid in full).

11.10 **No Personal Liability of Directors, Officers, Employees and Stockholders**

No manager, managing director, director, officer, employee, incorporator or holder of any equity interests in any of the Issuer, the Company, any Subsidiary or any direct or indirect parent of the Company, as such, shall have any liability for any obligations of the Issuer or the Guarantors under the Notes, this Indenture or the Note 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 shall be part of the consideration for the issuance of the Notes.

11.11 **Successors**

All agreements of the Issuer and any Guarantor in this Indenture and the Notes shall bind their respective successors. All agreements of the Trustee in this Indenture shall bind its successors.

11.12 **Multiple Originals**

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

11.13 **Table of Contents and Headings**

The table of contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

11.14 **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.

11.15 **Judgment Currency**

Any payment on account of an amount that is payable in U.S. dollars which is made to or for the account of any Holder or the Trustee in lawful currency of any other jurisdiction (the "**Judgment Currency**"), whether as a result of any judgment or order or the enforcement thereof or the liquidation of the Issuer or any Guarantor, shall constitute a discharge of the Issuer or such Guarantor's obligation hereunder and the Notes or Note Guarantee, as the case may be, only to the extent of the amount of U.S. dollars with such Holder or the Trustee, as the case may be, could purchase in the London foreign exchange markets with the amount of the Judgment Currency in accordance with normal banking procedures at the rate of exchange prevailing on the first Business Day following receipt of the payment in the Judgment Currency. If the amount of U.S. dollars that could be so purchased is less than the amount of U.S. dollars originally due to such Holder or the Trustee, as the case may be, the Issuer and the Guarantors shall indemnify and hold harmless the Holder or the Trustee, as the case may be, from and against all loss or damage arising out of, or as a result of, such deficiency. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Indenture or the Notes, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any Holder or the Trustee from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due hereunder or under any judgment or order.

11.16 **Prescription**

Claims against the Issuer or any Guarantor for the payment of principal or Additional Amounts, if any, on the Notes will not be permitted ten years after the applicable due date for payment thereof. Claims against the Issuer or any Guarantor for the payment of interest on the Notes will not be permitted six years after the applicable due date for payment of interest.

11.17 **Force Majeure**

In no event shall the Trustee, the Authenticating Agent or the Agents be responsible or liable for any failure or delay in the performance of their respective duties, responsibilities or obligations hereunder by reason of or caused by any act or provision of any present or future law or regulation or governmental authority, any epidemic, pandemic, civil unrest, local or national disturbance or disaster, any acts of war or terrorism involving the United States, the United Kingdom or any member state of the European Monetary Union, any other national or international calamity or emergency (including natural disasters or acts of God) or the unavailability of the Federal Reserve

Bank Wire or facsimile or other wire or communication facility, it being understood that each of the Trustee, the Authenticating Agent and the Agents shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstance.

11.18 **Electronic Signatures**

Facsimile, documents executed, scanned and transmitted electronically and electronic signatures, including those created or transmitted through a software platform or application, shall be deemed original signatures for purposes of this Indenture and all matters and agreements related thereto, with such facsimile, scanned and electronic signatures having the same legal effect as original signatures. The parties agree that this Indenture or any instrument, agreement or document necessary for the consummation of the transactions contemplated by this Indenture or related hereto or thereto (including, without limitation, addendums, amendments, notices, instructions, communications with respect to the delivery of securities or the wire transfer of funds or other communications) ("**Executed Documentation**") may be accepted, executed or agreed to through the use of an electronic signature in accordance with applicable laws, rules and regulations in effect from time to time applicable to the effectiveness and enforceability of electronic signatures. Any Executed Documentation accepted, executed or agreed to in conformity with such laws, rules and regulations will be binding on all parties hereto to the same extent as if it were physically executed and each party hereby consents to the use of any third party electronic signature capture service providers as may be reasonably chosen by a signatory hereto or thereto. When the Trustee acts on any Executed Documentation sent by electronic transmission, the Trustee will not be responsible or liable for any losses, costs or expenses arising directly or indirectly from its reliance upon and compliance with such Executed Documentation, notwithstanding that such Executed Documentation (a) may not be an authorized or authentic communication of the party involved or in the form such party sent or intended to send (whether due to fraud, distortion or otherwise) or (b) may conflict with, or be inconsistent with, a subsequent written instruction or communication; it being understood and agreed that the Trustee shall conclusively presume that Executed Documentation that purports to have been sent by an authorized officer of a Person has been sent by an authorized officer of such Person. The party providing Executed Documentation through electronic transmission or otherwise with electronic signatures agrees to assume all risks arising out of such electronic methods, including, without limitation, the risk of the Trustee acting on unauthorized instructions and the risk of interception and misuse by third parties.

[*Signature Pages Follow*]

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

SIERRACOL ENERGY ANDINA, LLC, as the Issuer

By: _____
Name: Parminder Singh
Title: Director

GUARANTORS:

SIERRACOL ENERGY LIMITED

By: _____
Name: Parminder Singh
Title: Director

SIERRACOL ENERGY CONDOR, LLC

By: _____
Name: Parminder Singh
Title: Director

DEUTSCHE BANK TRUST COMPANY AMERICAS

as Trustee, Paying Agent, Transfer Agent and Registrar

DocuSigned by:

By:_____
D4814C2152294F3...

Name: Jacqueline Bartnick

Title: Director

DocuSigned by:

By:_____
BD1D7BE5055F43F...

Name: Robert Peschler

Title: Vice President

Schedule 1 PROVISIONS RELATING TO THE NOTES

These provisions relating to the Notes are in addition to and not in lieu of the provisions relating to the Notes found in Articles 2 and 3 of the Indenture. In the event of any inconsistency between the language in this Schedule 1 and corresponding language in the Indenture, the language in the Indenture shall control.

1. Definitions.

"**144A Global Note**" means a Global Note bearing the Global Note Legend and the Private Placement Legend deposited with the Custodian and registered in the name of Cede & Co., as nominee for DTC, that will be issued in an initial amount equal to the principal amount of the Notes resold by the Initial Purchasers in reliance on Rule 144A.

"**Book-Entry Interest**" means a beneficial interest in a Global Note held by or through a Participant.

"**Global Note Legend**" means the legend set forth in Section 2.3(f)(i) of this Schedule 1, which is required to be placed on all Global Notes issued under this Indenture.

"**Global Notes**" means, individually and collectively, each of the global notes, substantially in the form of Schedule 2 hereto and that bears the Global Note Legend, issued in accordance with Sections 2.1 and 2.6 of the Indenture and Schedule 2 that has the "Schedule of Principal Amount of Indebtedness Evidenced by this Note" attached thereto.

"**Non-U.S. Person**" means a person who is not a U.S. Person.

"**Private Placement Legend**" means the legend set forth in Section 2.3(f)(ii) in this Schedule 1, which is required to be placed on all Notes issued under this Indenture except where otherwise permitted by this Indenture.

"**QIB**" means a "qualified institutional buyer" as defined under Rule 144A.

"**Regulation S**" means Regulation S under the U.S. Securities Act (including any successor regulation thereto), as it may be amended from time to time.

"**Regulation S Global Note**" means a Global Note bearing the Global Note Legend and the Private Placement Legend and deposited with the Custodian and registered in the name of Cede & Co., as nominee for DTC, that will be issued in an initial amount equal to the principal amount of the Notes resold by the Initial Purchasers in reliance on Regulation S.

"**Rule 144A**" means Rule 144A under the U.S. Securities Act (including any successor regulation thereto), as it may be amended from time to time.

"**U.S. Person**" has the meaning given to such term in Regulation S.

2. The Notes.

2.1 Form and Dating.

(a) Global Notes.

(i) Notes issued in global form shall be substantially in the form of Schedule 2 hereto with such applicable legends as are provided in such Schedule. Each Global Note will represent such of the outstanding Notes as will be specified therein and each shall provide that it represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, redemptions, repurchases and cancellations. 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 Paying Agent, Registrar, the Custodian, the Depositary or the Common Depositary at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.3.

(ii) Notes denominated in U.S. dollars sold within the United States to QIBs pursuant to Rule 144A under the U.S. Securities Act shall be issued initially in the form of a 144A Global Note, which shall be deposited with the Custodian for DTC and registered in the name of Cede & Co., the nominee of DTC, duly executed by the Issuer and authenticated by the Trustee as herein provided. The aggregate principal amount of the 144A Global Note may from time to time be increased or decreased by adjustments made on Schedule A to each such Global Note, as herein provided.

(iii) Notes denominated in U.S. dollars offered and sold in reliance on Regulation S shall be issued initially in the form of a Regulation S Global Note, which shall be deposited with the Custodian for DTC and registered in the name of Cede & Co., the nominee of DTC, duly executed by the Issuer and authenticated by the Trustee as herein provided. The aggregate principal amount of the Regulation S Global Note may from time to time be increased or decreased by adjustments made on Schedule A to each such Global Note, as herein provided.

(iv) Any Additional Notes issued in connection with Section 2.14 and denominated in a currency other than U.S. dollars sold within the United States to QIBs pursuant to Rule 144A under the U.S. Securities Act shall be issued initially in the form of a 144A Global Note, which shall be deposited with the Common Depositary as custodian for Euroclear and Clearstream, duly executed by the Issuer and authenticated by the Trustee as herein provided. The aggregate principal amount of the 144A Global Note may from time to time be increased or decreased by adjustments made on Schedule A to each such Global Note, as herein provided.

(v) Any Additional Notes issued in connection with Section 2.14 and denominated in a currency other than U.S. dollars offered and sold in reliance on Regulation S shall be issued initially in the form of a Regulation S Global Note, which shall be deposited with the Common Depositary as custodian for Euroclear and Clearstream, duly executed by the Issuer and authenticated by the Trustee as herein provided. The aggregate principal amount of the Regulation S Global Note may from time to time be increased or decreased by adjustments made on Schedule A to each such Global Note, as herein provided

(b) Book–Entry Provisions.

Book–Entry Interests will be limited to Persons that have accounts with DTC or Persons that may hold interests through such Participants, including through Euroclear and Clearstream. Ownership of interests in the Book–Entry Interests and transfers thereof will be subject to restrictions on transfer and certification requirements as set forth herein. In addition, transfers of Book–Entry Interests between Participants in DTC, Participants in Euroclear or Participants in Clearstream will be effected by DTC, Euroclear or Clearstream pursuant to customary procedures and subject to the applicable rules and procedures established by DTC, Euroclear or Clearstream and their respective Participants.

Members of, or participants and account holders in, DTC, Euroclear and Clearstream ("**Participants**") shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depositary or by the Custodian of the Global Note or under such Global Note, and the Depositary or its nominee may be treated by the Issuer, a Guarantor, the Trustee and any agent of the Issuer, a Guarantor or the Trustee as the sole owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Issuer, a Guarantor, the Trustee or any agent of the Issuer, a Guarantor or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depositary or impair, as between the Depositary and its Participants, the operation of customary practices of such

Persons governing the exercise of the rights of an owner of a beneficial interest in any Global Note.

(c) Definitive Registered Notes.

Definitive Registered Notes issued upon transfer of a Book-Entry Interest or a Definitive Registered Note, or in exchange for a Book-Entry Interest or a Definitive Registered Note, shall be issued in accordance with this Indenture.

Definitive Registered Notes will be substantially in the form of Schedule 2 hereto and will have a legend with respect to restrictions on transfer as set forth in such Schedule.

Except as provided in Section 2.3, owners of a Book-Entry Interest will not be entitled to receive Definitive Registered Notes.

2.2 Authentication. The Trustee or an Authenticating Agent, as the case may be, shall authenticate and make available for delivery the Notes upon a written order of the Issuer signed by one of its Officers. Such order shall (a) specify the amount of the Notes to be authenticated, the date on which the original issue of Notes is to be authenticated, (b) direct the Trustee or an Authenticating Agent to authenticate such Notes and (c) certify that all conditions precedent to the issuance of such Notes have been complied with in accordance with the terms hereof.

2.3 Transfer and Exchange.

(a) Transfer and Exchange of Global Notes.

A Global Note denominated in U.S. dollars may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to such Depositary or to another nominee of such Depositary, or, with the prior written consent of the Issuer, by such Depositary or any such nominee to a successor Depositary or a nominee thereof.

A Global Note denominated in a currency other than U.S. dollars may not be transferred except as a whole by Euroclear or Clearstream to a Common Depositary or a nominee of such Common Depositary, by a Common Depositary or a nominee of Euroclear or Clearstream to Euroclear or Clearstream or to another nominee or Common Depositary of Euroclear or Clearstream, or by such Common Depositary or Euroclear or Clearstream or any such nominee to a successor of Euroclear or Clearstream or Common Depositary or a nominee thereof.

All Global Notes will be exchanged by the Issuer for Definitive Registered Notes:

(i) if the Depositary (with respect to Global Notes denominated in U.S. dollars), or Euroclear and Clearstream (with respect to Global Notes denominated in a currency other than U.S. dollars) notifies the Issuer that it is unwilling or unable to continue to act as depositary and a successor depositary is not appointed by the Issuer within 120 days;

(ii) if the Issuer, at its option but subject to the Depositary's rules, notifies the Trustee in writing that it elects to exchange in whole, but not in part, the Global Notes for Definitive Registered Notes; or

(iii) if the Depositary (with respect to Global Notes denominated in U.S. dollars), or Euroclear and Clearstream (with respect to Global Notes denominated in a currency other than U.S. dollars) so requests the Trustee following an Event of Default under this Indenture.

Upon the occurrence of any of the preceding events in clauses (i) through (iii) of this Section 2.3(a), the Issuer shall issue or cause to be issued Definitive Registered Notes in such names as the Depositary shall instruct the Registrar.

Global Notes also may be exchanged or replaced, in whole or in part, as provided in Section 2.7 of the Indenture. A Global Note may not be exchanged for another Note other than as provided in this Section 2.3(a). Book-Entry Interests in a Global Note may be transferred and exchanged as provided in Section 2.3(b) or (c).

(b) General Provisions Applicable to Transfer and Exchange of Book-Entry Interests in the Global Notes.

The transfer and exchange of Book-Entry Interests shall be effected through the Depositary, Euroclear or Clearstream, in accordance with this Indenture and the Applicable Procedures.

Transfers of Book-Entry Interests will be subject to restrictions on transfer comparable to those set forth herein to the extent required by the U.S. Securities Act. Transfers and exchanges of Book-Entry Interests for Book-Entry Interests also will require compliance with either subparagraph (i) or (ii) of this Section 2.3(b), as applicable, as well as subparagraph (iii) of this Section 2.3(b), if applicable:

(i) Transfer of Beneficial Interests in the Same Global Note.

Book-Entry Interests may be transferred to Persons who take delivery thereof in the form of a Book-Entry Interest in the same Global Note in

accordance with the transfer restrictions set forth in the Private Placement Legend No written orders or instructions shall be required to be delivered to the Trustee to effect the transfers described in this Section 2.3(b).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes.

A Holder may transfer or exchange a Book-Entry Interest in Global Notes in a transaction not subject to Section 2.3(b)(i) only if the Trustee, Registrar or Transfer Agent receives either:

(A) both:

(1) a written order from a Participant or an Indirect Participant given to the Depositary, Euroclear or Clearstream in accordance with the Applicable Procedures directing such Depositary, Euroclear or Clearstream to credit or cause to be credited a Book-Entry Interest in another Global Note in an amount equal to the Book-Entry Interest to be transferred or exchanged; and

(2) instructions given by the Depositary, Euroclear or Clearstream in accordance with the Applicable Procedures containing information regarding the Participant's account to be credited with such increase; or

(B) both:

(1) a written order from a Participant or an Indirect Participant given to the Depositary, Euroclear or Clearstream in accordance with the Applicable Procedures directing such Depositary, Euroclear or Clearstream to cause to be issued a Definitive Registered Note in an amount equal to the Book-Entry Interest to be transferred or exchanged; and

(2) instructions given by the Depositary, Euroclear or Clearstream to the Registrar containing information specifying the identity of the Person in whose name such Definitive Registered Note shall be registered to effect the transfer or exchange referred to in subclause (1) of Section 2.3(b)(ii)(B), the principal amount of such securities and the CUSIP, ISIN, Common Code or other similar number identifying the Notes;

provided that any such transfer or exchange is made in accordance with the transfer restrictions set forth in the Private Placement Legend.

(iii) Transfer of Book-Entry Interests to Another Global Note.

A Book-Entry Interest in any Global Note may be transferred to a Person who takes delivery thereof in the form of a Book-Entry Interest in another Global Note if the transfer complies with the requirements of Section 2.3(b)(ii) and the Trustee, Registrar or Transfer Agent receives the following:

(A) if the transferee will take delivery in the form of a Book-Entry Interest in a 144A Global Note, then the transferor must deliver a certificate in the form of Schedule 3 to the Indenture, including the certifications in item (1) thereof; and

(B) if the transferee will take delivery in the form of a Book-Entry Interest in a Regulation S Global Note then the transferor must deliver a certificate in the form of Schedule 3 to the Indenture, including the certifications in item (2) thereof.

(c) Transfer or Exchange of Book-Entry Interests in Global Notes for Definitive Registered Notes.

If any holder of a Book-Entry Interest in a Global Note proposes to exchange such Book-Entry Interest for a Definitive Registered Note or to transfer such Book-Entry Interest to a Person who takes delivery thereof in the form of a Definitive Registered Note, then, upon receipt by the Trustee and the Registrar of the following documentation:

(i) if the holder of such Book-Entry Interest in a Global Note proposes to exchange such Book-Entry Interest for a Definitive Registered Note, a certificate from such holder in the form of Schedule 4 to the Indenture, including the certifications in item (1) thereof;

(ii) if such Book-Entry Interest is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Schedule 3 to the Indenture, including the certifications in item (1) thereof;

(iii) if such Book-Entry Interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 904, a certificate to the effect set forth in Schedule 3 to the Indenture, including the certifications in item (2) thereof; or

(iv) if such Book-Entry Interest is being transferred pursuant to any provision of the U.S. Securities Act other than Rule 144A or Regulation S, a certificate to the effect set forth in Schedule 3 to the Indenture, including the certifications in item (3) thereof, and, if requested, an Opinion of

Counsel respecting the compliance of the transfer with applicable securities laws,

then, upon satisfaction of the conditions set forth in Section 2.3(b)(ii)(B), the Paying Agent or Registrar shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.3(g), and the Issuer shall execute and, upon receipt of an Issuer Order, the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Registered Note in the appropriate principal amount. Any Definitive Registered Note issued in exchange for a Book-Entry Interest in a Global Note pursuant to this Section 2.3(c) shall be registered by the Registrar in such name or names and in such authorized denomination or denominations as the holder of such Book-Entry Interest shall instruct the Registrar through instructions from the Depositary, Euroclear or Clearstream and the Participant or Indirect Participant. The Paying Agent or Registrar shall deliver (or caused to be delivered) such Definitive Registered Notes to the Persons in whose names such Notes are so registered. Any Definitive Registered Note issued in exchange for a Book-Entry Interest in a Global Note pursuant to this Section 2.3(c) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(d) Transfer and Exchange of Definitive Registered Notes for Book-Entry Interests in the Global Notes.

If any Holder of a Definitive Registered Note proposes to exchange such Note for a Book-Entry Interest in a Global Note or to transfer such Definitive Registered Notes to a Person who takes delivery thereof in the form of a Book-Entry Interest in a Global Note, then, upon receipt by the Trustee and the Registrar of the following documentation:

(i) if the Holder of such Definitive Registered Note proposes to exchange such Note for a Book-Entry Interest in a Global Note, a certificate from such Holder in the form of Schedule 4 to the Indenture, including the certifications in item (2) thereof;

(ii) if such Definitive Registered Note is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Schedule 3 to the Indenture, including the certifications in item (1) thereof;

(iii) if such Definitive Registered Note is being transferred in an offshore transaction in accordance with Rule 904, a certificate to the effect set forth in Schedule 3 to the Indenture, including the certifications in item (2) thereof, as applicable; or

(iv) if such Definitive Registered Note is being transferred pursuant to any provision of the U.S. Securities Act other than Rule 144A or Regulation S, a certificate to the effect set forth in Schedule 3 to the Indenture, including the certifications in item (3) thereof, and, if requested, an Opinion of Counsel respecting the compliance of the transfer with applicable securities laws,

the Trustee or the Registrar will cancel the Definitive Registered Note, and the Trustee or Registrar will increase or cause to be increased the aggregate principal amount of, in the case of clause (i) of this Section 2.3(d), the appropriate Global Note, in the case of clause (ii) of this Section 2.3(d), the appropriate 144A Global Note, in the case of clause (iii) of this Section 2.3(d), the appropriate Regulation S Global Note, and in the case of clause (iv) of this Section 2.3(d), the appropriate Global Note.

(e) Transfer and Exchange of Definitive Registered Notes for Definitive Registered Notes.

Upon request by a Holder of Definitive Registered Notes, and such Holder's compliance with this Section 2.3(e), the Transfer Agent or the Registrar will register the transfer or exchange of Definitive Registered Notes of which registration the Issuer will be informed of by the Transfer Agent or the Registrar (as the case may be). Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Transfer Agent or the Registrar the Definitive Registered Notes duly endorsed or accompanied by a written instruction of transfer in the form satisfactory to the Registrar duly executed by such Holder or its attorney, duly authorized to execute the same in writing. In the event that the Holder of such Definitive Registered Notes does not transfer the entire principal amount of Notes represented by any such Definitive Registered Note, the Transfer Agent or the Registrar will forward to the Registrar such Definitive Registered Note for cancellation pursuant to Section 2.10 of the Indenture and the Issuer (who has been informed of such cancellation) shall execute and the Trustee shall authenticate and deliver to the requesting Holder and any transferee Definitive Registered Notes in the appropriate principal amounts. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.3(e).

Any Definitive Registered Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Definitive Registered Note if the Registrar receives the following:

(i) if the transfer will be made pursuant to Rule 144A, a certificate in the form of Schedule 3 to the Indenture, including the certifications in item (1) thereof;

(ii) if the transfer will be made in reliance on Regulation S, a certificate in the form of Schedule 3 to the Indenture, including the certifications in item (2) thereof; and

(iii) if the transfer will be made pursuant to any other exemption from the registration requirements of the U.S. Securities Act, a certificate in the form of Schedule 3 to the Indenture, including the certifications in item (3) thereof, and, if requested, an Opinion of Counsel respecting the compliance of the transfer with applicable securities laws.

(f) Legends.

(i) *Global Note Legend*. Each Global Note denominated in U.S. dollars shall bear the following legend:

"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 2.3 OF SCHEDULE 1 TO THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.3(a) OF THE INDENTURE AND (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE REGISTRAR FOR CANCELLATION PURSUANT TO SECTION 2.10 OF THE INDENTURE."

(ii) *Private Placement Legend*. Each Note shall bear the following legend except where otherwise permitted by this Indenture:

"THIS SECURITY HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**U.S. SECURITIES ACT**"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT.

THE HOLDER OF THIS SECURITY BY ITS ACCEPTANCE HEREOF (1) REPRESENTS THAT (A) IT IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE U.S. SECURITIES ACT) OR (B) IT IS ACQUIRING THIS SECURITY IN AN "OFFSHORE TRANSACTION" PURSUANT TO REGULATION S UNDER THE U.S. SECURITIES ACT, (2) AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR FOR WHICH IT HAS PURCHASED SECURITIES TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY, PRIOR TO THE DATE (THE "RESALE RESTRICTION TERMINATION DATE") WHICH IS [IN THE CASE OF REGULATION S NOTES: 40 DAYS AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE DATE ON WHICH THIS SECURITY WAS FIRST OFFERED TO PERSONS OTHER THAN DISTRIBUTORS (AS DEFINED IN RULE 902 OF REGULATION S)] [IN THE CASE OF RULE 144A NOTES: ONE YEAR AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATE OF THE COMPANY WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF THIS SECURITY)] ONLY (A) TO THE COMPANY, (B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BEEN DECLARED EFFECTIVE UNDER THE U.S. SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE U.S. SECURITIES ACT ("RULE 144A"), TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) PURSUANT TO OFFERS AND SALES THAT OCCUR OUTSIDE THE UNITED STATES IN COMPLIANCE WITH REGULATION S UNDER THE U.S. SECURITIES ACT OR (E) PURSUANT TO ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT, SUBJECT IN EACH OF THE FOREGOING CASES TO ANY REQUIREMENT OF LAW THAT THE DISPOSITION OF ITS PROPERTY OR THE PROPERTY OF SUCH INVESTOR ACCOUNT OR ACCOUNTS BE AT ALL TIMES WITHIN ITS OR THEIR CONTROL AND TO COMPLIANCE WITH ANY APPLICABLE STATE SECURITIES LAWS, AND ANY APPLICABLE LOCAL LAWS AND REGULATIONS AND FURTHER SUBJECT TO THE COMPANY'S AND THE TRUSTEE'S RIGHTS PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER (I) PURSUANT TO CLAUSE

(E) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM AND (II) IN EACH OF THE FOREGOING CASES, TO REQUIRE THAT A CERTIFICATE OF TRANSFER IN THE FORM APPEARING IN THE INDENTURE IS COMPLETED AND DELIVERED BY THE TRANSFEROR TO THE TRUSTEE AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND."

(g) Cancellation or Adjustment of Global Notes.

At such time as all Book-Entry Interests in a particular Global Note have been exchanged for Definitive Registered Notes or a particular Global Note has been redeemed, repurchased or cancelled in whole and not in part, each such Global Note will be returned to or retained and cancelled by the Registrar in accordance with Section 2.10 of the Indenture. At any time prior to such cancellation, if any Book-Entry Interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a Book-Entry Interest in another Global Note or for Definitive Registered 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 the Registrar, at the direction of the Trustee, to reflect such reduction; and if the Book-Entry Interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a Book-Entry 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 the Registrar, at the direction of the Trustee to reflect such increase.

(h) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Issuer will execute and the Trustee will authenticate Global Notes and Definitive Registered Notes upon receipt of an Issuer Order or at the Registrar's request.

(ii) No service charge will be made by the Issuer or the Registrar to a holder of a Book-Entry Interest in a Global Note, a Holder of a Global Note or a Holder of a Definitive Registered Note for any registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any stamp duty, stamp duty reserve, documentary, transfer or other similar tax or governmental charge that may be imposed in connection therewith.

(iii) No Transfer Agent or Registrar will 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.

(iv) All Global Notes and Definitive Registered Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Registered Notes will be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Registered Notes surrendered upon such registration of transfer or exchange.

(v) None of the Issuer, the Registrar or the Transfer Agent shall be required to register the transfer of any Definitive Registered Notes:

(A) for a period of 15 calendar days prior to any date fixed for the redemption of the Notes under Section 3.3 the Indenture;

(B) for a period of 15 calendar days immediately prior to the date fixed for selection of Notes to be redeemed in part;

(C) for a period of 15 calendar days prior to the record date with respect to any Interest Payment Date applicable to such Notes; or

(D) which the Holder has tendered (and not withdrawn) for repurchase in connection with a Change of Control Offer, Alternate Offer or an Asset Sale Offer.

(vi) The Trustee, any Agent, the Issuer and each Guarantor 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 and interest, and premium and Additional Amounts, if any, on such Notes and for all other purposes, and none of the Trustee, any Agent, the Issuer or any Guarantor shall be affected by notice to the contrary.

(vii) All certifications, certificates and Opinions of Counsel required to be submitted to the Issuer, the Trustee or an Agent pursuant to this Section 2.3 to effect a registration of transfer or exchange may be submitted by any standard form of telecommunication.

(viii) Neither the Trustee nor any Agent shall have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any Book-Entry Interest in any Global Note or any Definitive Registered Note other than to require delivery of such certificates and other documentation or evidence as is expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to conformity with the express requirements hereof.

(ix) Neither the Trustee nor any Agent shall have any responsibility for any actions taken or not taken by the Depositary, Euroclear or Clearstream.

SCHEDULE 2 FORM OF NOTE

ISIN: _____

CUSIP: _____

Common Code:_____

No. _____

[$]_____

Maturity Date: _____

[*Global Note Legend - each Global Note will bear a legend in substantially the form as set forth in Section 2.3(f)(i) of Schedule 1 to the Indenture*]

[*Private Placement legend – each Note will bear a legend in substantially the form as set forth in Section 2.3(f)(ii) of Schedule 1 to the Indenture, except where otherwise permitted by the Indenture*]

6.000 % SENIOR NOTE DUE 2028

SierraCol Energy Andina, LLC, a Delaware limited liability company, for value received promises to pay to _____ or registered assigns the principal sum of _____ [U.S. dollars] [or such lesser or greater amount as shall be set forth in the "Schedule of Principal Amount of Indebtedness Evidenced by this Note"] [*to be included in the Global Notes*].

From _____, _____, or from the most recent Interest Payment Date to which interest has been paid or provided for, cash interest on this Note will accrue at a rate per annum of _____%, payable semi-annually on _____ and _____ of each year (or, if any such day is not a Business Day, on the next succeeding Business Day) (the "**Interest Payment Date**"), beginning on _____, ____, to the Person in whose name this Note (or any predecessor Note) is registered at the close of business on the preceding _____ and _____ (the "**Record Dates**"), as the case may be; *provided* that, 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.

Capitalized terms used herein shall have the same meanings assigned to them in the Indenture unless otherwise indicated.

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

Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee referred to on the reverse hereof by manual or electronic signature of at least one authorized officer, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

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

IN WITNESS WHEREOF, SierraCol Energy Andina, LLC has caused this Note to be signed manually or by facsimile or PDF transmission by its duly authorized signatory.

Dated: _____

SIERRACOL ENERGY ANDINA, LLC

By: _____
Name:

By: _____

Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Indenture.

DEUTSCHE BANK TRUST COMPANY AMERICAS,
as Trustee,

By:_____
Name:
Title:

REVERSE SIDE OF NOTE

6.000% Senior Note due 2028

1. **Interest**

SierraCol Energy Andina, LLC, a Delaware limited liability company (such company, and its successors and assigns under the Indenture hereinafter referred to, being herein called the "**Issuer**"), for value received promises to pay interest on the principal amount of this Note from June 22, 2021 until maturity on June 15, 2028, at the interest rate per annum shown above. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The Issuer will pay interest (including post-petition interest in any proceeding under Bankruptcy Law) from time to time on demand on overdue principal (and premium, if any) at a rate that is 1% higher than the then applicable interest rate borne by the Notes, and it shall pay interest on overdue installments of interest and Additional Amounts (without regard to any applicable grace periods) at the same rate to the extent lawful.

2. **Additional Amounts**

(a) All payments made by or on behalf of the Issuer under or with respect to the Notes shall be made free and clear of and without withholding or deduction for, or on account of, any present or future Taxes unless the withholding or deduction for, or on account of, such Taxes is then required by law. If any deduction or withholding for, or on account of, any Taxes imposed or levied by or on behalf of (i) any jurisdiction in which the Issuer is then incorporated, organized, engaged in business for tax purposes or otherwise resident for tax purposes or any political subdivision thereof or therein or (ii) any jurisdiction from or through which payment is made by or on behalf of the Issuer under or with respect to the Notes (including the jurisdiction of any Paying Agent) or any political subdivision thereof or therein (each, a "**Tax Jurisdiction**") will at any time be required to be made from any payments made by or on behalf of the Issuer under or with respect to the Notes, including payments of principal, Redemption Price, purchase price, interest or premium, the Issuer shall pay, subject to the exceptions and the conditions set forth in Section 4.10 of the Indenture, such additional amounts (the "**Additional Amounts**") as may be necessary in order that the net amounts received in respect of such payments by each Holder after such withholding or deduction (including any such withholding or deduction from such Additional Amounts) will equal the respective amounts that would have been received in respect of such payments in the absence of such withholding or deduction.

(b) Whenever in the Indenture (or this Note) there is mentioned, in any context, the payment of amounts based upon the principal amount of the Notes or of principal, interest or any other amount payable under, or with respect to, any of

the Notes, such mention shall be deemed to include mention of the payment of Additional Amounts to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof.

3. **Method of Payment**

The Issuer shall pay interest on this Note (except Defaulted Interest) to the Persons who are registered Holders of this Note at the close of business on the Record Date for the next succeeding Interest Payment Date, even if this Note is cancelled after the Record Date and on or before the Interest Payment Date except as provided in Section 2.11 of the Indenture with respect to Defaulted Interest. The Issuer shall pay principal, premium and Additional Amounts, if any, and interest in U.S. Dollars in immediately available funds that at the time of payment is legal tender for payment of public and private debts; *provided*, *however*, that payment of interest on any Definitive Registered Note may be made at the option of the Issuer by check mailed to the Holder at its address set forth in the Security Register.

Payments of principal shall be made upon surrender of this Note to the Paying Agent.

4. **Paying Agents and Registrar**

Initially, Deutsche Bank Trust Company Americas will act as Paying Agent in New York. Deutsche Bank Trust Company Americas will be the initial Registrar. The Issuer may change any Paying Agent or Registrar without notice to the Holders.

5. **Indenture**

The Issuer issued the Notes under an indenture dated as of June 22, 2021 (the "**Indenture**"), among the Issuer, the Guarantors and Deutsche Bank Trust Company Americas, as Trustee (the "**Trustee**"), Paying Agent, Transfer Agent and Registrar. The terms of the Notes include those stated in the Indenture. 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 Holders are referred to the Indenture for a statement of those terms.

To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling to the extent permitted by law.

6. **Optional Redemption**

(a) Prior to June 15, 2024, the Issuer may, at its option, on any one or more occasions, redeem up to 40% of the aggregate principal amount of the Notes (including any Additional Notes issued after the Issue Date) at a Redemption Price equal to 106.000% of the principal amount, plus accrued and unpaid interest thereon to, but excluding, the Redemption Date, subject to the right of

the Holders on the relevant Record Date to receive interest due on the relevant Interest Payment Date as provided in Section 3.6 of the Indenture, with all or a portion of the net proceeds of one or more Equity Offerings (or, in the case of a SPAC IPO, the amount of cash held by the Company or any of Restricted Subsidiaries following the consummation of that SPAC IPO); *provided* that at least 50% of the aggregate principal amount of the Notes then outstanding issued under the Indenture remains outstanding immediately after the occurrence of such redemption; (except to the extent otherwise repurchased or redeemed (or to be repurchased or redeemed) in accordance with the terms of the Indenture); *provided, further*, that for purposes of calculating the principal amount of the Notes able to be redeemed with such cash proceeds of such Equity Offering or Equity Offerings, such amount shall include only the principal amount of the Notes to be redeemed *plus* the premium on such Notes to be redeemed; and *provided, further,* that such redemption shall occur within 90 days of the date of the closing of any such Equity Offering.

(b) On or after June 15, 2024, the Issuer may on any one or more occasions redeem all or a part of the Notes at the Redemption Prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid interest and additional amounts, on the Notes redeemed, to, but excluding, the applicable Redemption Date, if redeemed during the twelve-month period beginning on June 15 of the years indicated below, subject to the rights of Holders on the relevant Record Date to receive interest on the relevant Interest Payment Date as provided in Section 3.6 of the Indenture:

Year	**Redemption Price**
2024	103.000%
2025	101.500%
2026 and thereafter	100.000%

(c) In addition, at any time prior to June 15, 2024, the Issuer may also redeem, in whole or in part, the Notes at a Redemption Price equal to 100% of the principal amount of Notes to be redeemed, *plus* the Applicable Premium in respect of, and accrued and unpaid interest and additional amounts, if any, to, but excluding, the Redemption Date, subject to the rights of the Holders on the relevant Record Date to receive interest due on the relevant Interest Payment Date as provided in Section 3.6 of the Indenture.

"**Applicable Premium**" means, with respect to any Note at any time, the greater of (a) 1.0% of the principal amount of such Note and (b) the excess of:

(1) the present value at such time of (i) the Redemption Price of the Note on June 15, 2024 (such Redemption Price being set forth in the table

appearing in paragraph 6(b) above), *plus* (ii) all required interest payments due on the Note through June 15, 2024 (excluding accrued but unpaid interest to the Redemption Date) discounted back to the Redemption Date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at a rate equal to the Treasury Rate as of such time plus 50 basis points; over

(2) the then-outstanding principal amount of the Note,

as calculated by the Issuer or on behalf of the Issuer by such Person as the Issuer may engage. For the avoidance of doubt, the calculation of the Applicable Premium shall not be a duty or obligation of the Trustee, the Paying Agent, the Registrar or Transfer Agent.

"**Treasury Rate**" means the yield to maturity as of the date of the relevant redemption notice of the most recently issued United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (or is obtainable from the Federal Reserve System's Data Download Program as of the date of such H.15) that has become publicly available at least two Business Days prior to such date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the date of such redemption notice, to June 15, 2024; *provided*, *however*, that if the period from such date to June 15, 2024 is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

(d) Unless the Issuer defaults in the payment of the Redemption Price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable Redemption Date.

7. **Redemption for Changes in Taxes**

The Issuer may redeem the Notes, in whole but not in part, at its discretion at any time upon giving not less than 10 nor more than 60 days' prior notice to the Holders (which notice will be irrevocable and given in accordance with the procedures described in Section 3.4 of the Indenture), at a Redemption Price equal to 100% of the aggregate principal amount thereof, together with accrued and unpaid interest, if any, to the date fixed by the Issuer for redemption (a "**Tax Redemption Date**") and all Additional Amounts (if any) then due and which will become due on the Tax Redemption Date as a result of the redemption or otherwise (subject to the right of Holders of the Notes on the relevant Record Date to receive interest due on an Interest Payment Date that is prior to the Tax Redemption Date and Additional Amounts (if any) in respect thereof), if on the next date on which any amount would be payable in respect of the Notes, the Issuer is or would be required to pay Additional Amounts, and the Issuer

cannot avoid any such payment obligation by taking reasonable measures available to it (including, for the avoidance of doubt, the appointment of a new Paying Agent where such appointment would be reasonable but excluding changing the jurisdiction or tax residence of the Issuer), and the requirement arises as a result of:

(i) any amendment to, or change in, the laws or treaties (or any regulations, rulings or protocols promulgated thereunder) of a relevant Tax Jurisdiction which change or amendment becomes effective on or after the Issue Date (or, if the applicable Tax Jurisdiction became a Tax Jurisdiction on a date after the Issue Date, such later date); or

(ii) any amendment to, or change in, an official position, or the introduction of an official position, regarding the interpretation, administration or application of such laws, regulations, treaties or rulings (including by virtue of a holding, judgment or order by a court of competent jurisdiction or a change in published administrative practice) which amendment, change or introduction becomes effective on or after the Issue Date (or, if the applicable Tax Jurisdiction became a Tax Jurisdiction on a date after the Issue Date, such later date).

8. **Optional Redemption Upon Certain Tender Offers**

In connection with any tender offer or other offer to purchase for all of the Notes (including pursuant to a Change of Control Offer, Alternate Offer or Asset Sale Offer) if not less than 90% of the aggregate principal amount of the then outstanding Notes are purchased by the Issuer, or any third party making such tender offer in lieu of the Issuer, the Issuer or such third party will have the right following such purchase date, to redeem all Notes that remain outstanding following such purchase at a price equal to the price paid (excluding any early tender premium or similar payment) to each other holder in such tender offer, plus, to the extent not included in the tender offer payment, accrued and unpaid interest, if any, thereon, to, but excluding, the date of such redemption.

9. **Notice of Redemption**

Notice of redemption shall be provided in accordance with Section 3.4 of the Indenture. Notice of redemption will be mailed by first–class mail at least 10 days but not more than 60 days before the Redemption Date to each Holder at its registered address, except that redemption notices may be mailed more than 60 days prior to a Redemption Date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of the Indenture pursuant to Article 8 thereof.

Notice of any redemption, including, without limitation, upon an Equity Offering, may, at the Issuer's discretion, be subject to one or more conditions precedent, including, but not limited to, completion of the related Equity Offering. If such

redemption is subject to the satisfaction of one or more conditions precedent, the related notice shall describe each such condition and, if applicable, shall state that, in the Issuer's discretion, the Redemption Date may be delayed until such time as any or all such conditions shall be satisfied or waived (*provided* that in no event shall such date of redemption be delayed to a date later than 60 days after the date on which such notice of delay was sent), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied or waived by the Redemption Date, or by the Redemption Date so delayed.

10. **Mandatory Redemption**

The Issuer is not required to make mandatory redemption or sinking fund payments with respect to the Notes.

11. **Repurchase at the Option of Holders**

If a Change of Control Triggering Event occurs, the Holder of this Note will have the right (except as provided in Section 4.9(f) of the Indenture) to require the Issuer to repurchase on the Change of Control Payment Date all or any part (subject to Section 2.14, in integral multiples of $1,000; *provided* that Notes of $200,000 or less may only be repurchased in whole and not in part) of this Note at a purchase price in cash in an amount equal to 101% of the aggregate principal amount hereof, plus any accrued and unpaid interest to, but not including, the Purchase Date (subject to the rights of Holders of record on the relevant Record Dates to receive interest due on the relevant Interest Payment Date), which date shall be no earlier than 10 days and no later than 60 days from the date such notice is mailed or delivered, other than as required by law. The Issuer shall purchase all Notes properly and timely tendered in the Change of Control Offer and not withdrawn in accordance with the procedures set forth in such notice. The Change of Control Offer will state, among other things, the procedures that Holders of the Notes must follow to accept the Change of Control Offer.

In accordance with Section 4.7 of the Indenture, when the aggregate amount of Excess Proceeds exceeds the greater of (x) $50.0 million and (y) 4.5% of Consolidated Total Assets, within 10 Business Days thereof, the Issuer shall be required to make an offer to all Holders and may make an offer to all holders of other Indebtedness that is *pari passu* with the Notes or any Note Guarantees to purchase, prepay or redeem with the proceeds of sales of assets the maximum principal amount of Notes and such other *pari passu* Indebtedness (plus all accrued interest on the Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith) that may be purchased, prepaid or redeemed out of the Excess Proceeds, at a purchase price equal to at least 100% of the principal amount of such Note and other *pari passu* Indebtedness (or in the event such other Indebtedness was issued with an original issue discount, 100% of the accreted value thereof), plus in each case, accrued and unpaid

interest, if any, to, but not including, the date of purchase, prepayment or redemption, subject to the rights of Holders of Notes on the relevant Record Date to receive interest due on the relevant Interest Payment Date.

12. **Denominations, Transfer, Exchange**

Subject to Section 2.14 of the Indenture, the Notes are in minimum denominations of $200,000 in principal amount and integral multiples of $1,000 in excess thereof. If and for so long as the Notes are listed on the Exchange and the rules of the Authority so require, the Issuer will publish a notice of any change in these denominations in accordance with the requirements of such rules. The transfer of Notes may be registered, and Notes may be exchanged, as provided in the Indenture. The Transfer Agent or Registrar may require a Holder, among other things, to furnish appropriate endorsements or transfer documents, and the Issuer may require the Holder to pay certain transfer taxes or similar governmental charges payable upon exchange or transfer.

The Issuer 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 Issuer need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the next succeeding Interest Payment Date.

13. **Unclaimed Money**

All money paid by the Issuer to the Trustee or a Paying Agent for the payment of the principal of, or premium, if any, or interest on, any Notes that remain unclaimed at the end of two years after such principal, premium or interest has become due and payable may be repaid to the Issuer, subject to any applicable escheat or abandoned property law, and the Holder of such Note thereafter may look only to the Issuer or any Guarantor for payment thereof.

14. **Discharge and Defeasance**

Subject to the conditions set forth in Article 8 of the Indenture, the Issuer at any time may terminate some or all of its obligations and the obligations of the Guarantors under the Notes, the Note Guarantees and the Indenture if the Issuer irrevocably deposits with the Trustee (or an agent designated or appointed by it) U.S. dollars, non-callable U.S. Government Obligations or a combination thereof for the payment of principal and interest on the Notes to redemption or final maturity, as the case may be.

15. **Amendment, Supplement and Waiver**

(a) Except as provided in Article 9 of the Indenture, the Notes and the Note Guarantees may be amended, supplemented or otherwise modified with the

consent of the Issuer and the Holders of 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 any existing Default or Event of Default or compliance with any provision of the Indenture, the Notes or the Note Guarantees 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); *provided* that, if any amendment, waiver or other modification will only amend, waive or modify one series of the Notes, only the consent of a majority in aggregate principal amount of the then outstanding Notes of such series shall be required.

(b) Unless consented to by the Holders of at least 90% of the aggregate principal amount of then outstanding Notes affected, or if any amendment, waiver or other modification will only amend, waive or modify one series of the Notes, without the consent of holders of at least 90% of the aggregate principal amount of the then outstanding Notes of such series (including, in each case, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), without the consent of the Issuer and each Holder affected, an amendment, supplement or waiver may not (with respect to any Notes, or if applicable, such series of Notes, held by a non-consenting Holder):

(i) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(ii) reduce the principal of or change the fixed maturity of any Note or alter the provisions with respect to the redemption or repurchase of the Notes (other than (x) any change to the notice periods with respect to such redemptions and (y) provisions relating to Section 4.7 or 4.9 of the Indenture;

(iii) reduce the rate of or change the time for payment of interest, including default interest, on any Note;

(iv) waive a Default or Event of Default in the payment of principal of, or interest, Additional Amounts or premium, if any, on, the Notes (except a rescission of acceleration of the Notes by the Holders of a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);

(v) make any Note payable in money other than that stated in the Notes;

(vi) make any change in the provisions of the Indenture relating to waivers of past Defaults or the rights of holders of Notes to receive payments of principal of, or interest, Additional Amounts or premium, if any, on, the Notes (other than as permitted in clause (vii) below);

(vii) waive a redemption or repurchase payment with respect to any Note (other than a payment required by Section 4.7 or 4.9 of the Indenture);

(viii) modify or release any of the Note Guarantees in any material manner adverse to the Holders;

(ix) impair the right of any Holder to institute suit for the enforcement of any payment on or with respect to such Holder's Notes or any Note Guarantee in respect thereof;

(x) make any change to the ranking of the Notes or Note Guarantees, in each case in a manner that materially adversely affects the rights of the Holders; or

(xi) make any change in the preceding amendment, supplement and waiver provisions.

(c) Notwithstanding the preceding, without the consent of any Holder, the Issuer, the Guarantors and the Trustee may amend or supplement the Indenture for any of the purposes set forth in Section 9.1 of the Indenture.

(d) The consent of the Holders is not necessary hereunder to approve the particular form of any proposed amendment. It is sufficient if such consent approves the substance of the proposed amendment.

(e) For the avoidance of doubt, no amendment to, or deletion of any of the covenants contained in the Indenture, or action taken in compliance with the covenants in effect at the time of such action, shall be deemed to impair or affect any rights of any Holder to receive payment of principal of, or premium, if any, or interest on, the Notes.

16. **Defaults and Remedies**

The Notes have the Events of Default as set forth in Section 6.1 of the Indenture. In the case of an Event of Default arising under Section 6.1(a)(ix) or (x) of the Indenture with respect to the Issuer, all then outstanding Notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes may declare all the then outstanding Notes to be due and payable immediately by notice in writing to the Issuer, and, in case of a notice by Holders, also to the Trustee specifying the respective Event of Default and that it is a notice of acceleration.

Holders may not enforce the Indenture or the Notes except as provided in the Indenture. The Trustee may refuse to enforce the Indenture or the Notes unless it receives security and/or indemnity satisfactory to it. Subject to certain limitations set forth in the Indenture, Holders of a majority in aggregate principal amount of the Notes may direct the Trustee in its exercise of any trust or power. The description of

Events of Default and remedies is qualified by reference, and subject in its entirety, to the more complete description thereof contained in the Indenture.

17. **Trustee Dealings with the Issuer**

The Trustee under the Indenture, any Paying Agent, the Registrar or any other agent of the Issuer or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes, may make loans to, accept deposits from and perform services for the Issuer or any of its Affiliates and may otherwise deal with the Issuer with the same rights it would have if it were not Trustee, Paying Agent, Registrar or other such agent.

18. **No Recourse Against Others**

No director, officer, employee or incorporator of the Issuer or any Guarantor or stockholder of the Company, as such, shall have any liability for any obligations of the Issuer or the Guarantors under the Notes, the Indenture or the Note 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 shall be part of the consideration for the issuance of the Notes.

19. **Authentication**

This Note shall not be valid until at least one authorized officer of the Trustee (or the Authenticating Agent) signs by manual or electronic signature the certificate of authentication on the other side of this Note.

20. **Persons Deemed Owners**

The Company, the Trustee, the Registrar, the Transfer Agent and the Paying Agent are entitled to treat the registered Holder of a Note as the owner of it for all purposes. Only registered Holders have rights under the Indenture.

21. **CUSIP, ISIN or Common Code Numbers**

The Issuer has caused CUSIP, ISIN or Common Code numbers, as applicable, to be printed on the Notes, and the Trustee may use CUSIP, ISIN or Common Code numbers, as applicable, 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.

22. **[Reserved]**

23. **Governing Law**

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

The Issuer shall furnish to any holder upon written request and without charge to the holder a copy of the Indenture. Requests may be made to:

SierraCol Energy Andina, LLC
Calle 77ª #11-32
Bogotá, Colombia
Telephone: +57 1 345 41 55
Attention: Chief Financial Officer

Assignment Form

To assign this Note, fill in the form below: (I) or (we) assign and transfer this Note to:

_____

_____

(Insert assignee's social security or tax I.D. number)

_____

(Print or type assignee's name, address and zip code)

and irrevocably appoint _____ as agent to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: _____

Your Signature: _____

(Sign exactly as your name appears on the face of this Note)

Signature Guarantee _____

(Participant in a Recognized Signature Guaranty Medallion Program)

Option of Holder to Elect Purchase

If you want to elect to have this Note purchased by the Issuer pursuant to Section 4.7 or 4.9 of the Indenture, check the box below:

☐

If you want to elect to have only part of the Note purchased by the Issuer pursuant to Section 4.7 or 4.9 of the Indenture, state the amount you elect to have purchased:

$_____

Date: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this Security)

Tax Identification No.: _____

Signature Guarantee: _____
(Participant in a Recognized Signature Guaranty Medallion Program)

Schedule A

Schedule of Principal Amount of Indebtedness Evidenced by this Note

The following decreases/increases in the principal amount of this Note have been made:

Date of Decrease/ Increase	Decrease in Principal Amount	Increase in Principal Amount	Principal Amount Following such Decrease/ Increase	Notation Made by

Schedule 3 FORM OF CERTIFICATE OF TRANSFER

SierraCol Energy Andina, LLC
Calle 77ª #11-32
Bogotá, Colombia

Deutsche Bank Trust Company Americas
Trust and Agency Services
60 Wall Street, 24th Floor
Mail Stop: NYC60-2405
New York, New York 10005
USA
Attn: Corporates Team, SierraCol, SF5450
Facsimile: (732) 578-4635

Deutsche Bank Trust Company Americas
c/o DB Services Americas, Inc.
5022 Gate Parkway, Suite 200
Jacksonville, FL 32256
Attn: Transfer Department, SierraCol SF5450

Re: 6.000% Senior Notes due 2028 of SierraCol Energy Andina, LLC

Reference is hereby made to the Indenture, dated as of June 22, 2021 (the "**Indenture**"), among SierraCol Energy Andina, LLC, a Delaware limited liability company (the "**Issuer**"), the Guarantors named therein and Deutsche Bank Trust Company Americas, as Trustee, Paying Agent, Transfer Agent and Registrar. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the "**Transferor**") owns and proposes to transfer the Note[s] or Book-Entry Interest in such Note[s] specified in Annex A hereto, in the principal amount of $_____ in such Note[s] or interests (the "**Transfer**"), to _____ (the "**Transferee**"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. ☐ **Check if Transferee will take delivery of a Book-Entry Interest in the 144A Global Note or a Definitive Registered Note Pursuant to Rule 144A**. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the "**U.S. Securities Act**"), and, accordingly, the Transferor hereby further certifies that the Book-Entry Interest or Definitive Registered Note is being transferred to a Person that the Transferor reasonably believed and believes is purchasing the Book-Entry Interest or Definitive Registered Note for its own account, or

for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the U.S. Securities Act in a transaction meeting the requirements of Rule 144A under the U.S. Securities Act, and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred Book-Entry Interest or Definitive Registered Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note or the Definitive Registered Note and in the Indenture and the U.S. Securities Act.

2. ☐ **Check if Transferee will take delivery of a Book-Entry Interest in the Regulation S Global Note or a Definitive Registered Note pursuant to Regulation S**. The Transfer is being effected pursuant to and in accordance with Rule 904 under the U.S. Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market, (ii) such Transferor does not know that the transaction was prearranged with a buyer in the United States, (iii) no directed selling efforts have been made in connection with the Transfer in contravention of the requirements of Rule 904(b) of Regulation S under the U.S. Securities Act, (iv) the transaction is not part of a plan or scheme to evade the registration requirements of the U.S. Securities Act and (v) if the proposed transfer is being effected prior to the expiration of a Restricted Period, the transferee is not a U.S. Person, as such term is defined pursuant to Regulation S of the U.S. Securities Act, and will take delivery only as a Book-Entry Interest so transferred through Euroclear or Clearstream. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred Book-Entry Interest or Definitive Registered Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note or the Definitive Registered Note and in the Indenture and the U.S. Securities Act.

3. ☐ **Check and complete if Transferee will take delivery of a Book-Entry Interest in a Global Note or a Definitive Registered Note pursuant to any provision of the U.S. Securities Act other than Rule 144A or Regulation S**. The Transfer is being effected in compliance with the transfer restrictions applicable to Book-Entry Interests in Global Notes and Definitive Registered Notes and pursuant to and in accordance with the U.S. Securities Act and any applicable blue sky securities laws of any state of the United States.

This certificate and the statements contained herein are made for your benefit.

_____
[Insert Name of Transferor]

By: _____
Name:
Title:

Dated: _____

ANNEX A TO CERTIFICATE OF TRANSFER

(1) The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a) □ a Book-Entry Interest in the:

(i) □ 144A Global Note (ISIN _____), or

(ii) □ Regulation S Global Note (ISIN _____), or

(b) □ a Definitive Registered Note.

(2) After the Transfer the Transferee will hold:

[CHECK ONE OF (a) OR (b)]

(a) □ a Book-Entry Interest in the:

(i) □ 144A Global Note (ISIN _____), or

(ii) □ Regulation S Global Note (ISIN _____), or

(b) □ a Definitive Registered Note.

Schedule 4 FORM OF CERTIFICATE OF EXCHANGE

SierraCol Energy Andina, LLC
Calle 77ª #11-32
Bogotá, Colombia

Deutsche Bank Trust Company Americas
Trust and Agency Services
60 Wall Street, 24th Floor
Mail Stop: NYC60-2405
New York, New York 10005
USA
Attn: Corporates Team, SierraCol, SF5450
Facsimile: (732) 578-4635

Deutsche Bank Trust Company Americas
c/o DB Services Americas, Inc.
5022 Gate Parkway, Suite 200
Jacksonville, FL 32256
Attn: Transfer Department, SierraCol SF5450

Re: 6.000 % Senior Notes due 2028 of SierraCol Energy Andina, LLC

CUSIP _____; ISIN _____

Reference is hereby made to the Indenture, dated as of June 22, 2021 (the "**Indenture**"), among SierraCol Energy Andina, LLC, a Delaware limited liability company (the "**Issuer**"), the Guarantors named therein and Deutsche Bank Trust Company Americas, as Trustee, Paying Agent, Transfer Agent and Registrar. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the "**Owner**") owns and proposes to exchange the Note[s] or Book-Entry Interest in such Note[s] specified in Annex A hereto, in the principal amount of $_____ (the "**Note Exchange**"). In connection with the Exchange, the Owner hereby certifies that:

1. ☐ **Check if Note Exchange is from Book-Entry Interest in a Global Note for Definitive Registered Notes**. In connection with the Note Exchange of the Owner's Book-Entry Interest in a Global Note for Definitive Registered Notes in an equal amount, the Owner hereby certifies that such Definitive Registered Notes are being acquired for the Owner's own account without transfer. The Definitive Registered Notes issued pursuant to the Note Exchange will be subject to restrictions on transfer enumerated in the Indenture and the U.S. Securities Act.

2. ☐ **Check if Note Exchange is from Definitive Registered Notes for Book-Entry Interest in a Global Note**. In connection with the Note Exchange of the Owner's Definitive Registered Notes for a Book-Entry Interest in a Global Note in an equal amount, the Owner hereby certifies that such Book-Entry Interest in a Global Note is being acquired for the Owner's own account without transfer. The Book-Entry Interests transferred in exchange will be subject to restrictions on transfer enumerated in the Indenture and the U.S. Securities Act.

This certificate and the statements contained herein are made for your benefit.

_____
_
[Insert Name of Transferor]

By: _____
__
Name:
Title:

Dated: _____

ANNEX A TO CERTIFICATE OF EXCHANGE

(1) The Owner owns and proposes to exchange the following:

[CHECK ONE OF (a) OR (b)]

(a) ☐ a Book-Entry Interest in the:

(i) ☐ 144A Global Note (ISIN _____), or

(ii) ☐ Regulation S Global Note (ISIN _____), or

(b) ☐ a Definitive Registered Note.

(2) After the Note Exchange the Owner will hold:

[CHECK ONE OF (a) OR (b)]

(a) ☐ a Book-Entry Interest in the:

(i) ☐ 144A Global Note (ISIN _____), or

(ii) ☐ Regulation S Global Note (ISIN _____), or

(b) ☐ a Definitive Registered Note.

Schedule 5 FORM OF SUPPLEMENTAL INDENTURE TO BE DELIVERED BY SUBSEQUENT GUARANTORS

This Supplemental Indenture (this "**Supplemental Indenture**"), dated as of _____, by and among _____, a company organized and existing under the laws of _____ (the "**Subsequent Guarantor**"), a subsidiary of the Company (as such term is defined in the indenture referred to below) (or its permitted successor), SierraCol Energy Andina, LLC, a Delaware limited liability company (the "**Issuer**"), the Guarantors party thereto and Deutsche Bank Trust Company Americas, as Trustee, Paying Agent, Transfer Agent and Registrar,

W I T N E S E T H:

WHEREAS, the Issuer has heretofore executed and delivered to the Trustee an indenture (the "**Indenture**"), dated as of June 22, 2021, providing for the issuance of its 6.000% Senior Notes due 2028 (the "**Notes**");

WHEREAS, the Indenture provides that under certain circumstances the Subsequent Guarantor shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Subsequent Guarantor shall guarantee on the terms and subject to the provisions, including the limitations and conditions, set forth herein, in the Note Guarantee and in the Indenture including but not limited to Article 10 thereof, all of the Issuer's Obligations under the Notes and the Indenture (the "**Note Guarantee**"); and

WHEREAS, pursuant to Section 9.1 of the Indenture, the Issuer and the Trustee are authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Subsequent Guarantor and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. *Capitalized Terms*. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. *Agreement to Note Guarantee*. The Subsequent Guarantor hereby agrees to provide an unconditional Note Guarantee on the terms and subject to the provisions, including the limitations and conditions, set forth herein, in the Note Guarantee and in the Indenture including but not limited to Article 10 thereof, and hereby further agrees to accede to the Indenture as a Guarantor and be bound by the covenants therein applicable to Guarantors.

3. *Execution and Delivery*.

(a) This Supplemental Indenture shall be executed on behalf of the Subsequent Guarantor by one of its Directors or Officers.

(b) The Subsequent Guarantor hereby agrees that its Note Guarantee shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Note Guarantee.

(c) Upon execution of this Supplemental Indenture, the delivery of any Note by the Trustee, after the authentication thereof under the Indenture, shall constitute due delivery of the Note Guarantee set forth in this Supplemental Indenture on behalf of the Subsequent Guarantor.

4. [*The Issuer, as it deems necessary and appropriate, to insert limitation on Guarantor language applicable to the relevant jurisdiction of such Guarantor.*]

5. *Releases*. The Note Guarantee shall be automatically and unconditionally released and discharged in accordance with Section 10.12 of the Indenture.

6. *No Recourse Against Others*. No director, officer, employee, incorporator or stockholder or shareholder (or equivalent holder of equity interests) of the Subsequent Guarantor, as such, shall have any liability for any obligations of the Subsequent Guarantor under the Notes, the Note Guarantee, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release shall be part of the consideration for the granting of the Note Guarantee by the Subsequent Guarantor.

7. *Incorporation by Reference*. Section 11.9 of the Indenture is incorporated by reference into this Supplemental Indenture as if more fully set out herein.

8. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

9. *Counterparts*. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

10. *Effect of Headings*. The Section headings herein have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

11. *The Trustee*. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by each Subsequent Guarantor and the Issuer.

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

Dated: _____, _____

[SUBSEQUENT GUARANTOR]

By: _____
Name:
Title:

SIERRACOL ENERGY ANDINA, LLC

By: _____
Name:
Title:

DEUTSCHE BANK TRUST COMPANY AMERICAS, as Trustee

By: _____
Name:
Title:

By: _____
Name:
Title: