MESQUITE ENERGY, INC.

AND

EACH OF THE SUBSIDIARY GUARANTORS PARTY HERETO

15% Convertible Secured PIK Notes due 2023

(Series 1 Notes)

and

15% Convertible Secured PIK Notes due 2023

(Series 2 Notes)

AMENDED AND RESTATED INDENTURE

Dated as of November 10, 2020

WILMINGTON SAVINGS FUND SOCIETY, FSB

as Trustee

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This AMENDED AND RESTATED INDENTURE (this "*Amended Indenture*") dated as of November 10, 2020 is among MESQUITE ENERGY, INC., a Delaware corporation (the "*Company*"), each Subsidiary Guarantor from time to time party hereto, as Subsidiary Guarantors, and WILMINGTON SAVINGS FUND SOCIETY, FSB, as Trustee.

RECITALS

On July 10, 2020, the Company, the Subsidiary Guarantors party thereto and the Trustee entered into that certain Indenture (the "*Existing Indenture*") under which the Company issued to the Series 1 Holders, the Company's 15% Convertible Secured PIK Notes due 2023 (the "*Series 1 Notes*") and agreed to issue the additional securities for the payment of interest under the Series 1 Notes (collectively, the "*Series 1 Additional Notes*");

The Company, the Subsidiary Guarantors party hereto and the Trustee agree, for the benefit of each other and for the equal and ratable benefit of the Series 2 Holders, to issue the Company's 15% Convertible Secured PIK Notes due 2023 (the "*Series 2 Notes*") and the additional securities for the payment of interest under the Series 2 Notes (collectively, the "*Series 2 Additional Notes*"), and to sell the Series 2 Notes pursuant to Section 4.19.

The Majority Holders (as defined under the Existing Indenture) of the Series 1 Notes have consented to the amendment and restatement of the Existing Indenture on the terms and conditions set forth herein (including, without limitation, the issuance of the Series 2 Notes and any related amendments, restatements, supplements, joinders or other modifications to the Convertible Note Documents); and

The Company, the Subsidiary Guarantors, and the Trustee desire to amend and restate the Existing Indenture (for the benefit of each other and for the equal and ratable benefit of the Holders) to issue the Series 2 Notes and to read in its entirety as follows:

ARTICLE 1
DEFINITIONS AND INCORPORATION
BY REFERENCE

Section 1.01. Definitions.

"*Acceleration Event*" means the time as of which, pursuant to Section 6.02(a) hereof, the unpaid principal of, premium (including the Applicable Premium), if any, and accrued and unpaid interest on all or any of the Notes becomes immediately due and payable immediately upon or following the occurrence of an Event of Default (which in the case of an Event of Default under Section 6.01(h) or (i) shall occur automatically and upon the occurrence thereof, without any notice).

"*Account Control Agreement*" means each Account Control Agreement executed and delivered by the Company pursuant to this Amended Indenture, in form and substance satisfactory to the parties thereto.

"*Acquired Indebtedness*" means Indebtedness of a Person (1) existing at the time such Person becomes a Restricted Subsidiary or (2) assumed in connection with acquisitions of Properties from such Person (other than any Indebtedness incurred in connection with, or in contemplation of, such Person becoming a Restricted Subsidiary or such acquisition). Acquired Indebtedness shall be deemed to be incurred on the date the acquired Person becomes a Restricted Subsidiary or the date of the related acquisition of Properties from such Person.

"*Act,*" when used with respect to any Holder, has the meaning specified in Section 14.03.

"*Additional Notes*" means the Series 1 Additional Notes and Series 2 Additional Notes.

"*Affiliate*" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person; and the term "Affiliated" shall have a meaning correlative to the foregoing. For the purposes of this definition, "control," when used with respect to any Person, means the power to direct the management and policies of such Person, directly or indirectly, whether

through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing. For purposes of this definition, beneficial ownership of ten percent (10%) or more of the voting common equity (on a fully diluted basis) or options or warrants to purchase such equity (but only if exercisable at the date of determination or within sixty (60) days thereof) of a Person shall be deemed to constitute control of such Person.

"*Agents*" means, collectively, the Trustee, the Collateral Agent, the Registrar, the Paying Agent and any other agents under the Convertible Note Documents from time to time.

"*Aggregate Series 2 Note Buy-In Amount*" means the aggregate principal amount of Series 2 Notes sold to the Potential Equity Holders pursuant to Section 4.19.

"*Aggregate Buy-In Funds*" means an amount of cash equal to the sum of all payments paid to the Company as a result of a sale of Series 2 Notes pursuant to Section 4.19 and deposited in the segregated account established pursuant to Section 4.19(f).

"*Amended Indenture*" has the meaning specified in the preamble.

"*Applicable Premium"* is equal to the greater of (a) one percent (1%) of the principal amount of Notes to be redeemed and (b) the Make Whole Premium.

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

"*April 30 Order*" means that Order Approving Disclosure Statement and Confirming Second Amended Joint Chapter 11 Plan of Reorganization of Sanchez Energy Corporation and its Debtor Affiliates (Case No. 19-34506) entered by the United States Bankruptcy Court for the Southern District of Texas on April 30, 2020.

"*Asset Sale*" means:

(1) the sale, lease (other than operating leases entered into in the ordinary course of business), conveyance or other disposition of any properties or assets (including by way of a Production Payment or a sale and leaseback transaction or mergers, consolidations or otherwise); and

(2) the issuance of Equity Interests in any of the Company's Restricted Subsidiaries or the sale by the Company or any Restricted Subsidiary of Equity Interests in any of the Company's Restricted Subsidiaries (in either case other than Preferred Stock of any Restricted Subsidiary issued in compliance with Section 4.09 and directors' qualifying shares or shares required by applicable law to be held by a Person other than the Company or a Restricted Subsidiary);

provided that, in the case of (1) or (2), the sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries (including by way of a merger or consolidation) will be governed by Article 3 and/or Section 5.01 and not by the provisions of Section 4.10.

Notwithstanding the preceding, the following items will not be deemed to be Asset Sales:

(1) one or more sales, leases, conveyances or other dispositions that involve Properties having a Fair Market Value of less than $2.0 million in the aggregate;

(2) a transfer or other disposition of assets between or among any of the Company and any Subsidiary Guarantor;

(3) an issuance or sale or other disposition of Equity Interests by a Restricted Subsidiary to the Company or to another Restricted Subsidiary;

(4) any sale or other disposition of surplus, damaged, worn-out or obsolete assets (including the abandonment or other disposition of licenses and sublicenses of software, intellectual property or other general intangibles that are, as determined in good faith by the Company, no longer economically practicable to maintain or useful in the conduct of the business of the Company and its Restricted Subsidiaries taken as whole); *provided* that if any such sale, lease or other disposition or series of related sales or other dispositions shall have a Fair Market Value of more than $2.0 million, the Board of Directors shall have approved such sale or other disposition by a Board Resolution;

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

(6) a disposition of Property that constitutes (or results in by virtue of the consideration received for such disposition) either a Restricted Payment that does not violate Section 4.07 or a Permitted Investment;

(7) the abandonment, assignment, farm out, lease or sublease of developed or undeveloped Oil and Gas Properties, or the forfeiture of such Oil and Gas Properties owned or held by the Company or any of its Restricted Subsidiaries in a manner that is customary in the Oil and Gas Business and undertaken in good faith by the Company;

(8) the exchange of Oil and Gas Properties constituting Proved Undeveloped Reserves or Oil and Gas Properties not constituting Proved Reserves for Oil and Gas Properties of like kind and equivalent value (including any cash or Cash Equivalents necessary to achieve an exchange of equivalent value) in a manner that is customary in the Oil and Gas Business; *provided* that (i) the aggregate value of all Oil and Gas Properties traded or exchanged pursuant to this clause (9) shall not exceed $2.0 million and (ii) (A) the value for any Oil and Gas Properties constituting Proved Undeveloped Reserves shall be the PV-9 of such Oil and Gas Property as such PV-9 is set forth in the most recently delivered Engineering Report and (B) the value for any Oil and Gas Properties not constituting Proved Reserves shall be the Fair Market Value of such Oil and Gas Property;

(9) the creation or perfection of a Permitted Lien and dispositions in connection with Permitted Liens and the exercise by any Person in whose favor a Permitted Lien is granted of any of its rights in respect of that Permitted Lien;

(10) a surrender or waiver of contract rights or the settlement, release or surrender of contract, tort or other claims of any kind;

(11) the grant in the ordinary course of business of any non-exclusive license or sublicense of patents, trademarks, registrations therefor and other similar intellectual property, including without limitation licenses of seismic data;

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

(13) the unwinding, settlement, sale or other disposition in the ordinary course of business of Hedging Contracts and other financial instruments;

(14) any Production Payments and Reserve Sales; *provided* that any such Production Payments and Reserve Sales, other than incentive compensation programs on terms that are customary in the Oil and Gas Business for geologist, 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 sixty (60) days after the acquisition of, the property that is subject thereto; and

(15) any sale or other disposition for cash of all or substantially all of the Property of (i) SN Palmetto, LLC, a Delaware limited liability company, and (ii) SN Cotulla Assets, LLC, a Texas limited liability company.

"*Attributable Indebtedness*" in respect of a sale and leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of

interest implicit in such transaction, determined in accordance with GAAP; *provided, however*, that if such sale and leaseback transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligation." As used in the preceding sentence, the "net rental payments" under any lease for any period shall mean the sum of rental and other payments required to be paid with respect to such period by the lessee thereunder, excluding any amounts required to be paid by such lessee on account of maintenance and repairs, insurance, taxes, assessments, water rates or similar charges. In the case of any lease that is terminable by the lessee upon payment of penalty, such net rental payment shall also include the amount of such penalty, but no rent shall be considered as required to be paid under such lease subsequent to the first date upon which it may be so terminated.

"*Authorized Plan Distribution Shares*" means the shares of Common Stock available for distribution under the Plan on account of claims, which shares were authorized on the Effective Date and issued in accordance with the Plan.

"*Average Life*" means, with respect to any Indebtedness, as at any date of determination, the quotient obtained by dividing (1) the sum of the products of (a) the number of years (and any portion thereof) from the date of determination to the date or dates of each successive scheduled principal payment (including, without limitation, any sinking fund or mandatory redemption payment requirements) of such Indebtedness multiplied by (b) the amount of each such principal payment by (2) the sum of all such principal payments.

"*Beneficial Owner*" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire within one year by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms "*Beneficially Owns*" and "*Beneficially Owned*" have correlative meanings. For purposes of this definition, a Person shall be deemed not to Beneficially Own securities that are the subject of a stock purchase agreement, merger agreement or similar agreement until consummation of the transaction or, as applicable, series of related transactions contemplated thereby.

"*Board of Directors*" means with respect to the Company, either the board of directors of the Company or any duly authorized committee of such board of directors, and, with respect to any Subsidiary, either the board of directors of such Subsidiary or any duly authorized committee of that board or, in the case of a Subsidiary not having a board of directors, the manager, sole member or other person performing a function comparable to a board of directors of a corporation.

"*Board Resolution*" means, with respect to the Company, a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by its Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee, and with respect to a Subsidiary, a copy of a resolution certified by the Secretary or an Assistant Secretary of such Subsidiary (or other applicable entity at which the Subsidiary's governing body is located) to have been duly adopted by its Board of Directors (or other governing body (such as sole member in a member-managed limited liability company) and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"*Business Day*" means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York City, Wilmington, Delaware, or Houston, Texas are authorized or obligated by law or executive order to close.

"*Buy-In Purchase Date*" means the date on which the sale of Series 2 Notes pursuant to Section 4.19 is consummated.

"*Buy-In Purchase Option Fee*" means, with respect to a Potential Equity Holder, an amount equal to fifteen percent (15%) of the aggregate principal amount of the Series 2 Notes (excluding any paid-in-kind interest) purchased by such Potential Equity Holder pursuant to Section 4.19, plus an additional one percent (1%) of the aggregate principal amount of such Series 2 Notes (excluding any paid-in-kind interest) for each month during the period commencing on January 1, 2021 and ending on but excluding the Buy-In Purchase Date, which additional amount shall, if such period does not end on the last day of a month, be prorated for such final partial month.

"*Buy-In Redemption Option Fee*" means, with respect to Series 2 Notes to be redeemed pursuant to Section 3.05, an amount equal to fifteen percent (15%) of the aggregate principal amount of such Series 2 Notes (excluding any paid-in-kind interest), plus an additional one percent (1%) of the aggregate principal amount of such Series 2 Notes (excluding any paid-in-kind interest) for each month during the period commencing January 1, 2021 and ending on but excluding the Buy-In Purchase Date, which additional amount shall, if such period does not end on the last day of a month, be prorated for such final partial month.

"*Buy-In Rights Acceptance Period*" means the period beginning on the first date a Buy-In Offer is made by the Company pursuant to Section 4.19 and ending at 5:00 p.m. Houston, Texas time, on the date fifteen (15) days thereafter.

"*Buy-In Rights Period*" means the period beginning on the Series 2 Issue Date and ending May 6, 2021 (the six month anniversary of the Series 2 Issue Date), which period shall be automatically extended for the duration during which the Series 2 Holders of a majority of the aggregate principal amount of the Series 2 Notes are appealing a court ruling in the Lien-Related Litigation that requires the distribution by the Company of any Authorized Plan Distribution Shares to the Potential Equity Holders and any such requirement of the Company to distribute any Authorized Plan Distribution Shares is stayed by the court pending appeal.

"*Buy-In Rights Notice Period*" means the period beginning on the first Business Day after the date of the Post-Effective Date Equity Distribution and ending at 5:00 p.m. Houston, Texas time, on the date twenty (20) days thereafter.

"*Buy-In Series 2 Note Amount*" means, for any Potential Equity Holder, the aggregate principal amount of Series 2 Notes offered for purchase to such Potential Equity Holder pursuant to Section 4.19, which shall equal the aggregate principal amount of Series 2 Notes outstanding (including any paid-in-kind interest) on the date of the Post-Effective Date Equity Distribution plus accrued and unpaid interest *multiplied* by the quotient obtained by dividing (1) the amount shares of Common Stock distributed to such Potential Equity Holder pursuant to the Post-Effective Date Equity Distribution by (2) the Total Outstanding Shares on the date of, and after giving effect to, the Post-Effective Date Equity Distribution.

"*Capital Stock*" means, with respect to any Person, any and all shares, interests, participations, rights or other equivalents in the equity interests (however designated) in such Person, and any rights (other than debt securities convertible into an equity interest), warrants or options exercisable for, exchangeable for or convertible into such an equity interest in such Person.

"*Capitalized Lease Obligation*" means any obligation to pay rent or other amounts under a lease of (or other agreement conveying the right to use) any Property that is required to be classified and accounted for as a capital lease obligation under GAAP, and, for the purpose of this Amended Indenture, the amount of such obligation at any date shall be the capitalized amount thereof at such date, determined in accordance with GAAP. Notwithstanding the foregoing, any lease (whether entered into before or after the Original Issue Date) that would have been classified as an operating lease pursuant to GAAP (prior to the effectiveness of GAAP lease accounting changes) will be deemed not to represent a Capitalized Lease Obligation.

"*Cash Equivalents*" means:

(1) any evidence of Indebtedness with a maturity of one hundred eighty (180) days or less issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof (*provided* that the full faith and credit of the United States of America is pledged in support thereof);

(2) demand and time deposits and certificates of deposit or acceptances with a maturity of one hundred eighty (180) days or less of any financial institution that is a member of the Federal Reserve System having combined capital and surplus and undivided profits of not less than $500.0 million;

(3) commercial paper with a maturity of one hundred eighty (180) days or less issued by a corporation that is not an Affiliate of the Company and is organized under the laws of any state of the United States or the District of Columbia and rated at least A-1 by S&P or at least P-1 by Moody's;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (1) of this definition entered into with any commercial bank meeting the specifications of clause (2) of this definition;

(5) overnight bank deposits and bankers acceptances at any commercial bank meeting the qualifications specified in clause (2) of this definition;

(6) demand and time deposits and certificates of deposit with any commercial bank organized in the United States not meeting the qualifications specified in clause (2) of this definition; *provided* that such deposits and certificates support bond, letter of credit and other similar types of obligations incurred in the ordinary course of business; and

(7) investments in money market or other mutual funds substantially all of whose assets comprise securities of the types described in clauses (1) through (5) of this definition.

"*Cash Interest*" has the meaning ascribed to it in Exhibit A with respect to the Series 1 Notes and Exhibit B with respect to the Series 2 Notes.

"*Cash Management Arrangement*" means any agreement giving rise to Cash Management Obligations.

"*Cash Management Obligations*" means, with respect to any Person, any obligations of such Person in respect of treasury management arrangements (including controlled disbursement, overdraft, automated clearing house fund transfer services, return items and interstate depository network services), commercial credit cards, merchant card services, purchase or debit cards, including non-card e-payables services, and any other demand deposit or operating account relationships or other cash management services, including any treasury management line of credit.

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

(1) the direct or indirect sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets (including Equity Interests of the Restricted Subsidiaries) of the Company and its Restricted Subsidiaries taken as a whole, to any "person" (as that term is used in Section 13(d)(3) of the Exchange Act);

(2) the adoption by the stockholders of the Company of a plan relating to the liquidation or dissolution of the Company; or

(3) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as that term is used in Section 13(d)(3) of the Exchange Act), other than a Permitted Holder, becomes the Beneficial Owner, directly or indirectly, of more than fifty percent (50%) of the Voting Stock of the Company, measured by voting power rather than number of shares, units or the like.

Notwithstanding the preceding, a conversion of the Company or any of its Restricted Subsidiaries from a limited partnership, corporation, limited liability company or other form of entity to a limited liability company, corporation, limited partnership or other form of entity, an exchange of all of the outstanding Equity Interests in one form of entity for Equity Interests in another form of entity or the transfer or redomestication of the Company to or in another jurisdiction shall not, in any case, constitute a Change of Control, so long as following such conversion, exchange, transfer or redomestication, the "persons" (as that term is used in Section 13(d)(3) of the Exchange Act) who Beneficially Owned the Capital Stock of the Company immediately prior to such transactions continue to Beneficially Own in the aggregate more than fifty percent (50%) of the Voting Stock of such entity, or Beneficially Own sufficient Equity Interests in such entity or its general partner, as applicable, to elect a majority of its directors, managers, trustees or other persons serving in a similar capacity for such entity or its general partner, as applicable,

and, in either case no "person," Beneficially Owns more than fifty percent (50%) of the Voting Stock of such entity or its general partner, as applicable.

"*Clearstream*" means Clearstream Banking, société anonyme, or any successor securities clearing agency.

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

"*Collateral*" means all property wherever located and whether now owned or at any time acquired after the Original Issue Date by any Collateral Grantor as to which a Lien is granted under the Collateral Agreements to secure the Notes and the Amended Indenture, the Specified Secured Hedging Contracts and/or any Subsidiary Guarantee.

"*Collateral Agent*" means the party to the Collateral Trust and Intercreditor Agreement designated thereunder as the "Collateral Agent" (on behalf of the Secured Parties).

"*Collateral Agreements*" means, collectively, each Mortgage, the Security Agreement, the Collateral Trust and Intercreditor Agreement and each other instrument, including any assignment, security agreement, mortgage, deed of trust, pledge agreement or other security instrument, creating Liens in favor of the Collateral Agent as required by the Convertible Note Documents, including the Collateral Trust and Intercreditor Agreement, in each case, as the same may be amended, modified, or otherwise supplemented and in effect from time to time.

"*Collateral Grantors*" means the Company and each Subsidiary Guarantor that is party to a Collateral Agreement.

"*Collateral Trust and Intercreditor Agreement*" means the Collateral Trust and Intercreditor Agreement, dated as of July 31, 2020, by and among the Company, the guarantors from time to time party thereto, the Trustee, the Collateral Agent, and the representative of each Specified Secured Hedge Counterparty from time to time party thereto, as amended, restated, supplemented or otherwise modified from time to time.

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

"*Commodity Exchange Act*" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"*Common Stock*" means the common stock, par value $0.001 per share, of the Company.

"*Company*" has the meaning provided in the introductory paragraph hereto, until a successor person shall have become such pursuant to the applicable provisions of this Amended Indenture, and thereafter "Company" shall mean such successor Person.

"*Company Request*" or "*Company Order*" means a written request or order signed in the name of the Company by its Chief Executive Officer, Chief Financial Officer, President, any Vice President, its Treasurer or an Assistant Treasurer, and delivered to the Trustee.

"*Comparable Treasury Issue*" means the United States Treasury security selected by an Independent Investment Banker as having a maturity comparable to the Stated Maturity of the Notes that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the Stated Maturity for the Notes.

"*Comparable Treasury Price*" means, with respect to any Redemption Date: (1) the average of five Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations; or (2) if fewer than five Reference Treasury Dealer Quotations are obtained, the average of all quotations.

"*Conversion Agent*" means a Person engaged to perform the obligations in respect of the conversion of the Notes.

"*Conversion Calculation Date*" (i) in the case of a Conversion pursuant to Section 12.01(a) hereof, the third Business Day preceding the Fundamental Change Repurchase Date and (ii) in the case of a Conversion pursuant to Section 12.01(b) hereof, the first Business Day following the Final Conversion Period.

"*Conversion Date*" means the date on which a Conversion pursuant to Sections 12.01(a) or 12.01(b) occurs.

"*Conversion Outstanding Shares*" means the number of shares of Common Stock that are outstanding on the Conversion Calculation Date relating to such conversion other than 2,812,500 shares of Common Stock issued to the Holders of the Series 2 Notes on the Series 2 Issue Date and any shares of Common Stock issued upon conversion of Series 1 Notes or Series 2 Notes.

"*Conversion Price*" means, with respect to any conversion of Notes, an amount equal to $55.0 million divided by the Conversion Outstanding Shares.

"*Conversion Rate*" means, as of any Conversion Calculation Date, for each $1,000 principal amount of Notes, a number of shares equal to $1,000 divided by the Conversion Price as of such Conversion Calculation Date.

"*Convertible Note Documents*" means this Amended Indenture, the Collateral Agreements and any agreement instrument or other document evidencing or governing any Convertible Note Obligations related to the Notes, to the extent such are effective at the relevant time, in each case as each may be amended, restated, supplemented, modified, renewed, extended or refinanced in whole or in part from time to time.

"*Convertible Note Obligations*" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Company or any Subsidiary Guarantor arising under this Amended Indenture, the Notes, the Subsidiary Guarantees in respect of the Notes and the Collateral Agreements (including all principal, premium (including the Applicable Premium), interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the Company or any Subsidiary Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding and guarantees of payment of such Obligations under any Convertible Note Documents or Specified Secured Hedging Documents.

"*Corporate Trust Office*" means, for purposes of presenting Notes and at any time its corporate trust business shall be administered, Wilmington Savings Fund Society, FSB, located at 500 Delaware Avenue, Wilmington, DE 19801, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

"*Default*" means any event, act or condition that is, or after notice or passage of time or both would become, an Event of Default.

"*Definitive Note*" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A or Exhibit B hereto, as applicable, except that such Note shall not bear the Global Note Legend set forth in Section 2.06(f) and shall not have the *"Schedule of Increases or Decreases in the Global Note"* attached thereto.

"*Depositary*" means The Depositary Trust Company, its nominees and their respective successors and assigns, or such other depository institution hereinafter appointed by the Company.

"*DIP Credit Agreement*" means that certain Amended and Restated Senior Secured Debtor-in-Possession Term Loan Credit Agreement, dated as of January 28, 2020, as described further in the April 30 Order.

"*DIP Lenders*" means lenders under the DIP Credit Agreement, solely in their capacity as such.

"*Disinterested Director*" means, with respect to any transaction or series of transactions in respect of which the Board of Directors of the Company is required to deliver a Board Resolution hereunder, a member of the Board of Directors of the Company who does not have any material direct or indirect financial interest) in or with respect to such transaction or series of transactions (excluding such director's position as a director of the Company and any compensation received by such director in such capacity).

"*Disqualified Capital Stock*" means any Capital Stock that, either by its terms, by the terms of any security into which it is convertible or exchangeable or by contract or otherwise, is, or upon the happening of an event or passage of time would be, required to be redeemed or repurchased prior to the final Stated Maturity of the Notes or is redeemable at the option of the Holder thereof at any time prior to such final Stated Maturity, or is convertible into or exchangeable for debt securities at any time prior to such final Stated Maturity.

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

"*Effective Date"* means June 30, 2020, the date upon which the Plan became effective.

"*Engineering Report*" means a customary report, setting forth, as of the applicable dates required pursuant to Section 4.05(c)(iii), the Proved Reserves and Proved Developed Producing Reserves attributable to the Oil and Gas Properties of the Company and the Subsidiary Guarantors that, together with a projection of the rate of production and future net income, taxes, operating expenses (including production taxes and ad valorem taxes) and capital expenditures with respect thereto as of such date based upon the Strip Price on such date of determination, adjusted for historical basis differential, quality and gravity, without giving effect to non-property related expenses such as general and administrative expenses, debt service, future income tax expense and depreciation, depletion and amortization, and adjusted to give effect to the Hedging Contracts permitted hereunder that are then in effect.

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

"*Euroclear*" means the Euroclear System or any successor securities clearing agency.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended from time to time, and any successor act thereto.

"*Excluded Taxes*" means any of the following Taxes imposed on or with respect to a Holder or required to be withheld or deducted from a payment to a Holder, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Holder being organized under the laws of, or having its principal office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Holder, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Holder with respect to an applicable interest in a Note pursuant to a law in effect on the date on which (i) such Holder acquires such interest in a Note or (ii) such Holder changes its principal office, except in each case to the extent that, pursuant to Section 4.01, amounts with respect to such Taxes were payable either to such Holder's assignor immediately before such Holder acquired the Note or to such Holder immediately before it changed its principal office, (c) Taxes attributable to such Holder's failure to comply with Section 4.01 and (d) any withholding Taxes imposed under FATCA.

"*Existing Indenture*" has the meaning specified in the recitals.

"*Fair Market Value*" means with respect to any Property, the sale value that would be obtained in an arm's-length free market transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy. Fair Market Value of a Property equal to or in excess of $2.0 million shall be determined by the Board of Directors of the Company acting in good faith, whose determination shall be conclusive and evidenced by a Board Resolution delivered to the Trustee, and any lesser Fair Market Value may be determined by an officer of the Company acting in good faith.

"*FATCA*" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among governmental authorities and implementing such Sections of the Code.

"*Federal Bankruptcy Code*" means the United States Bankruptcy Code of Title 11 of the United States Code, as amended from time to time.

"*Federal Reserve Board*" means the board of governors of the United States Federal Reserve System.

"*Final Conversion Period*" the period beginning on the 90th day prior to the Maturity Date and ending on the 5th Business Day prior to the Maturity Date.

"*Fundamental Change*" means (A) the merger or consolidation of the Company with or into another entity (except a merger or consolidation in which the holders of Capital Stock of the Company immediately prior to such merger or consolidation continue to hold a majority of the voting power of the Capital Stock of the Company or the surviving or acquiring entity), (B) the closing of the transfer (whether by merger, consolidation or otherwise), in one transaction or a series of related transactions, to a Person or group of affiliated Persons (other than an underwriter of the Company's Capital Stock), of the Company's Capital Stock, if, after such closing, such Person or group of affiliated Persons would hold fifty percent (50%) or more of the outstanding voting power of the Capital Stock of the Company or the surviving or acquiring entity; *provided* the changes described in this clause shall include any Change of Control that occurs after completion of the Post-Effective Equity Distribution, but shall exclude any Change of Control that occurs as a result of the Post-Effective Equity Distribution, (C) a liquidation, dissolution or winding up of the Company, or (D) a sale, exclusive license, transfer or other disposition of all or substantially all of the Company's assets; *provided, however*, that a transaction shall not constitute a Fundamental Change, if its sole purpose is to change the state of the Company's incorporation or to create a holding company that will be owned in substantially the same proportions by the Persons who held the Company's Capital Stock immediately prior to such transaction; *provided, further*, however, that a transaction or series of transactions shall not constitute a Fundamental Change if such transaction or series of transactions is principally for bona fide equity financing purposes in which cash is received by the Company or indebtedness of the Company is cancelled or converted (or a combination thereof).

"*GAAP*" means generally accepted accounting principles in the United States of America as in effect from time to time. All ratios and computations based on GAAP contained in this Amended Indenture will be computed in conformity with GAAP.

"*Gavilan Acquisition*" means the consummation of the sale of all assets set forth under and pursuant to the Gavilan Purchase Agreement.

"*Gavilan Purchase Agreement*" means that certain Asset Purchase Agreement dated as of October 16, 2020 among the Company, as buyer, Gavilan Resources LLC, a Delaware limited liability company and Gavilan Resources Management Services, LLC, a Delaware limited liability company, as sellers.

"*Global Note*" means a Note in global form registered in the name of the Depositary or its nominee, substantially in the form of Exhibit A or Exhibit B hereto (as applicable), and that bears the Global Note Legend set forth in Section 2.06(f) and that has the "*Schedule of Increases or Decreases in the Global Note*" attached thereto, issued in accordance with Sections 2.01, 2.06(b), 2.06(c), 2.06(d) or 2.06(e) hereof.

"*Government Securities*" means direct obligations of, or obligations guaranteed by, the United States of America for the payment of which guarantee or obligations the full faith and credit of the United States is pledged.

The uncapitalized term "*guarantee*" means, as applied to any obligation, (1) a guarantee (other than by endorsement of negotiable instruments or documents for collection in the ordinary course of business), direct or indirect, in any manner, of any part or all of such obligation and (2) an agreement, direct or indirect, contingent or otherwise, the practical effect of which is to assure in any way the payment or performance (or payment of damages

in the event of non-performance) of all or any part of such obligation, including, without limiting the foregoing, the payment of amounts drawn down under letters of credit. When used as a verb, "guarantee" has a corresponding meaning.

"*Hedging Contracts*" means, with respect to any specified Person:

(1) interest rate swap agreements, interest rate cap agreements, interest rate collar agreements and other agreements or arrangements designed for the purpose of fixing, hedging, mitigating or swapping interest rate risk either generally or under specific contingencies;

(2) foreign exchange contracts, currency swap agreements and other agreements or arrangements designed for the purpose of fixing hedging, mitigating or swapping foreign currency exchange rate risk either generally or under specific contingencies;

(3) commodity swap agreements, commodity cap agreements or commodity collar agreements designed for the purpose of fixing, hedging, mitigating, managing or swapping commodity risk, responding to commodity market conditions and/or implementing optimization strategies either generally or under specific contingencies;

(4) any swap, cap, collar, floor, put, call, option, future, other derivative, spot purchase or sale, forward purchase or sale, buy/sell, supply and/or off-take, transportation agreement, storage agreement or other commercial or trading agreement in or involving crude oil, natural gas, ethanol, biofuels or electricity any feedstock, blendstock, intermediate product, finished product, refined product or other hydrocarbons product, or any other energy, weather or emissions related commodity (including any crack spread), or any prices or price indexes relating to any of the foregoing commodities, or any economic index or measure of economic risk or value, or other benchmark against which payments or deliveries are to be made (including any combination of such transactions), in each case that is designed for the purpose of fixing, hedging, mitigating, managing or swapping risk relating to such commodities either generally or under specific contingencies (including any combination of the foregoing); and

(5) any other hedging agreement or other arrangement, in each case that is designed to provide protection against fluctuations in the price of crude oil, gasoline, other refined products or natural gas or any adverse change in the creditworthiness of any counterparty;

provided that, for the avoidance of doubt, the above clauses (1) - (5) shall include any and all such transactions (and any related confirmations) that are subject to the terms and conditions of, or governed by, any form of master, framework or umbrella agreement, including any obligations or liabilities under such master, framework or umbrella agreement.

"*Hedging Obligations*" means any and all indebtedness, debts, liabilities and other obligations, howsoever arising, of any specified Person to the counterparties under the Hedging Contracts of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, under the Hedging Contracts and all other obligations owed by any specified Person to the counterparties under the Hedging Contracts, including any guarantee obligations in respect thereof.

"*Holder*" means a Person in whose name a Series 1 Note or a Series 2 Note (including, as applicable, Series 1 Additional Notes and Series 2 Additional Notes) is registered in the Note Register.

"*Hydrocarbon Interests*" means all rights, titles, interests and estates now or hereafter acquired in and to oil and gas leases, oil, gas and mineral leases, or other liquid or gaseous Hydrocarbon leases, mineral fee interests, overriding royalty and royalty interests, net profit interests and production payment interests, including any reserved or residual interests of whatever nature. Unless otherwise indicated herein, each reference to the term "*Hydrocarbon Interests*" means Hydrocarbon Interests of the Company and/or the Subsidiary Guarantors, as the context requires.

"*Hydrocarbons*" means crude oil, natural gas, casinghead gas, drip gasoline, natural gasoline, condensate, distillate, liquid hydrocarbons, gaseous hydrocarbons, iso butane, normal butane, propane and ethane (including such

methane allowable in commercial ethane) and all constituents, elements or compounds thereof and products refined or processed therefrom and all other minerals which may be produced and saved from or attributable to the Oil and Gas Properties of the Company and the Subsidiary Guarantors, including all oil in tanks, and all rents, issues, profits, proceeds, products, revenues and other incomes from or attributable to the Hydrocarbon Interests of the Company and the Subsidiary Guarantors or other properties constituting Oil and Gas Properties of the Company and the Subsidiary Guarantors.

"*IAI*" means an institutional "accredited investor" as described in Rule 501(a)(1), (2), (3) or (7) under the Securities Act.

"*Indebtedness*" means, with respect to any specified Person, any indebtedness of such Person, whether or not contingent:

(1) in respect of borrowed money;

(2) evidenced by bonds, notes, debentures, loan agreements or similar instruments;

(3) in respect of letters of credit issued for the account of such Person that support obligations that constitute Indebtedness (*provided* that the amount of such letters of credit included in Indebtedness shall not exceed the amount of the Indebtedness being supported) and, without duplication, the unreimbursed amount of all drafts drawn under letters of credit issued for the account of such Person;

(4) in respect of bankers' acceptances;

(5) representing Capital Lease Obligations or Attributable Debt in respect of sale and leaseback transactions;

(6) all obligations of such Person to deliver commodities, goods or services, including, without limitation, Hydrocarbons, in consideration of one or more advance payments, other than gas balancing arrangements, take or pay arrangements for the gathering, processing or transportation of production, or other similar arrangements, in each case in the ordinary course of business;

(7) the undischarged balance of any Production Payment or Volumetric Production Payment created by such Person or for the creation of which such Person directly or indirectly received payment;

(8) representing the balance deferred and unpaid of the purchase price of any property or services, except any such balance that constitutes an accrued expense or Trade Payable; or

(9) representing any Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person (excluding the footnotes thereto) prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of other Persons secured by a Lien on any Property of the specified Person, whether or not such Indebtedness is assumed by the specified Person, and, to the extent not otherwise included, the guarantee by the specified Person of any Indebtedness of any other 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). The amount of any Indebtedness outstanding as of any date will be: (A) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount; (B) in the case of obligations under any Hedging Contracts constituting Indebtedness hereunder, the termination value of the agreement or arrangement giving rise to such obligations that would be payable by such Person at such date; and (C) the principal amount of the Indebtedness, together with any interest on the Indebtedness that is more than thirty (30) days past due, in the case of any other Indebtedness.

Notwithstanding anything in this Amended Indenture to the contrary, Indebtedness shall not include, and shall be calculated without giving effect to, the effects of Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 815 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Amended Indenture as a result of accounting for any embedded derivatives created by the terms of such Indebtedness; and any such amounts that would have constituted "Indebtedness" under this Amended Indenture but for the application of this sentence shall not be deemed an incurrence of Indebtedness under this Amended Indenture. Furthermore, notwithstanding the foregoing, the following shall not constitute or be deemed "Indebtedness":

(i) any indebtedness which has been defeased in accordance with GAAP or defeased pursuant to the deposit of cash or Cash Equivalents (in an amount sufficient to satisfy all such indebtedness at maturity or redemption, as applicable, and all payments of interest and premium (including the Applicable Premium), if any) in a trust or account created or pledged for the sole benefit of the holders of such indebtedness, and subject to no other Liens, and the other applicable terms of the instrument governing such indebtedness;

(ii) 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;

(iii) any obligations arising from agreements of a Person providing for indemnification, guarantees, adjustment of purchase price, holdbacks, contingent payment obligations based on a final financial statement or performance of acquired or disposed of assets or similar obligations (other than guarantees of Indebtedness), in each case incurred or assumed by such Person in connection with the acquisition or disposition of assets (including through mergers, consolidations or otherwise) permitted by this Amended Indenture;

(iv) subject to the parenthetical at the end of the second preceding sentence of this definition, any Dollar-Denominated Production Payments or Volumetric Production Payments or Production Payments and Reserve Sales;

(v) any Disqualified Stock;

(vi) accrued expenses or Trade Payables not overdue by more than sixty (60) days;

(vii) any unrealized losses or charges in respect of Hedging Contracts (including those resulting from application of Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 815);

(viii) all contracts and other obligations, agreements, instruments or arrangements described in clauses (11), (24), (26), and 28(c) of the definition of "Permitted Liens";

(ix) Cash Management Obligations;

(x) Contingent Obligations incurred in the ordinary course of business and not in respect of borrowed money;

(xi) deferred or prepaid revenues;

(xii) in-kind obligations relating to net Hydrocarbon balancing positions arising in the ordinary course of business; and

(xiii) indebtedness, the proceeds of which are funded into an escrow or other trust arrangement pending the satisfaction of one or more conditions, unless and until such proceeds are released to the Company or any Restricted Subsidiary.

"*Independent Investment Banker*" means one of the Reference Treasury Dealers to be appointed by the Company.

"*Indemnified Taxes*" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Company under the Amended Indenture and (b) to the extent not otherwise described in (a), Other Taxes.

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

"*Interest Payment Date*" means each quarterly payment date of an installment of interest on the Notes which shall occur on the 15th day of January, April, July and October; provided that if the applicable Maturity Date for the Notes does not fall on any such quarterly date, then such Maturity Date shall also be an Interest Payment Date.

"*Insolvency or Liquidation Proceeding*" means (1) any voluntary or involuntary case or proceeding under any bankruptcy law with respect to any Collateral Grantor, (2) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Collateral Grantor or with respect to any of its assets, (3) any liquidation, dissolution, reorganization or winding up of any Collateral Grantor whether voluntary or involuntary and whether or not involving an insolvency or bankruptcy (other than any liquidation, dissolution, reorganization or winding up of any Subsidiary of the Company permitted by the Convertible Note Documents and the Specified Secured Hedging Documents (including the Collateral Trust and Intercreditor Agreement)), (4) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Collateral Grantor or (5) any other proceeding of any type or nature in which substantially all claims of creditors of any Collateral Grantor are determined and any payment or distribution is or may be made on account of such claims.

"*Investment*" means, with respect to any Person, any direct or indirect advance, loan, guarantee of Indebtedness or other extension of credit or capital contribution by such Person to (by means of any transfer of cash or other Property to others or any payment for Property or services for the account or use of others), or any purchase or acquisition by such Person of any Capital Stock, bonds, notes, debentures or other securities (including derivatives) or evidences of Indebtedness issued by, any other Person. In addition, the Fair Market Value of the net assets of any Restricted Subsidiary at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary shall be deemed to be an "Investment" made by the Company in such Unrestricted Subsidiary at such time. "Investments" shall exclude (1) extensions of trade credit or other advances to customers on commercially reasonable terms in accordance with normal trade practices or otherwise in the ordinary course of business and (2) endorsements of negotiable instruments and documents in the ordinary course of business. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Restricted Subsidiary that were not sold or disposed of.

"*Lien*" means any mortgage, charge, pledge, lien (statutory or other), security interest, hypothecation, assignment for security, claim or similar type of encumbrance (including, without limitation, any agreement to give or grant any lease, conditional sale or other title retention agreement having substantially the same economic effect as any of the foregoing) upon or with respect to any Property of any kind. A Person shall be deemed to own subject to a Lien any Property which such Person has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement.

"*Lien-Related Litigation*" means all litigation related to challenges to the allowance, priority, scope or validity of the liens and/or claims of certain prepetition secured parties as described further in the April 30 Order.

"*Lien-Related Litigation Mandatory Redemption Event*" means the occurrence of a Scenario 3 Final Equity Distribution.

"*Liquid Securities*" means securities (1) of an issuer that is not an Affiliate of the Company, (2) that are publicly traded on the New York Stock Exchange, the American Stock Exchange or the Nasdaq Stock Market and (3) as to which the Company is not subject to any restrictions on sale or transfer (including any volume restrictions under Rule 144 under the Securities Act or any other restrictions imposed by the Securities Act) or as to which a registration statement under the Securities Act covering the resale thereof is in effect for as long as the securities are held; *provided* that securities meeting the requirements of clauses (1), (2) and (3) above shall be treated as Liquid Securities from the date of receipt thereof until and only until the earlier of (a) the date on which such securities are sold or exchanged for cash or Cash Equivalents and (b) one hundred fifty (150) days following the date of receipt of such securities. If such securities are not sold or exchanged for cash or Cash Equivalents within one hundred twenty (120) days of receipt thereof, for purposes of determining whether the transaction pursuant to which the Company or a Restricted Subsidiary received the securities was in compliance with Section 4.10 hereof, such securities shall be deemed not to have been Liquid Securities at any time.

"*Majority Holders*" means, at any time, Holders of not less than majority in aggregate principal amount of the Notes then Outstanding.

"*Make Whole Premium*" is the sum of the present values of the Remaining Scheduled Payments, discounted to the Redemption Date, on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate, plus 50 basis points;

"*Material Adverse Effect*" means a material adverse change in, or material adverse effect on (a) the business, operations, Property, liabilities (actual or contingent) or financial condition of the Company and its Subsidiaries taken as a whole, (b) the ability of the Company, any Subsidiary or any Subsidiary Guarantor to perform any of its obligations under any Convertible Note Document to which it is a party, (c) the validity or enforceability of any Convertible Note Document, or (d) the rights and remedies of or benefits available to the Trustee, the Collateral Agent or any Holder under any Convertible Note Document.

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

"*Maturity Date*" has the meaning specified in Exhibit A with respect to Series 1 Notes and Exhibit B with respect to Series 2 Notes.

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

"*Mortgage*" means all mortgages, deeds of trust, deed to secure debt, trust deed, assignment of as-extracted collateral, assignment of leases and rents, fixture filing and similar documents, instruments and agreements (and all amendments, modifications and supplements thereof) creating, evidencing, perfecting or otherwise establishing the Liens on Oil and Gas Properties and other related assets to secure payment of the Notes and the Subsidiary Guarantees or any part thereof.

"*Mortgaged Properties*" means (a) any "Mortgaged Properties" as defined in any Mortgage and (b) any other property owned by a Collateral Grantor (or with respect to which a Collateral Grantor has a leasehold interest) that is subject to the Liens existing and to exist under the terms of the Mortgages.

"*Net Cash Proceeds*" with respect to any issuance, sale or incurrence of Qualified Capital Stock, Investment, other securities or Indebtedness, means the cash proceeds of such issuance or sale net of attorneys' fees, accountants' fees, underwriters' or placement agents' fees, discounts or commissions and brokerage, consultant and other fees and expenses actually incurred in connection with such issuance or sale and net of taxes paid or payable as a result thereof.

"*Note Conversion Amount*" means, with respect to each Note, the sum of the principal amount of such Note plus accrued and unpaid interest on such Note plus the Applicable Premium, each determined as of the applicable Conversion Calculation Date.

"*Note Register*" means the register maintained by or for the Registrar in which the Registrar shall provide for the registration of the Notes and the transfer of the Notes.

"*Notes*" means the Series 1 Notes and the Series 2 Notes.

"*Notes Custodian*" means the custodian with respect to a Global Note (as appointed by the Depositary), or any successor Person thereto and shall initially be the Trustee.

"*NYMEX*" means the New York Mercantile Exchange (or its successor).

"*Obligations*" means any principal, premium (including the Applicable Premium), interest, penalties, fees, expenses, indemnifications, reimbursements (including, without limitation, reimbursement obligations with respect to letters of credit and banker's acceptances), damages and other liabilities (including all interest, fees and expenses accruing after the commencement of any Insolvency or Liquidation Proceeding at the rate provided for in the documentation with respect thereto, even if such interest, fees and expenses are not enforceable, allowable or allowed as a claim in such proceeding) and guarantees of payment of such Obligations under any Convertible Note Documents or Specified Secured Hedging Documents.

"*Officer*" means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the General Counsel, the Treasurer, the Controller, the Secretary or any Vice President of such Person.

"*Officers' Certificate*" means a certificate signed on behalf of any Person by two Officers, one of whom must be the Chief Financial Officer, Treasurer or Officer serving in a similar financial capacity of such Person.

"*Oil and Gas Business*" means:

(1) the business of acquiring, exploring, exploiting, developing, producing, operating and disposing of interests in oil, natural gas, natural gas liquids, liquefied natural gas and other Hydrocarbons and mineral properties or products produced in association with any of the foregoing;

(2) the business of gathering, marketing, distributing, treating, processing, storing, selling and transporting of any production from such interests or properties;

(3) any business relating to exploration for or development, production, treatment, processing, storage, transportation or marketing of oil, gas and other minerals and products produced in association therewith; and

(4) any business relating to oilfield sales and service; and

(5) any activity that, as determined in good faith by the Company, arises from, relates to or is ancillary, complementary or incidental to or necessary or appropriate for the activities described in clauses (1) through (4) of this definition.

"*Oil and Gas Properties*" means (a) Hydrocarbon Interests, (b) the properties now or hereafter pooled or unitized with Hydrocarbon Interests, (c) all presently existing or future unitization, pooling agreements and declarations of pooled units and the units created thereby (including all units created under orders, regulations and rules of any governmental authority) which may affect all or any portion of the Hydrocarbon Interests, (d) all operating agreements, contracts and other agreements, including production sharing contracts and agreements, which relate to any of the Hydrocarbon Interests or the production, sale, purchase, exchange or processing of Hydrocarbons from or attributable to such Hydrocarbon Interests, (e) all Hydrocarbons in and under and which may be produced and saved or attributable to the Hydrocarbon Interests, including all oil in tanks, and all rents, issues, profits, proceeds, products,

revenues and other incomes from or attributable to the Hydrocarbon Interests, (f) all tenements, hereditaments, appurtenances and properties in any manner appertaining, belonging, affixed or incidental to the Hydrocarbon Interests and (g) all properties, rights, titles, interests and estates described or referred to above, including any and all property, real or personal, now owned or hereafter acquired and situated upon, used, held for use or useful in connection with the operating, working or development of any of such Hydrocarbon Interests or property (excluding drilling rigs, automotive equipment, rental equipment or other personal property which may be on such premises for the purpose of drilling a well or for other similar temporary uses) and including any and all oil wells, gas wells, injection wells or other wells, structures, fuel separators, liquid extraction plants, plant compressors, pumps, pumping units, field gathering systems, gas processing plants and pipeline systems and any related infrastructure to any thereof, tanks and tank batteries, fixtures, valves, fittings, machinery and parts, engines, boilers, meters, apparatus, equipment, appliances, tools, implements, cables, wires, towers, casing, tubing and rods, surface leases, rights-of-way, easements and servitudes together with all additions, substitutions, replacements, accessions and attachments to any and all of the foregoing.

"*Opinion of Counsel*" means a written opinion of counsel, who may be counsel for the Company (or any Subsidiary Guarantor), including an employee of the Company (or any Subsidiary Guarantor), and who shall be reasonably acceptable to the Trustee.

"*Original Issue Date*" means July 10, 2020.

"*Other Connection Taxes*" means, with respect to any Holder, Taxes imposed as a result of a present or former connection between such Holder and the jurisdiction imposing such Tax (other than connections arising from such Holder having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any provisions of this Amended Indenture, or sold or assigned an interest in any Note).

"*Other Taxes*" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Amended Indenture, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

"*Parent*" means, with respect to any Person, any other Person of which such Person is a direct or indirect Subsidiary.

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

"*Permitted Business Investments*" means Investments made in the ordinary course of, or of a nature that is or shall have become customary in, the Oil and Gas Business, either generally or in the particular geographical location or industry segment in which such Investment is made, in each case as determined in good faith by the Company, including without limitation investments or expenditures for actively exploiting, exploring for, acquiring, developing, producing, processing, gathering, marketing or transporting Hydrocarbons (including with respect to plugging and abandonment) through agreements, transactions, interests or arrangements that permit one to share risk or costs, comply with regulatory requirements regarding local ownership or satisfy other objectives customarily achieved through the conduct of the Oil and Gas Business jointly with third parties, including without limitation:

(1) direct or indirect ownership interests in crude oil, natural gas, other Hydrocarbon properties or any interest therein, gathering, transportation, processing, storage or related systems, or ancillary real property interests and interests therein; and

(2) the entry into and Investments and expenditures in the form of or pursuant to operating agreements, joint ventures, processing agreements, working interests, royalty interests, mineral leases, farm-in agreements, farm-out agreements, development agreements, production sharing agreements, production sales and marketing agreements, production payment agreements, area of mutual interest agreements, contracts for the sale, purchase, transportation,

gathering, processing, marketing, storing or exchange of crude oil and natural gas and related Hydrocarbons and minerals, unitization agreements, pooling arrangements, joint bidding agreements, service contracts, joint venture agreements, partnership agreements (whether general or limited), incentive compensation programs on terms that are customary in the Oil and Gas Business for geologists, geophysicists and other providers of technical services to the Company or any Restricted Subsidiary or other similar or customary agreements, transactions, properties, interests or arrangements, and Investments and expenditures in connection therewith or pursuant thereto, in each case made or entered into in the ordinary course of, or of a nature that is or shall have become customary in, the Oil and Gas Business.

"*Permitted Holder*" means any DIP Lender, any Affiliate of a DIP Lender and, from and after completion of the Post-Effective Date Equity Distribution, any other entity that becomes a holder of shares of Common Stock as a result of such event and any Affiliate of such entity, but only if such entity has become a party to and agreed to be bound by the Shareholders' Agreement.

"*Permitted Investments*" means any of the following:

(1) any Investment in the Company (including, without limitation, through the purchase of Notes) or in a Subsidiary Guarantor;

(2) any Investment in cash and Cash Equivalents;

(3) any acquisition of assets or Capital Stock or other Investment in any Person solely in exchange for the issuance of, or for consideration consisting solely of, or with or out of the Net Cash Proceeds of the substantially concurrent (a) contribution (other than from a Restricted Subsidiary) to the equity capital of the Company in respect of, or (b) sale (other than to a Restricted Subsidiary) of, Equity Interests (other than Disqualified Stock) of the Company;

(4) any Investments received in compromise or resolution of, or upon satisfaction of judgments with respect to (a) obligations of trade creditors or customers that were incurred in the ordinary course of business, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer, or (b) litigation, arbitration or other disputes (including pursuant to any bankruptcy or Insolvency or Liquidation proceedings) with Persons who are not Affiliates;

(5) Hedging Contracts permitted under clause (4) of Section 4.09(b) hereof;

(6) guarantees of Indebtedness permitted under Section 4.09 hereof;

(7) 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 of its Restricted Subsidiaries in the ordinary course of business;

(8) Permitted Business Investments;

(9) Investments that are in existence on the Original Issue Date;

(10) Investments in any Person to the extent such Investments consist of prepaid expenses, negotiable instruments held for collection or pledges or deposits (or guarantees or other contingent obligations) described in clause (21) of the definition of "Permitted Liens," in each case made by the Company or any of its Restricted Subsidiaries in the ordinary course of business;

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

(12) loans or advances to officers, directors or employees made in the ordinary course of business and otherwise in compliance with Section 4.11 hereof;

(13) repurchases of, or other Investments in, the Notes or Subsidiary Guarantees;

(14) Investments of a Restricted Subsidiary acquired after the Original Issue Date or of any entity merged into or consolidated with the Company or a Restricted Subsidiary in accordance with Section 5.01 hereof, to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;

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

(16) 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; and

(17) advances and prepayments for asset purchases in the ordinary course of business;

provided, however, that with respect to any Investment, the Company will be permitted to divide or classify (or later divide, re-divide, classify or reclassify in whole or in part in its sole discretion) such Investment to one or more of the above clauses (1) through (17) so that the entire Investment would be a Permitted Investment.

"*Permitted Liens*" means:

(1) Liens on Property (including the Collateral) securing the Secured Obligations;

(2) Liens in favor of the Company or the Subsidiary Guarantors;

(3) Liens on Property (including Capital Stock) of a Person existing at the time such Person becomes a Restricted Subsidiary or is merged with or into or consolidated with the Company or any of its Restricted Subsidiaries; *provided* that such Liens were in existence prior to the contemplation of such Person becoming a Restricted Subsidiary or such merger or consolidation and do not extend to any assets other than those of the Person that becomes a Restricted Subsidiary or is merged with or into or consolidated with the Company or the Restricted Subsidiary (together with all improvements, additions, accessions and contractual rights relating primarily thereto and all proceeds thereof (including dividends, distributions and increases in respect thereof));

(4) Liens on Property existing at the time of acquisition of the property by the Company or any of its Restricted Subsidiaries; *provided* that such Liens were in existence prior to the contemplation of such acquisition (together with all improvements, additions, accessions and contractual rights relating primarily thereto and all proceeds thereof (including dividends, distributions and increases in respect thereof));

(5) any interest or title of a lessor to the Property subject to a Capital Lease Obligation;

(6) Liens on any Property acquired, designed, constructed, installed, developed, repaired or improved by the Company or any of its Restricted Subsidiaries; *provided* that (a) such Liens are in favor of the seller or other transferor of such Property, in favor of the Person or Persons designing, constructing, installing, developing, repairing or improving such Property, or in favor of the Person or Persons that provided the funding for the acquisition, design, construction, installation, development, repair or improvement cost, as the case may be, of such Property, (b) such Liens are created within three hundred sixty (360) days after the acquisition, design, construction, installation, development, repair or improvement, (c) the aggregate principal amount of the Indebtedness secured by such Liens is otherwise permitted to be incurred under this Amended Indenture and does not exceed the greater of (i) the cost of the Property so acquired, designed, constructed, installed, developed, repaired or improved plus related financing costs and (ii) the Fair Market Value of the Property so acquired, designed, constructed, installed, developed, repaired or

improved, measured at the date of such acquisition, or the date of completion of such design, construction, installation, development, repair or improvement plus related financing costs, and (d) such Liens are limited to the Property so acquired, designed, constructed, installed, developed, repaired or improved (together with improvements, additions, accessions and contractual rights relating primarily thereto and including the proceeds thereof (including dividends, distributions and increases in respect thereof and accessions thereto, upgrades thereof and improvements thereto));

(7) Liens existing on the Original Issue Date;

(8) Liens to secure the performance of leases, tenders, bids, statutory obligations, surety or appeal bonds, government contracts, performance and return of money bonds, bids, trade contracts, leases, statutory obligations, regulatory obligations or other obligations of a like nature incurred in the ordinary course of business;

(9) Liens constituting or in respect of Production Payments and Reserve Sales;

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

(11) Liens on insurance policies and proceeds thereof, or other deposits, to secure insurance premium financings;

(12) bankers' Liens, rights of setoff, rights of revocation, refund or chargeback with respect to money or instruments of the Company or any Restricted Subsidiary, Liens arising out of judgments or awards not constituting 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;

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

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

(15) Liens arising under operating agreements, joint venture agreements, partnership agreements, oil and natural gas leases or subleases, overriding royalty interests, farm-out agreements, farm-in agreements, division orders, contracts for the sale, purchase, exchange, transportation, gathering or processing or exchange of crude oil and natural gas and related Hydrocarbons and minerals, unitization and pooling designations, declarations, orders and agreements, development agreements, royalties, working interests, net profits interests, joint interest billing arrangements, participation agreements, production sales contracts, production payment agreements, royalty trust agreements, incentive compensation programs for geologists, geophysicists and other providers of technical services to the Company or a Restricted Subsidiary, area of mutual interest agreements, royalty agreements, overriding royalty agreements, marketing agreements, processing agreements, net profits agreements, development agreements, gas balancing or deferred production agreements, injection, repressuring and recycling agreements, salt water or other disposal agreements, seismic or other geophysical permits or agreements, licenses, sublicenses and other agreements arising in the ordinary course of business;

(16) Liens reserved in oil and gas mineral leases for bonus or rental payments and for compliance with the terms of such leases;

(17) Liens upon specific items of inventory, receivables or other goods or proceeds of the Company or any of its Restricted Subsidiaries 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 proceeds and permitted by Section 4.09;

(18) Liens on assets (other than the Collateral) to secure payment and performance of Hedging Obligations of the Company or any of its Restricted Subsidiaries that are not Specified Secured Hedging Obligations;

(19) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently

concluded; *provided* that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;

(20) landlords', operators', vendors', carriers', warehousemen's, mechanics', materialmen's, repairmen's, suppliers', workers', construction or like Liens arising by contract or statute in the ordinary course of business or incident to the exploration, development, operation and maintenance of Oil and Gas Properties, each of which is in respect to amounts which are not yet delinquent or are being contested in good faith either by appropriate proceedings or by negotiations with the applicable lienholder following the recordation of a lien, *provided*, that such negotiations shall not exceed thirty (30) days;

(21) pledges or deposits made in the ordinary course of business (A) in connection with leases (including, without limitation, statutory and common law landlords' Liens), utility contracts, tenders, bids, plugging and abandonment, surety or appeal bonds, government contracts, performance and return of money bonds, trade contracts, statutory obligations, regulatory obligations and similar obligations, or (B) in connection with workers' compensation, health, disability or other benefits, unemployment or other insurance or self-insurance obligations and other social security or similar legislation, old age pension or public liability obligations (including, in the case of (A) or (B), Liens to secure guarantees, contingent reimbursement obligations or other contingent obligations with respect to letters of credit or bank guarantees functioning as or supporting or issued to assure payment or performance of any of the foregoing bonds or obligations);

(22) any attachment or judgment Lien that does not constitute an Event of Default;

(23) survey exceptions, easements, restrictions, servitudes, permits, conditions, covenants, exceptions or reservations of, or rights of others for, licenses, rights-of-way, roads, pipelines, transmission lines, transportation lines, distribution lines for the removal of gas, oil, coal or other minerals or timber, sewers, electric lines, telegraph and telephone lines and other similar purposes, or for the joint or common use of real estate, rights of way, facilities and equipment, Liens related to surface leases and surface operations, 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 the Company or any of its Restricted Subsidiaries;

(24) Liens arising solely by virtue of any statutory or common law provisions relating to banker's Liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained or deposited with a depositary institution; *provided* that (A) such deposit account is not a dedicated cash collateral account and is not subject to restrictions against access by the Company in excess of those set forth by regulations promulgated by the Federal Reserve Board and (B) such deposit account is not intended by the Company or any of its Restricted Subsidiaries to provide collateral to the depositary institution;

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

(26) 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;

(27) Liens arising under this Amended 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 Amended Indenture, *provided, however*, that such Liens are solely for the benefit of the trustees, agents or representatives in their capacities as such and not for the benefit of the holders of such Indebtedness;

(28) any Lien arising by reason of:

(a) good faith deposits in connection with tenders, leases and contracts (other than contracts for the payment of Indebtedness);

(b) survey exceptions, zoning restrictions, easements, licenses, reservations, title defects, rights of others for rights of way, utilities, sewers, electric lines, telephone or telegraph lines, and other similar purposes, provisions, covenants, conditions, waivers, restrictions on the use of property or minor irregularities of title (and with respect to leasehold interests, mortgages, obligations, Liens and other encumbrances incurred, created, assumed or permitted to exist and arising by, through or under a landlord or owner of the leased property, with or without consent of the lessee), none of which materially impairs the use of any parcel of property material to the operation of the business of the Company or its Restricted Subsidiaries or the value of such property for the purpose of such business;

(c) operation of law or contract in favor of mechanics, carriers, warehousemen, landlords, materialmen, laborers, employees, suppliers and similar persons, incurred in the ordinary course of business, to the extent such Liens relate only to the tangible property of the lessee which is located on such property, for sums which are not yet delinquent or are being contested in good faith by negotiations or by appropriate proceedings which suspend the collection thereof; if such reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made in respect thereof; or

(d) normal depository or Cash Management Arrangements with banks;

(29) Liens on any specific property or any interest therein, construction thereon or improvement thereto to secure all or any part of the costs incurred for surveying, exploration, drilling, extraction, development, operation, production, construction, alteration, repair or improvement of, in, under or on such property and the plugging and abandonment of wells located thereon (it being understood that, in the case of oil and gas producing properties, or any interest therein, costs incurred for development shall include costs incurred for all facilities relating to such properties or to projects, ventures or other arrangements of which such properties form a part or which relate to such properties or interests);

(30) Liens on an oil or gas producing property to secure obligations incurred or guarantees of obligations incurred in connection with or necessarily incidental to commitments for the purchase or sale of, or the transportation or distribution of, the products derived from such property;

(31) Liens arising from the deposit of funds or securities in trust for the purpose of decreasing, discharging, redeeming or defeasing Indebtedness so long as such deposit of funds or securities and such decreasing, discharging, redeeming or defeasing of Indebtedness are permitted under Section 4.07(b);

(32) Liens (other than Liens securing Indebtedness) on, or related to, Properties to secure all or part of the costs incurred in the ordinary course of business for the exploration, drilling, development, production, processing, gathering, transportation, marketing or storage, plugging, abandonment or operation thereof;

(33) Liens arising from royalties, overriding royalties, revenue interests, net revenue interests, net profit interests, reversionary interests, production payments, preferential rights of purchase, working interests and other similar interests, all as arise in the ordinary course of business; and

(34) any Lien renewing, extending, refinancing or refunding a Lien permitted by clauses (1) through (33) above, *provided* that (a) the principal amount of the Indebtedness or other obligations secured by such Lien is not increased except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection therewith and by an amount equal to any existing commitments unutilized thereunder and (b) no Property encumbered by any such Lien other than the Property permitted to be encumbered immediately prior to such renewal, extension, refinance or refund are encumbered thereby (other than all improvements, additions, accessions and contractual rights relating primarily thereto and all proceeds thereof (including dividends, distributions and increases in respect thereof)).

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

"*Plan*" means the amended joint chapter 11 plan as set forth in the April 30 Order.

"*Post-Effective Date Equity Distribution"* means the completion of the final distribution of the eighty percent (80%) of the Authorized Plan Distribution Shares which were reserved for issuance pursuant to the Plan and shall be issued and distributed in connection with adjudication or other resolution of the Lien-Related Litigation, as further described in the April 30 Order.

"*Potential Equity Holders*" means holders of Allowed Secured Notes Claims (other than DIP Fee Claims) and General Unsecured Claims (each as defined in the Plan) that receive Common Stock from the Post-Effective Date Equity Distribution.

"*Preferred Stock*" means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated) of such Person's preferred or preference stock, whether now outstanding or issued after the Original Issue Date, including, without limitation, all classes and series of preferred or preference stock of such Person.

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

"*Production Payments and Reserve Sales*" means the grant or transfer by the Company or a Restricted Subsidiary to any Person of a royalty, overriding royalty, net profits interest, Production Payment (whether volumetric or dollar denominated), 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.

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

"*Proved Reserves*" means "Proved Reserves" as defined in the Definitions for Oil and Gas Reserves (in this paragraph, the "*Definitions*") promulgated by the Society of Petroleum Engineers (or any generally recognized successor) as in effect at the time in question. "*Proved Developed Producing Reserves*" means Proved Reserves which are categorized as both "Developed" and "*Producing*" in the Definitions, "*Proved Developed Nonproducing Reserves*" means Proved Reserves which are categorized as both "*Developed*" and "*Nonproducing*" in the Definitions, "Proved Developed Reserves" means the sum of Proved Developed Producing Reserves and Proved Developed Nonproducing Reserves, and "*Proved Undeveloped Reserves*" means Proved Reserves which are categorized as "*Undeveloped*" in the Definitions.

"*QIB*" means a "qualified institutional buyer" as defined in Rule 144A.

"*Qualified Capital Stock*" of any Person means any and all Capital Stock of such Person other than Disqualified Capital Stock.

"*Redemption Date*" means the date set for Notes to be redeemed pursuant to Article 3.

"*Redemption Price*" means an amount equal to the sum of the principal amount of Notes to be redeemed plus accrued and unpaid interest (to but excluding the Redemption Date) and other applicable fees and expenses payable plus the Applicable Premium; *provided* that if the redemption is pursuant to and required by (i) Section 3.02 hereof, then the Redemption Price means an amount equal to the sum of the principal amount of Notes to be redeemed

plus accrued and unpaid interest (to but excluding the Redemption Date) and other applicable fees and expenses payable on such Redemption Date or (ii) Section 3.05 hereof, then the Redemption Price means an amount equal to the sum of one hundred and one percent (101%) of the aggregate principal amount of the Series 2 Notes to be redeemed (including any paid-in-kind interest) plus (A) accrued and unpaid interest (to but excluding the Redemption Date) and (B) the Buy-In Redemption Option Fee.

"*Reference Treasury Dealer*" means any five firms that are primary U.S. Government Securities dealers (each a "Primary Treasury Dealer") which the Company shall specify from time to time; *provided*, that if any of them ceases to be a Primary Treasury Dealer, the Company will substitute therefor another Primary Treasury Dealer.

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

"*Regulation S Notes*" means all Notes offered and sold outside the United States in reliance on Regulation S.

"*Remaining Scheduled Payments*" means with respect to each Note to be redeemed, the remaining scheduled payments of the principal thereof and interest thereon that would be due after the related Redemption Date to Stated Maturity but for such redemption; *provided*, that, if such Redemption Date is not an Interest Payment Date with respect to such Note, the amount of the next succeeding scheduled interest payment thereon will be deemed reduced by the amount of interest accrued thereon to such Redemption Date.

"*Responsible Officer*," when used with respect to the Trustee, means any officer in the Corporate Trust Office having direct responsibility for the administration of this Amended Indenture, and also means, with respect to a particular corporate trust matter, any other officer of the Trustee to whom such matter is referred because of such officer's knowledge of and familiarity with the particular subject.

"*Restricted Global Note*" means a Global Note bearing the Restricted Notes Legend.

"*Restricted Investment*" means (without duplication) (1) the designation of a Subsidiary as an Unrestricted Subsidiary in the manner described in the definition of "Unrestricted Subsidiary" and (2) any Investment other than a Permitted Investment.

"*Restricted Period*", with respect to any Notes, means the period of forty (40) consecutive days beginning on and including the day on which such Notes are first offered to persons other than distributors (as defined in Regulation S under the Securities Act) in reliance on Regulation S, notice of which day shall be promptly given by the Company to the Trustee, and with respect to any Additional Notes that are Transfer Restricted Notes, it means the comparable period of forty (40) consecutive days.

"*Restricted Subsidiary*" means any Subsidiary of the Company, whether existing on or after the Original Issue Date, unless such Subsidiary of the Company is an Unrestricted Subsidiary or is designated as an Unrestricted Subsidiary pursuant to the terms of this Amended Indenture.

"*Rule 501*" means Rule 501(a)(1), (2), (3) or (7) under the Securities Act.

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

"*Rule 144A Notes*" means all Notes offered and sold to QIBs in reliance on Rule 144A.

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

"Sale/Leaseback Transaction" means, with respect to the Company or any of its Restricted Subsidiaries, any arrangement with any Person providing for the leasing by the Company or any of its Restricted Subsidiaries of any principal property, whereby such property has been or is to be sold or transferred by the Company or any of its Restricted Subsidiaries to such Person.

"*Scenario 1 Final Equity Distribution*" means the occurrence of the Post-Effective Date Equity Distribution as a result of which ninety percent (90%) or greater of the Authorized Plan Distribution Shares are held by DIP Lenders.

"*Scenario 2 Final Equity Distribution*" means the occurrence of the Post-Effective Date Equity Distribution as a result of which greater than fifty percent (50%) but less than ninety percent (90%) of the Authorized Plan Distribution Shares are held by DIP Lenders.

"*Scenario 3 Final Equity Distribution*" means the occurrence of the Post-Effective Date Equity Distribution as a result of which fifty percent (50%) or less of the Authorized Plan Distribution Shares are held by DIP Lenders.

"*Secured Obligations*" means, subject to the terms and conditions in the Collateral Trust and Intercreditor Agreement, (i) all Convertible Note Obligations and (ii) all Specified Secured Hedging Obligations.

"*Secured Parties*" means, as of any time, (1) the Collateral Agent, (2) the Trustee, (3) the Holders of the Convertible Note Obligations and (4) the Specified Secured Hedging Counterparties.

"*Securities Act*" means the Securities Act of 1933, as amended from time to time, and any successor act thereto.

"*Security Agreement*" means the Pledge and Security Agreement dated as of the Original Issue Date (as may be further amended, restated, supplemented or otherwise modified from time to time) among the Company, the Subsidiary Guarantors from time to time party thereto and the Collateral Agent (on behalf of the Secured Parties).

"*Series 1 Additional Notes*" has the meaning specified in the recitals.

"*Series 1 Holders*" means a Person in whose name a Series 1 Note (including Series 1 Additional Notes) is registered in the Note Register.

"*Series 1 Notes*" has the meaning specified in the recitals. The Series 1 Additional Notes shall have the same rights and benefits as the Series 1 Notes issued on the Original Issue Date, and shall be treated together with the Series 1 Notes as a single class for all purposes under this Amended Indenture. Unless the context otherwise requires, all references to the Series 1 Notes shall include the Series 1 Additional Notes.

"*Series 2 Additional Notes*" has the meaning specified in the recitals.

"*Series 2 Holders*" means a Person in whose name a Series 2 Note (including Series 2 Additional Notes) is registered in the Note Register.

"*Series 2 Issue Date*" means November 10, 2020.

"*Series 2 Notes*" has the meaning specified in the recitals. The Series 2 Additional Notes shall have the same rights and benefits as the Series 2 Notes issued on the Series 2 Issue Date, and shall be treated together with the Series 2 Notes as a single class for all purposes under this Amended Indenture. Unless the context otherwise requires, all references to the Series 2 Notes shall include the Series 2 Additional Notes.

"*Series 2 Buy-In Purchase Price*" means with respect to any Potential Equity Holder, an amount equal to the sum of one hundred and one percent (101%) of such Potential Equity Holder's Buy-In Series 2 Note Amount.

"*Shareholders' Agreement*" means that certain Stockholders Agreement, dated as of July 1, 2020, approved by the Plan and by and among the Company and the stockholders set forth therein.

"*Specified Secured Hedging Contract*" means a Hedging Contract between a Specified Secured Hedging Counterparty and the Company or a Subsidiary Guarantor; *provided* that the effectiveness of such Hedging Contract is conditioned upon it and all Hedging Obligations of the Company and any Subsidiary Guarantor thereunder

constituting and being designated as "Additional Secured Debt" under the Collateral Trust and Intercreditor Agreement; *provided* further that if such designation is made with respect to a master, framework or umbrella agreement, such designation shall include and be deemed to include any and all transactions from time to time executed thereunder and all Hedging Obligations of the Company and any Subsidiary Guarantor arising therefrom without the requirement to make any further designation to the Collateral Agent with respect thereto.

"*Specified Secured Hedging Counterparty*" means any counterparty to any Hedging Contract with the Company or any Subsidiary Guarantor; *provided* that such counterparty shall be (i) any of the following entities (or their affiliates): Morgan Stanley Capital Group, Inc., BP Energy Company, Mercuria Energy America, LLC, Macquarie Bank Limited, J. Aron & Company LLC, and Cargill, Incorporated ("*Cargill*") or any Subsidiary of Cargill whose obligations under the applicable Hedging Contract is guaranteed by Cargill or which Subsidiary otherwise meets the requirements set forth in clause (ii) hereof, or in each case any successor by merger of any of the foregoing, together with any trading affiliate of any of the foregoing entities that meets the requirements set forth in clause (ii) hereof or whose obligations under the applicable Hedging Contract are guaranteed by its parent entity that meets the requirements of clause (ii) hereof; or (ii) any other nationally recognized commodities or swap dealer that, at the such entity first becomes a counterparty to such Hedge Contract, has (directly or through the guaranty of a parent entity) a rating of Baa2/BBB or above by at least one of Moody's and S&P and is not rated below Baa2/BBB by either of Moody's or S&P.

"*Specified Secured Hedging Documents*" mean, with respect to a Specified Hedging Counterparty, all Specified Secured Hedging Contracts to which it is party, the Collateral Agreements and any agreement instrument or other document evidencing or governing any Specified Secured Hedging Obligations related to such Specified Secured Hedging Contracts, to the extent such are effective at the relevant time, in each case as each may be amended, restated, supplemented, modified, renewed, extended or refinanced in whole or in part from time to time.

"*Specified Secured Hedging Obligations*" means, with respect to a Specified Secured Hedging Counterparty, all Hedging Obligations of the Company and the Subsidiary Guarantors to such Specified Secured Hedging Counterparty arising under or relating to any Specified Secured Hedging Contracts to which the Company and/or any Subsidiary Guarantors are party.

"*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.

"*Strip Price*" means, as of any date, (a) for the 60-month period commencing with the month in which such date occurs, as quoted on the NYMEX and published in a nationally recognized publication for such pricing as selected by the Majority Holders (as such prices may be corrected or revised from time to time by the NYMEX in accordance with its rules and regulations), the corresponding monthly quoted futures contract price for months 0–60 and (b) for periods after such 60-month period, the average corresponding monthly quoted futures contract price for months 49–60; *provided*, *however*, in the event that the NYMEX no longer provides futures contract price quotes for 60-month periods, the longest period of quotes of less than sixty (60) months shall be used to determine the strip period and held constant thereafter based on the average of contract prices for the last twelve (12) months of such period, and, if the NYMEX no longer provides such futures contract quotes or has ceased to operate, the Majority Holders shall designate another nationally recognized commodities exchange to replace the NYMEX for purposes of the references to the NYMEX herein which in such Person's reasonable opinion is the most comparable exchange to the NYMEX at such time.

"*Subordinated Indebtedness*" means Indebtedness of the Company or a Subsidiary Guarantor which is expressly subordinated in right of payment to the Notes or the Subsidiary Guarantees, as the case may be.

"*Subsidiary*" means, with respect to any Person, (1) a corporation a majority of whose Voting Stock is at the time owned, directly or indirectly, by such Person, by one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person, or (2) any other Person (other than a corporation), including, without limitation, a joint venture, in which such Person, one or more Subsidiaries of such Person or such Person and one or more Subsidiaries of such Person have, directly or indirectly, at the date of determination thereof, at least majority

ownership interest entitled to vote in the election of directors, managers or trustees thereof (or other Person performing similar functions).

"*Subsidiary Guarantee*" means, with respect to the Notes, any guarantee of the Notes by any Subsidiary Guarantor in accordance with Sections 4.13 and 10.01 hereof and, with respect to any Specified Secured Hedging Contract, any separate guarantee thereof that in substance is substantially and substantively equivalent to the guarantee provided under Sections 4.13 and 10.01 hereof.

"*Subsidiary Guarantor*" means each of the Restricted Subsidiaries signatory hereto and each of the Company's other Restricted Subsidiaries, if any, executing a supplemental indenture in compliance with Section 4.13(a) hereof and any Person that becomes a successor guarantor of the Notes in compliance with Sections 4.13 hereof.

"Trade Payables" means, as to any Person (a) accounts payable or other obligations of such Person created or assumed by such Person in the ordinary course of business in connection with the obtaining of goods or services and (b) obligations arising under contracts for the exploration, development, drilling, completion and plugging and abandonment of wells or for the construction, repair or maintenance of related infrastructure or facilities.

"*Transfer Restricted Notes*" means Definitive Notes and any other Notes that bear or are required to bear or are subject to a Restricted Notes Legend.

"*Treasury Rate*" means Notes (1) the yield, under the heading which represents the average for the immediately preceding week, appearing in the most recently published statistical release designated "H.15(519)" or any successor publication that is published weekly by the Board of Governors of the Federal Reserve System and that establishes yields on actively traded United States Treasury Notes adjusted to constant maturity under the caption "Treasury Constant Maturities," for the maturity corresponding to the Comparable Treasury Issue; *provided* that if no maturity is within two months before or after the Stated Maturity, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue will be determined and the Treasury Rate will be interpolated or extrapolated from those yields on a straight line basis, rounding to the nearest month; or (2) if that release, or any successor release, is not published during the week preceding the calculation date or does not contain such yields, the rate per annum equal to the semiannual equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for the Redemption Date. The Treasury Rate will be calculated on the third Business Day preceding the Redemption Date.

"*Trust Indenture Act*" or "*TIA*" means the Trust Indenture Act of 1939.

"*Trustee*" means Wilmington Savings Fund Society, FSB, as trustee under this Amended Indenture, until a successor replaces it in accordance with the applicable provisions of this Amended Indenture, and thereafter "Trustee" means each Person who is then a Trustee thereunder.

"*Uniform Commercial Code*" means the Uniform Commercial Code as in effect in any applicable jurisdiction from time to time.

"*Unrestricted Definitive Notes*" means Definitive Notes and any other Notes that are not required to bear, or are not subject to, the Restricted Notes Legend.

"*Unrestricted Global Note*" means a permanent Global Note representing Notes that do not bear the Restricted Notes Legend.

"*Unrestricted Subsidiary*" means (1) each of the following entities: SN UR Holdings, LLC, SN Services, LLC, SN Terminal, LLC, SN Midstream, LLC, SN Comanche Manager, LLC, SN EF UnSub GP, LLC, SN EF UnSub Holdings, LLC, SN EF UnSub, LP, Sanchez Resources, LLC, SR TMS LLC, SR Acquisition I, LLC, SR Acquisition III, LLC and SN Capital, LLC, (2) any Subsidiary of the Company that at the time of determination will be designated an Unrestricted Subsidiary by the Board of Directors of the Company as provided below, and (3) any Subsidiary of

an Unrestricted Subsidiary. The Board of Directors of the Company may designate any Subsidiary of the Company as an Unrestricted Subsidiary so long as: (a) neither the Company nor any Restricted Subsidiary is directly or indirectly liable pursuant to the terms of any Indebtedness of such Subsidiary; (b) the lender of any Indebtedness of such Subsidiary has no recourse for repayment of such Indebtedness to the Properties of the Company or any Restricted Subsidiary; (c) no default with respect to any Indebtedness of such Subsidiary would permit (upon notice, lapse of time or otherwise) any holder of any other Indebtedness of the Company or any Restricted Subsidiary to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its Stated Maturity; (d) such designation as an Unrestricted Subsidiary would be permitted under Section 4.07 hereof; and (e) such designation shall not result in the creation or imposition of any Lien on any of the Properties of the Company or any Restricted Subsidiary. Any such designation by the Board of Directors of the Company shall be evidenced to the Trustee by filing a Board Resolution with the Trustee giving effect to such designation. If, at any time any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Amended Indenture and any Indebtedness of such Subsidiary shall be deemed to be incurred as of such date. The Board of Directors of the Company may designate any Unrestricted Subsidiary as a Restricted Subsidiary if, immediately after giving effect to such designation on a pro forma basis, no Default or Event of Default shall have occurred and be continuing.

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

"*Voting Stock*" means any class or classes of Capital Stock pursuant to which the holders thereof have the general voting power under ordinary circumstances to elect at least a majority of the board of directors, managers or trustees of any Person (irrespective of whether or not, at the time, stock of any other class or classes shall have, or might have, voting power by reason of the happening of any contingency).

"*Wholly Owned Restricted Subsidiary*" means any Restricted Subsidiary of the Company to the extent (1) all of the Capital Stock or other ownership interests in such Restricted Subsidiary, other than directors' qualifying shares mandated by applicable law, is owned directly or indirectly by the Company or (2) such Restricted Subsidiary does substantially all of its business in one or more foreign jurisdictions and is required by the applicable laws and regulations of any such foreign jurisdiction to be partially owned by the government of such foreign jurisdiction or individual or corporate citizens of such foreign jurisdiction in order for such Restricted Subsidiary to transact business in such foreign jurisdiction, provided that the Company, directly or indirectly, owns the remaining Capital Stock or ownership interest in such Restricted Subsidiary and, by contract or otherwise, controls the management and business of such Restricted Subsidiary and derives the economic benefits of ownership of such Restricted Subsidiary to substantially the same extent as if such Restricted Subsidiary were a wholly owned subsidiary.

Section 1.02. Other Definitions.

Term	Defined in Section
"*Act*"	14.03(a)
"*Affiliate Transaction*"	4.11
"*Agent Members*"	2.01(b)
"*Buy-In Offer*"	4.19(a)
"*Buy-In Series 1 Sellers*"	4.20
"*Conversion*"	12.02(a)
"Conversion Notice"	12.01(a)
"*DIP Lender Equity Holdings*"	15.01(a)(2)
"*DIP Lender Equity Percentage*"	15.01(a)(3)
"*Event of Default*"	6.01
"*Fundamental Change Conversion Cut-off Day*"	12.01(a)
"*Fundamental Change Repurchase Date*"	8.01(a)
"Fundamental Change Repurchase Notice"	8.01(b)(1)
"*Fundamental Change Repurchase Price*"	8.01(a)

"*Fundamental Change Company Notice*"	8.01(c)
"*Global Notes*"	2.01(b)
"*Mandatory Conversion Election*"	9.02(b)
"*Paying Agent*"	2.03(a)
"*Payment Restriction*"	4.08
"*Permitted Indebtedness*"	4.09(b)
"*Pro Rata Note Amount*"	15.01(b)(1)
"*Register*"	2.03(a)
"*Registrar*"	2.03(a)
"*Regulation S Global Notes*"	2.01(b)
"*Residual Amount*"	15.01(b)(4)
"*Residual Amount Option Notice*"	15.02(a)
"*Residual Amount Repurchase Date*"	15.02(a)
"*Residual Repurchase Cut-off Date*"	15.02(d)
"*Residual Repurchase Notice*"	15.02(b)(1)
"*Residual Repurchase Price*"	15.02(a)
"*Residual Repurchase Waiver*"	15.02(d)
"*Restricted Notes Legend*"	2.06(f)(i)
"*Restricted Payment*"	4.07(a)
"*Rule 144A Global Notes*"	2.01(b)
"*Securities Purchase Agreement*"	4.20
"*Surviving Entity*"	5.01(a)(1)
"*Total Outstanding Shares*"	15.01(a)(1)
"*Transferred Note Amount*"	15.01(b)(2)
"U.S. Person"	2.01(a)
"*Waiver Form*"	15.02(d)

Section 1.03. Rules of Construction.

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

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

(b) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP and all accounting calculations will be determined in accordance with GAAP;

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

(d) the masculine gender includes the feminine and the neuter;

(e) a "day" means a calendar day;

(f) the term "merger" includes a statutory share exchange and the term "merged" has a correlative meaning;

(g) provisions apply to successive events and transactions; and

(h) references to agreements and other instruments include subsequent amendments and waivers but only to the extent not prohibited by this Amended Indenture.

ARTICLE 2
THE NOTES

Section 2.01. Form and Dating.

(a) *General*. The Notes and the Trustee's certificate of authentication therefor shall be substantially in the form of Exhibit A or Exhibit B hereto, as applicable, which are hereby incorporated in and expressly made a part of this Amended Indenture. The Notes may have other notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The terms of the Notes set forth in Exhibit A and Exhibit B, as applicable, are part of the terms of this Amended Indenture. The Notes shall be in minimum denominations of $1,000 or, if greater, any integral multiple of $1.00. On each Interest Payment Date (but not the Interest Payment Date falling on the applicable Maturity Date), an Additional Note with respect to the applicable series of Notes shall be issued to any Holder thereof as of the relevant record date for the applicable Interest Payment Date, having a principal amount equal to the interest accrued and compounded as provided in such Note with respect to the relevant interest period for such Interest Payment Date on all such Notes held by such Holder as of such record date, rounded down to the nearest whole dollar. Subject to the Company's option to pay Cash Interest pursuant to Section 2.14 of this Amended Indenture, the Company's obligation to pay interest with respect to any interest period (except the final interest period) shall be satisfied by the issuance of Additional Notes to all Holders as provided above. Interest shall be due and only payable in cash on the final interest period.

The terms and provisions contained in Exhibit A, Exhibit B and the Notes shall constitute, and are hereby expressly made, a part of this Amended Indenture and the Company, the Subsidiary Guarantors and the Trustee, by their execution and delivery of this Amended Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any such provision conflicts with the express provisions of this Amended Indenture, the provisions of this Amended Indenture shall govern and be controlling, including with respect to any amendments and voting rights of the Holders set forth in Section 9.02 of this Amended Indenture.

The Series 1 Notes issued on Original Issue Date and Series 2 Notes issued on the Series 2 Issue Date will be resold, initially only to (1) QIBs in reliance on Rule 144A and (2) Persons other than U.S. Persons (as defined in Regulation S, a "*U.S. Person*") in reliance on Regulation S. Such Notes may thereafter be transferred to, among others, QIBs, purchasers in reliance on Regulation S and, except as set forth below, IAIs in accordance with Rule 501. Additional Notes may be offered and sold by the Company from time to time in accordance with this Amended Indenture and applicable law.

(b) *Global Notes*.

(i) Notes issued in global form will be substantially in the form of Exhibit A or Exhibit B hereto, as applicable (including the Global Note Legend thereon and the "Schedule of Increases and Decreases in the Global Note" attached thereto). Notes issued in definitive form will be substantially in the form of Exhibit A or Exhibit B hereto, as applicable (but without the Global Note Legend thereon and without the "Schedule of Increases and Decreases in the Global Note" attached thereto). Rule 144A Notes initially shall be represented by one or more Notes in definitive, fully registered, global form without interest coupons (collectively, the "*Rule 144A Global Notes*"). Regulation S Notes initially shall be represented by one or more Notes in definitive fully registered, global form without interest coupons (collectively, the "*Regulation S Global Notes*"). The term "*Global Notes*" means, collectively, the Rule 144A Global Notes and the Regulation S Global Notes. Each Global Note will represent such of the outstanding Notes as will be specified therein and each represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon. The aggregate principal amount of outstanding Notes represented by such Global Note may from time to time be reduced or increased, as appropriate, to reflect exchanges, redemptions and the issuance of Additional Notes. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby will be made by the Trustee or the Notes Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 or by a Company Order in connection with the issuance of Additional Notes as required by Section 2.02(d). The Global Notes initially shall (1) be registered in the name of the Depositary or the nominee of the Depositary, in each case for credit to an account of an Agent Member, (2) be delivered to the Trustee as custodian for such Depositary and (3) bear the Restricted Notes Legend.

Members of, or direct or Indirect Participants in, the Depositary, Euroclear or Clearstream ("*Agent Members*") shall have no rights under this Amended Indenture with respect to any Global Note held on their behalf by the Depositary, or the Trustee as its custodian, or under the Global Notes. The Depositary may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner of the Global Notes for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depositary or impair, as between the Depositary, Euroclear or Clearstream, as the case may be, and their respective Agent Members, the operation of customary practices governing the exercise of the rights of any Holder.

(ii) Transfers of Global Notes shall be limited to transfer in whole, but not in part, to the Depositary, its successors or their respective nominees. Interests of beneficial owners in the Global Notes may be transferred or exchanged for Definitive Notes only in accordance with the applicable rules and procedures of the Depositary, Euroclear or Clearstream, as the case may be, and the provisions of Section 2.06. In addition, a Global Note shall be exchangeable for Definitive Notes if (i) the Depositary (x) notifies the Company that it is unwilling or unable to continue as depository for such Global Note and the Company thereupon fails to appoint a successor depository within ninety (90) days or (y) has ceased to be a clearing agency registered under the Exchange Act, or (ii) in the case of any Global Note, if requested by a Holder of a beneficial interest in such Global Notes. In all cases, Definitive Notes delivered in exchange for any Global Note or beneficial interests therein shall be registered in the names, and issued in any approved denominations, requested by or on behalf of the Depositary in accordance with its customary procedures.

(iii) In connection with the transfer of a Global Note as an entirety to beneficial owners pursuant to subsection (ii) of this Section 2.01(b), such Global Note shall be deemed to be surrendered to the Trustee for cancellation, and the Company shall execute, and the Trustee shall authenticate and make available for delivery, to each beneficial owner identified by the Depositary in writing in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of Definitive Notes of authorized denominations.

(iv) Any Transfer Restricted Note delivered in exchange for an interest in a Global Note pursuant to Section 2.06 shall, except as otherwise provided in Section 2.06, bear the Restricted Notes Legend.

(v) Notwithstanding the foregoing, through the Restricted Period, a beneficial interest in a Regulation S Global Note may be held only through Euroclear or Clearstream unless delivery is made in accordance with the applicable provisions of Section 2.06.

(vi) The Holder of any Global Note may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Amended Indenture or the Notes.

Section 2.02. Execution and Authentication.

(a) One Officer of the Company shall sign the Notes for the Company by manual or facsimile signature. The Company's seal may be impressed, affixed, imprinted or reproduced on the Notes and may be in facsimile form.

(b) If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

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

(d) On the Original Issue Date, the Trustee authenticated and delivered the Series 1 Notes in an aggregate principal amount of $33.0 million pursuant to Company Order to authenticate such Notes. On the Series 2 Issue Date, the Trustee shall authenticate and deliver the Series 2 Notes in an aggregate principal amount of $49.5

million pursuant to Company Order to authenticate such Notes. In connection with the issuance of Additional Notes, not later than three Business Days prior to the last day of each fiscal quarter, the Company shall deliver to the Trustee and the Paying Agent (if other than the Trustee), (i) with respect to Notes represented by Definitive Notes, the required amount of Additional Notes represented by Definitive Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such Additional Notes or (ii) with respect to Notes represented by one or more Global Notes, a Company Order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the Depositary or otherwise, the required amount of Additional Notes represented by Global Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such new Global Notes). Other than as described above, no other Notes may be issued by the Company or any Subsidiary Guarantor and authenticated and delivered pursuant to this Amended Indenture (except for Notes authenticated and delivered at the times and in the manner specified in Sections 2.06, 2.07, 2.10, 3.08, 4.09 or 9.05 of this Amended Indenture).

(e) The Trustee may appoint an authenticating agent reasonably acceptable to the Company to authenticate the Notes. Unless limited by the terms of such appointment, an authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Amended Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

Section 2.03. Registrar and Paying Agent.

(a) The Company shall at all times maintain an office or agency in the United States where Notes may be presented for registration of transfer or for exchange (the "*Registrar*") and an office or agency where Notes may be presented for payment (the "*Paying Agent*"). The Registrar shall keep a register of the Notes and of their transfer and exchange (the "*Register*"). The Company may have one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar, and the term "Paying Agent" includes any additional paying agent.

(b) The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-registrar not a party to this Amended Indenture. The agreement shall implement the provisions of this Amended Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.06. The Company may act as Paying Agent, Registrar, co-registrar or transfer agent.

(c) The Company initially appoints the Trustee as Registrar and Paying Agent in connection with the Notes at the Corporate Trust Office of the Trustee.

Section 2.04. Paying Agent to Hold Money in Trust.

Not later than 10:00 a.m., New York City time, on each due date of the principal and Cash Interest on the Notes, or in the case of Cash Interest payable pursuant to Section 2.14 of this Amended Indenture, the Company shall deposit with the Paying Agent a sum sufficient to pay such principal, if applicable, and Cash Interest when so becoming due. The Company shall require each Paying Agent (other than the Trustee) to agree in writing that the Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal of or Cash Interest on the Notes and shall notify the Trustee of any default by the Company in making any such payment. If the Company acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by the Paying Agent. Upon complying with this Section, the Paying Agent shall have no further liability for the money delivered to the Trustee.

Section 2.05. Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar, the Company shall furnish to the Trustee,

in writing at least five Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders.

Section 2.06. Transfer and Exchange.

(a) *Transfer and Exchange of Global Notes*

A Global Note may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary as set forth in Section 2.01(b). Global Notes will not be exchanged by the Company for Definitive Notes except under the circumstances described in Section 2.01(b)(ii).

All beneficial interests in the Global Notes will be exchanged by the Company for Definitive Notes if:

(1) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within ninety (90) days after the date of such notice from the Depositary;

(2) the Company, at its option but subject to the Depositary's requirements, determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and deliver a written notice to such effect to the Trustee; or

(3) there has occurred and is continuing an Event of Default with respect to the Notes, and the Depositary notifies the Trustee of its decision to exchange the Global Notes for Definitive Notes.

Upon the occurrence of the preceding events in (1), (2) or (3) above, Definitive Notes shall be issued in such names as the Depositary shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.06, 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or Section 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a); *provided* that beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), Section 2.06(c) or Section 2.06(g) hereof.

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes*

The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with the provisions of this Amended Indenture and the applicable rules and procedures of the Depositary. Beneficial interests in Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Beneficial interests in Global Notes shall be transferred or exchanged only for beneficial interests in Global Notes. Transfers and exchanges of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) *Transfer of Beneficial Interests in the Same Global Note*. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Restricted Notes Legend; *provided, however*, that prior to the expiration of the Restricted Period, transfers of beneficial interests in a Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person. A beneficial interest in an Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i).

(ii) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes*. In connection with all transfers and exchanges of beneficial interests in any Global Note that are not subject to Section 2.06(b)(i), the transferor of such beneficial interest must deliver to the Registrar (1) a written order from an Agent Member given to the Depositary in accordance with the applicable rules and procedures of the Depositary directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the applicable rules and procedures of the Depositary containing information regarding the Agent Member account to be credited with such increase. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Amended Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note pursuant to Section 2.01(b).

(iii) *Transfer of Beneficial Interests to Another Restricted Global Note*. A beneficial interest in a Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(ii) above and the Registrar receives the following: if the transferee will take delivery in the form of a beneficial interest in a Global Note, then the transferor must deliver a certificate in the form attached to the applicable Note.

(iv) *Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note*. A beneficial interest in a Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(ii) above and the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form attached to the applicable Note; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form attached to the applicable Note,

and, in each such case, if the Registrar so requests or if the applicable rules and procedures of the Depositary, Euroclear or Clearstream, as applicable, so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Restricted Notes Legend are no longer required in order to maintain compliance with the Securities Act. If any such transfer or exchange is effected pursuant to this subparagraph (iv) at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of a Company Order, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred or exchanged pursuant to this subparagraph (iv).

(v) *Transfer and Exchange of Beneficial Interests in an Unrestricted Global Note for Beneficial Interests in a Restricted Global Note*. Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) *Transfer and Exchange of Beneficial Interests in Global Notes to Definitive Notes.*

A beneficial interest in a Global Note may not be exchanged for a Definitive Note except under the circumstances described in Section 2.01(b)(ii). A beneficial interest in a Global Note may not be transferred to a Person who takes delivery thereof in the form of a Definitive Note except under the circumstances described in Section 2.01(b)(ii).

(d) *Transfer and Exchange of Definitive Notes for Beneficial Interests.*

Definitive Notes shall be transferred or exchanged only for beneficial interests in Global Notes. Transfers and exchanges of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i), (ii) or (iii) below, as applicable:

(i) *Transfer Restricted Notes to Beneficial Interests in Restricted Global Notes*. If any Holder of a Transfer Restricted Note proposes to exchange such Transfer Restricted Note for a beneficial interest in a Restricted Global Note or to transfer such Transfer Restricted Note to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Transfer Restricted Note proposes to exchange such Transfer Restricted Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form attached to the applicable Note;

(B) if such Transfer Restricted Note is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate from such Holder in the form attached to the applicable Note;

(C) if such Transfer Restricted Note is being transferred to a non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate from such Holder in the form attached to the applicable Note;

(D) if such Transfer Restricted Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate from such Holder in the form attached to the applicable Note;

(E) if such Transfer Restricted Note is being transferred to an IAI in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate from such Holder in the form attached to the applicable Note; or

(F) if such Transfer Restricted Note is being transferred to the Company or a Subsidiary thereof, a certificate from such Holder in the form attached to the applicable Note;

the Trustee shall cancel the Transfer Restricted Note, and increase or cause to be increased the aggregate principal amount of the appropriate Restricted Global Note.

(ii) *Transfer Restricted Notes to Beneficial Interests in Unrestricted Global Notes*. A Holder of a Transfer Restricted Note may exchange such Transfer Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note or transfer such Transfer Restricted Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

(A) if the Holder of such Transfer Restricted Note proposes to exchange such Transfer Restricted Note for a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form attached to the applicable Note; or

(B) if the Holder of such Transfer Restricted Notes proposes to transfer such Transfer Restricted Note to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note,

a certificate from such Holder in the form attached to the applicable Note, and, in each such case, if the Registrar so requests or if the applicable rules and procedures of the Depositary, Euroclear or Clearstream, as applicable, so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Restricted Notes Legend are no longer required in order to maintain compliance with the Securities Act. Upon satisfaction of the conditions of this subparagraph (ii), the Trustee shall cancel the Transfer Restricted Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note. If any such transfer or exchange is effected pursuant to this subparagraph (ii) at a time when an Unrestricted Global Note has not yet been issued, the Company

shall issue and, upon receipt of a Company Order, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of Transfer Restricted Notes transferred or exchanged pursuant to this subparagraph (ii).

(iii) *Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes*. A Holder of an Unrestricted Definitive Note may exchange an Unrestricted Definitive Note for a beneficial interest in an Unrestricted Global Note or transfer such Unrestricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes. If any such transfer or exchange is effected pursuant to this subparagraph (iii) at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of a Company Order, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of Unrestricted Definitive Notes transferred or exchanged pursuant to this subparagraph (iii).

(iv) *Unrestricted Definitive Notes to Beneficial Interests in Restricted Global Notes*. An Unrestricted Definitive Note cannot be exchanged for, or transferred to a Person who takes delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

Other than following an exchange of beneficial interest in a Global Note for Definitive Notes as contemplated by Section 2.06(a)(2), a Holder of a Definitive Note may exchange such Note for a beneficial interest in a Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Global Notes.

(e) *Transfer and Exchange of Definitive Notes for Definitive Notes.*

Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

(i) *Transfer Restricted Notes to Transfer Restricted Notes*. A Transfer Restricted Note may be transferred to and registered in the name of a Person who takes delivery thereof in the form of a Transfer Restricted Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form attached to the applicable Note;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904 under the Securities Act, then the transferor must deliver a certificate in the form attached to the applicable Note;

(C) if the transfer will be made pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate in the form attached to the applicable Note;

(D) if the transfer will be made to an IAI in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (A) through (C) above, a certificate in the form attached to the applicable Note; and

(E) if such transfer will be made to the Company or a Subsidiary thereof, a certificate in the form attached to the applicable Note.

(ii) *Transfer Restricted Notes to Unrestricted Definitive Notes*. Any Transfer Restricted Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives the following:

(A) if the Holder of such Transfer Restricted Note proposes to exchange such Transfer Restricted Note for an Unrestricted Definitive Note, a certificate from such Holder in the form attached to the applicable Note; or

(B) if the Holder of such Transfer Restricted Note proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form attached to the applicable Note, and, in each such case, if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Restricted Notes Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) *Unrestricted Definitive Notes to Unrestricted Definitive Notes*. A Holder of an Unrestricted Definitive Note may transfer such Unrestricted Definitive Note to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note at any time. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Note pursuant to the instructions from the Holder thereof.

(iv) *Unrestricted Definitive Notes to Transfer Restricted Notes*. An Unrestricted Definitive Note cannot be exchanged for, or transferred to a Person who takes delivery thereof in the form of, a Transfer Restricted Note.

At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 of this Amended Indenture. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar will register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. A Holder of Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of a Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Definitive Note pursuant to the instructions from the Holder thereof.

(f) *Legends*.

(i) Except as permitted by the following paragraphs (ii), (iii), (iv), (v), (vi) or (vii), each Note certificate evidencing the Global Notes and the Definitive Notes (and all Notes issued in exchange therefor or in substitution thereof) shall bear the applicable restricted legends set forth in Exhibit A and Exhibit B hereto, as applicable (the "*Restricted Notes Legend*"):

Each Global Note shall bear the legend applicable to Global Notes set forth in Exhibit A and Exhibit B hereto, as applicable:

Each Definitive Note shall bear the following additional legend:

"IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS."

(ii) Upon any sale or transfer of a Transfer Restricted Note that is a Definitive Note, the Registrar shall permit the Holder thereof to exchange such Transfer Restricted Note for a Definitive Note that does not bear the legends set forth above and rescind any restriction on the transfer of such Transfer Restricted Note if the Holder certifies in writing to the Registrar that such exchange is made in reliance on Rule 144 (such certification to be in the form set forth on the reverse of the Note).

(iii) Upon a sale or transfer after the expiration of the Restricted Period of any Note acquired pursuant to Regulation S, all requirements that such Note bear the Restricted Notes Legend shall cease to apply and the requirements requiring any such Note be issued in global form shall continue to apply.

(iv) Any Additional Notes sold in an offering registered under the Securities Act shall not be required to bear the Restricted Notes Legend.

(g) *Cancellation and/or Adjustment of Global Notes*.

At such time as all beneficial interests in a particular Global Note have been exchanged for beneficial interests in another Global Note or for Definitive Notes, or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note will be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note will be reduced accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note will be increased accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) *General Provisions Relating to Transfers and Exchanges*.

To permit registrations of transfers and exchanges, the Company will execute and the Trustee will authenticate Global Notes and Definitive Notes upon receipt of a Company Order in accordance with Section 2.02 hereof or at the Registrar's request.

(1) No service charge will be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.08, 4.09 and 9.05 hereof).

(2) The Registrar will not be required to register the transfer of or exchange of any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(3) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes will be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Amended Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(4) Neither the Registrar nor the Company will be required:

(A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business fifteen (15) days before the day of any selection of Notes for redemption under Section 2.06(h) hereof and ending at the close of business on the day of selection;

(B) to register the transfer of or to exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part; or

(C) to register the transfer of or to exchange a Note between a record date and the next succeeding Interest Payment Date.

(5) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(6) The Trustee will authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

(7) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06, or requested by the Trustee pursuant to Section 7.02, to effect a registration of transfer or exchange may be submitted by facsimile or electronic image scan.

Section 2.07. Replacement Notes.

(a) If a mutilated Note is surrendered to the Registrar or if the Holder claims that such Note has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall, upon its receipt of a Company Order, authenticate a replacement Note if the requirements of Section 8-405 of the Uniform Commercial Code are met and the Holder satisfies any other reasonable requirements of the Trustee. If required by the Trustee or the Company, such Holder shall furnish an indemnity bond sufficient in the judgment of the Company and the Trustee to protect the Company, the Trustee, the Paying Agent, the Registrar and any co-registrar from any loss which any of them may suffer if a Note is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Note.

(b) Every replacement Note is an additional obligation of the Company.

Section 2.08. Outstanding Notes.

(a) Notes outstanding at any time are all Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation and those described in this Section as not outstanding. A Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

(b) If a Note is replaced pursuant to Section 2.07, it ceases to be outstanding unless the Trustee and the Company receive proof satisfactory to them that the replaced Note is held by a protected purchaser.

(c) If the Paying Agent segregates and holds in trust, in accordance with this Amended Indenture, on a redemption date or maturity date money sufficient to pay all principal and interest payable on that date with respect to the Notes (or portions thereof) to be redeemed or maturing, as the case may be, and the Paying Agent is not prohibited from paying such money to the Holders on that date pursuant to the terms of this Amended Indenture, then on and after that date such Notes (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

Section 2.09. Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any Subsidiary Guarantor will be considered as though

not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Notes that the Trustee actually knows are so owned will be so disregarded.

Section 2.10. Temporary Notes.

Until Definitive Notes are ready for delivery, the Company may prepare and the Trustee shall, upon its receipt of a Company Order, authenticate temporary Notes. Temporary Notes shall be substantially in the form of Definitive Notes but may have variations that the Company considers appropriate for temporary Notes. Without unreasonable delay, the Company shall prepare and the Trustee shall, upon its receipt of a Company Order, authenticate Definitive Notes and deliver them in exchange for temporary Notes.

Section 2.11. Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall, in accordance with its then customary procedures, cancel and destroy (subject to the record retention requirements of the Exchange Act) all Notes surrendered for registration of transfer, exchange, payment or cancellation and shall, upon written request, deliver a certificate of such destruction to the Company. The Company may not issue new Notes to replace Notes it has redeemed, paid or delivered to the Trustee for cancellation.

Section 2.12. Defaulted Interest.

If the Company defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the persons who are Holders on a subsequent special record date, in each case at the rate provided in the applicable Notes and in Section 4.01 hereof. The Company shall fix or cause to be fixed any such special record date and payment date to the reasonable satisfaction of the Trustee and shall promptly mail to each Holder a notice that states the special record date, the payment date and the amount of defaulted interest to be paid.

Section 2.13. CUSIP and ISIN Numbers.

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

Section 2.14. Option to Pay Cash Interest

(a) At the Company's sole option, on any Interest Payment Date, the Company may satisfy its obligation to pay interest owed on all Notes on such date by paying Cash Interest rather than issuing Additional Notes provided that the Company complies with the terms and conditions of this Section 2.14.

(b) If the Company elects to pay Cash Interest on any such Interest Payment Date, the interest payable on such date shall be calculated (i) with respect to the Series 1 Notes, at a rate of 13% per annum rather than 15% per annum, and (ii) with respect to the Series 2 Notes, at a rate of 13% per annum rather than 15% per annum, each such interest to be accrued and compounded monthly during the applicable interest period.

(c) In order to elect payment of Cash Interest on any Interest Payment Date pursuant to this Section 2.14, the Company must deliver notice, pursuant to Section 14.05 of this Amended Indenture, to the Trustee and to the Holders of such election no later than fifteen (15) days preceding the record date for such Interest Payment Date. Such election with respect to any Interest Payment Date will be irrevocable once delivered to the Trustee. Any such notice given in a timely manner will be irrevocable and, accordingly, any failure to pay such Cash Interest on the

applicable Interest Payment Date shall constitute a default under Section 6.01(b) hereof, shall not be curable by the delivery of Additional Notes and will accrue further interest under Section 2.12 hereof that must be paid together with the Cash Interest within the applicable cure period in order to remedy such default.

(d) Notwithstanding the option to pay Cash Interest in respect of any Interest Payment Date afforded by this Section 2.14, such election may only be made with respect to the next succeeding Interest Payment Date. Except for any Interest Payment Dates and related interest periods for which such election is properly made, all calculations with respect to amounts due under the Amended Indenture, including the calculation of the Applicable Premium and any amounts due upon redemption, repurchase, acceleration or maturity, will be calculated (i) with respect to the Series 1 Notes, at the 15% per annum in-kind interest rate, and (ii) with respect to the Series 2 Notes, at the 15% per annum in-kind interest rate, without giving effect to this Section 2.14.

(e) Notwithstanding the provisions of this Section 2.14, interest payable in respect of the final Interest Payment Date may be paid as Cash Interest only and will be calculated (i) with respect to the Series 1 Notes, at an interest rate of 15% per annum, and (ii) with respect to the Series 2 Notes, at an interest rate of 15% per annum.

ARTICLE 3
REDEMPTION OF NOTES

Section 3.01. Early Redemption.

The Company may at its option, or shall be required to, redeem Notes prior to the Stated Maturity thereof only as provided in this Article 3.

Section 3.02. Redemption upon Lien-Related Litigation Mandatory Redemption Event.

(a) If a Lien-Related Litigation Mandatory Redemption Event occurs, then the Company shall be obligated to redeem all outstanding Series 1 Notes (including the Series 1 Additional Notes) at the Redemption Price. Promptly after the occurrence of such Lien-Related Litigation Mandatory Redemption Event, the Company shall irrevocably notify the Trustee in writing of such redemption, which notice of redemption shall contain the information required by Section 3.06(b) hereof.

(b) The redemption of all outstanding Notes required by Section 3.02(a) shall be completed on a Redemption Date which is selected by the Company and no more than thirty (30) days after the date on which the Lien-Related Litigation Mandatory Redemption Event occurs. Such redemption of Series 1 Notes shall be made solely in cash.

(c) Any redemption pursuant to this Section shall be applicable only to the Series 1 Notes (and the Series 1 Additional Notes).

Section 3.03. Redemption upon an Acceleration Event.

(a) Upon the occurrence of an Acceleration Event, the Company shall be obligated to redeem all outstanding Notes (including all Additional Notes) at the Redemption Price. Promptly after the occurrence of such Acceleration Event, the Company shall irrevocably notify the Trustee in writing of such redemption, which notice of redemption shall contain the information required by Section 3.06(b) hereof.

(b) The Redemption Date for the redemption of all outstanding Notes required by this Section 3.03 shall be no more than thirty (30) days after the date of the occurrence of the Acceleration Event. Such redemption of Notes shall be made solely in cash.

(c) Nothing in this Section 3.03 shall, or shall be deemed to, limit any obligation of the Company and the Subsidiary Guarantors or any rights and remedies of the Trustee, the Collateral Agent or the Holders upon the occurrence of an Acceleration Event, including without limitation the obligation of the Company and the Subsidiary Guarantors to pay all amounts due pursuant to Section 6.02 hereof and the right of the Trustee, the

Collateral Agent and the Holders to pursue such remedies as are available to them hereunder, under the Collateral Agreements, at law or in equity.

Section 3.04. Redemption at Option of the Company.

(a) After completion of the Post-Effective Date Equity Distribution, the Company may, at its option, redeem all, but not less than all, Notes (including any Additional Notes) that remain outstanding at the Redemption Price.

(b) The redemption of all outstanding Notes pursuant to this Section 3.04 shall be completed on a Redemption Date which is selected by the Company and no less than thirty (30) days after the date of delivery of the related notice of redemption and no more than sixty (60) days after such date. Such redemption of Notes shall be made solely in cash.

Section 3.05. Redemption Following Buy-In Sale.

(a) Solely following the Company's receipt of the Aggregate Buy-In Funds, the Company shall be obligated to redeem a portion of the Series 2 Notes in an amount equal to the Aggregate Series 2 Note Buy-In Amount, which redemption shall be allocated among the Series 2 Holders in accordance with such Series 2 Holders' pro rata percentage of the aggregate principal amount of the Series 2 Notes held by such Series 2 Holders on the date of the Post-Effective Date Equity Distribution. Such redemption shall be at the Redemption Price. Reasonably promptly after the Company's receipt of the Aggregate Buy-In Funds, the Company shall irrevocably notify the Trustee in writing of such redemption, which notice of redemption shall contain the information required by Section 3.06(b) hereof.

(b) The redemption of Series 2 Notes pursuant to this Section 3.05 shall be completed on a Redemption Date which is selected by the Company and no less than thirty (30) days after the date of delivery of the related notice of redemption and no more than sixty (60) days after such date. Such redemption of Notes shall be made solely in cash.

Section 3.06. Notice of Redemption.

(a) Notice of redemption shall be given by the Company to the Trustee in the manner provided in Section 14.04 hereof and, within five Business Days of receiving such notice, the Trustee shall deliver such notice to the Holders in the manner provided in Section 14.05 hereof. Failure to give such notice to any Holder or any defect therein shall not affect the irrevocable obligation of the Company to redeem all the Notes at the Redemption Price, which are to be redeemed on the Redemption Date.

(b) All notices of redemption shall state:

(1) the Redemption Date;

(2) the Redemption Price;

(3) if less than all outstanding Notes are to be redeemed, the identification (and, in the case of a partial redemption, the principal amounts) of the particular Notes to be redeemed;

(4) that on the Redemption Date the Redemption Price will become due and payable upon each such Note, or the portion thereof, to be redeemed, and that, unless the Company shall default in the payment of the Redemption Price, interest thereon will cease to accrue on and after said date;

(5) the CUSIP and ISIN numbers of the Notes to be redeemed; and

(6) the place or places where such Notes are to be surrendered for payment of the Redemption Price.

(c) Each notice of redemption given by the Company to the Trustee shall be accompanied by an Officer's Certificate and an Opinion of Counsel from the Company to the effect that such redemption will comply with the conditions of this Amended Indenture.

Section 3.07. Deposit of Redemption Price.

On or before Noon New York City time, on any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 4.03 hereof) an amount of money sufficient to pay the Redemption Price of all the Notes which are to be redeemed on such Redemption Date.

Section 3.08. Notes Payable on Redemption Date.

(a) If a notice of redemption has been given (or deemed given) as provided in this Section, the Notes so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Company shall default in the payment of the Redemption Price) such Notes shall cease to bear interest on and after such date. Upon surrender of any such Note for redemption in accordance with said notice, such Note shall be paid by the Company at the Redemption Price on the Redemption Date.

(b) If any Note called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium (including the Applicable Premium), if any) shall, until paid, bear interest from the Redemption Date at the rate borne by the Notes.

Section 3.09. Effect of Conversion. Any Note called for redemption under this Article 3 that has been properly tendered for conversion pursuant to Article 12 hereof prior to the applicable Redemption Date shall be converted pursuant to Article 12 hereof and shall not be subject to redemption hereunder.

Section 3.10. Special Mandatory Redemption of the Series 2 Notes. If (a) the Gavilan Acquisition is not consummated, or the Gavilan Purchase Agreement is terminated on or prior to November 16, 2020 or (b) the Company notifies the Trustee in writing, or otherwise announces that the Company will not pursue the consummation of the Gavilan Acquisition, then the Company shall redeem all of the Series 2 Notes on the third Business Day following the earlier to occur of (a) and (b) at a redemption price equal to 100% of the issue price of the Series 2 Notes, plus accrued and unpaid interest (in cash) to, but excluding, the date of such redemption.

ARTICLE 4

COVENANTS

Section 4.01. Payment of Principal, Premium, if Any, and Interest; Payment Free of Taxes.

(a) The Company covenants and agrees for the benefit of the Holders that it will duly and punctually pay the principal of (and premium (including Applicable Premium), if any, on) and interest on the Notes in accordance with the terms of the Notes and this Amended Indenture.

(b) Any and all payments by or on account of any obligation of the Company under the Convertible Note Documents shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of the Company or the Trustee) requires the deduction or withholding of any Tax from any such payment by the Company or the Trustee, then the Company or the Trustee shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant governmental authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the Company shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 4.01(b)) the applicable Holder receives an amount equal to the sum it would have received had no such deduction or withholding been made. The Company shall timely pay to the relevant governmental authority in

accordance with applicable law, or at the option of the Trustee timely reimburse it for the payment of, any Other Taxes.

(c) The Company shall indemnify any Holder, within ten days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 4.01) payable or paid by such Holder or required to be withheld or deducted from a payment to such Holder and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant governmental authority. A certificate as to the amount of such payment or liability delivered to the Company by a Holder (with a copy to the Trustee), or by the Trustee on its own behalf or on behalf of a Holder, shall be conclusive absent manifest error.

(d)

(1) Any Holder that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under the Convertible Note Documents shall deliver to the Company and the Trustee, at the time or times reasonably requested by the Company or the Trustee, such properly completed and executed documentation reasonably requested by the Company or the Trustee as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Holder, if reasonably requested by the Company or the Trustee, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Company or the Trustee as will enable the Company or the Trustee to determine whether or not such Holder is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in paragraphs (2)(i), (2)(ii) and (2)(iv) of this Section 4.01) shall not be required if in the Holder's reasonable judgment such completion, execution or submission would subject such Holder to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Holder.

(2) Without limiting the generality of the foregoing,

(i) any Holder that is a U.S. person shall deliver to the Company and the Trustee on or about the date on which such Holder becomes a Holder under this Agreement (and from time to time thereafter upon the reasonable request of the Company or the Trustee), executed copies of IRS Form W-9 certifying that such Holder is exempt from U.S. federal backup withholding tax;

(ii) all other Holders shall, to the extent it is legally entitled to do so, deliver to the Company and the Trustee (in such number of copies as shall be requested by the recipient) on or about the date on which such person becomes a Holder under this Agreement (and from time to time thereafter upon the reasonable request of the Company or the Trustee), whichever of the following is applicable: (x) in the case of a Holder claiming the benefits of an income tax treaty to which the United States is a party (I) with respect to payments of interest under the Convertible Note Documents, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (II) with respect to any other applicable payments under the Convertible Note Documents, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty; (y) executed copies of IRS Form W-8ECI; or (z) in the case of a Holder claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (I) a certificate to the effect that such Holder (or such Holder's beneficial owner(s)) is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Company within the meaning of Section 871(h)(3)(B) of the Code, or a "controlled foreign corporation" related to the Company as described in Section 881(c)(3)(C) of the Code and (I) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E or executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable;

(iii) any Holder shall, to the extent it is legally entitled to do so, deliver to the Company and the Trustee (in such number of copies as shall be requested by the recipient) on or about the date on which such Holder becomes a Holder under this Agreement (and from time to time thereafter upon the reasonable request of the Company or the Trustee), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may

be prescribed by applicable law to permit the Company or the Trustee to determine the withholding or deduction required to be made; and

(iv) if a payment made to a Holder under the Convertible Note Documents would be subject to U.S. federal withholding Tax imposed by FATCA if such Holder were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Holder shall deliver to the Company and the Trustee at the time or times prescribed by law and at such time or times reasonably requested by the Company or the Trustee such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Company or the Trustee as may be necessary for the Company and the Trustee to comply with their obligations under FATCA and to determine that such Holder has complied with such Holder's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (iv), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Holder agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Company and the Trustee in writing of its legal inability to do so.

(e) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 4.01 (including by the payment of additional amounts pursuant to this Section 4.01), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant governmental authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (e) (plus any penalties, interest or other charges imposed by the relevant governmental authority) in the event that such indemnified party is required to repay such refund to such governmental authority. Notwithstanding anything to the contrary in this paragraph (e), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (e) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(f) Each party's obligations under this Section 4.01 shall survive the resignation or replacement of the Trustee or any assignment of rights by, or the replacement of, a Holder, and the repayment, satisfaction or discharge of all obligations under the Convertible Note Documents.

Section 4.02. Maintenance of Office or Agency.

(a) The Company shall maintain an office or agency where Notes may be presented or surrendered for payment, where Notes may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Notes, the Subsidiary Guarantees and this Amended Indenture may be served. The Wilmington, Delaware office of the Trustee shall be such office or agency of the Company, unless the Company shall designate and maintain some other office or agency for one or more of such purposes. The Company will give prompt written notice to the Trustee of any change in the location of any such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the aforementioned office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

(b) The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind any such designation. The Company will give prompt written notice to the Trustee of any such designation or rescission and any change in the location of any such other office or agency.

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

(a) If the Company shall at any time act as its own Paying Agent, it shall, on or before Noon New York City time, on each due date of the principal of (and premium (including the Applicable Premium), if any, on) or Cash Interest on any of the Notes, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal (and premium (including the Applicable Premium), if any) or Cash Interest so becoming due until such sum shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

(b) Whenever the Company shall have one or more Paying Agents for the Notes, it will, on or before 10:00 a.m., New York City time, on each due date of the principal of (and premium (including the Applicable Premium), if any, on), or Cash Interest on, any Notes, deposit with a Paying Agent immediately available funds in a sum sufficient to pay the principal (and premium (including the Applicable Premium), if any) or Cash Interest so becoming due, such funds to be held in trust for the benefit of the Persons entitled to such principal, premium (including the Applicable Premium) or Cash Interest, and (unless such Paying Agent is the Trustee) the Company shall promptly notify the Trustee of such action or any failure so to act.

(c) The Company shall cause each Paying Agent (other than the Trustee) to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will:

(1) hold all sums held by it for the payment of the principal of (and premium (including the Applicable Premium), if any, on) or Cash Interest on Notes in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;

(2) give the Trustee notice of any default by the Company (or any other obligor upon the Notes) in the making of any payment of principal (and premium (including the Applicable Premium), if any) or Cash Interest; and

(3) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

(d) The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Amended Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such sums. The Trustee and each Paying Agent shall promptly pay to the Company, upon Company Request, any money held by them at any time in excess of amounts required to pay principal, premium (including the Applicable Premium), if any, or Cash Interest on the Notes.

(e) Subject to applicable escheat and abandoned property laws, any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of (and premium (including the Applicable Premium), if any, on) or Cash Interest on any Notes and remaining unclaimed for two years after such principal (and premium (including the Applicable Premium), if any) or Cash Interest has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Notes shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease.

Section 4.04. Reports.

(a) For so long as any Notes are outstanding, the Company shall provide to the Trustee and the Holders the following reports:

(1) within one hundred twenty (120) days after the end of the Company's fiscal year beginning with the fiscal year ending December 31, 2021, annual reports containing, to the extent applicable, the following information: (A) audited consolidated balance sheets of the Company and audited consolidated income statements and statements of cash flow of the Company for the fiscal year most recently ended, including complete footnotes to such financial statements and the report of the independent auditors on the financial statements; (B) unaudited pro forma income statement information and balance sheet information of the Company (which, for the avoidance of doubt, shall not include the provision of a full income statement or balance sheet to the extent not reasonably available), together with explanatory footnotes, for any material acquisitions, dispositions or recapitalizations that have occurred since the beginning of the most recently completed fiscal year; *provided* that such pro forma financial information will be provided only to the extent available without unreasonable expense, in which case the Company will provide, in the case of a material acquisition, acquired company financials; (C) an operating and financial review of the audited financial statements, including a discussion of the results of operations, financial condition, and liquidity and capital resources of the Company, and a discussion of material commitments and contingencies and critical accounting policies; (D) a description of the business, management and shareholders of the Company, all material Affiliate Transactions and a description of all material contractual arrangements, including material debt instruments; and (E) a description of material risk factors and material recent developments (which, for the avoidance of doubt, does not require disclosure of confidential negotiations (as determined in good faith by the Company));

(2) within ninety (90) days following the end of the first, second and third fiscal quarters in each fiscal year of the Company, beginning with the period ending September 30, 2020, all quarterly reports of the Company containing the following information: (A) an unaudited condensed consolidated balance sheet as of the end of such quarter and unaudited condensed consolidated statements of income and cash flow for the most recent quarter year to date period ending on the unaudited condensed consolidated balance sheet date, and the comparable prior year periods after September 30, 2020; and (B) material recent developments (which, for the avoidance of doubt, does not require disclosure of confidential negotiations (as determined in good faith by the Company)); and

(3) promptly after the occurrence of any material acquisition, disposition or restructuring or any senior executive officer changes at the Company or change in auditors of the Company or any other material event that the Company or any of its Restricted Subsidiaries announces publicly, a report containing a description of such event.

All financial statements shall be prepared in accordance with GAAP as in effect on the date of such report or financial statement (or otherwise on the basis of GAAP as then in effect) and on a consistent basis for the periods presented; *provided, however*, that the reports set forth in clauses (1), (2) and (3) of Section 4.04(a) hereof may, in the event of a change in applicable GAAP, present earlier periods on a basis that applied to such periods. All pro forma financial information shall be prepared on a basis consistent with the accounting policies of the Company (or other reporting entity, as applicable).

(b) For so long as any Notes are outstanding, the Company will, in connection with delivery of the annual and quarterly reports required by clauses (1) and (2) of Section 4.04(a) hereof, hold a conference call to discuss such reports and the results of operations for the relevant reporting period. Substantially concurrently with the issuance to the Trustee of the reports specified in clauses (1), (2) and (3) of Section 4.04(a) hereof, the Company shall also (a) use its commercially reasonable efforts (i) to post copies of such reports on such website as may be then maintained by the Company and its Subsidiaries or (ii) otherwise to provide substantially comparable availability of such reports (as determined by the Company in good faith) or (b) to the extent the Company determines in good faith that it cannot make such reports available in the manner described in the preceding clause (a) owing to applicable law or after the use of its commercially reasonable efforts, furnish such reports to the Holders.

(c) The Company may satisfy its obligations and the requirements of Section 4.04(a) hereof, and Section 4.04(b) hereof by furnishing financial information relating to any Parent consolidating reporting at its level in a manner consistent with that described in this Section 4.04; *provided* that such financial information is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to such Parent and its Subsidiaries, on the one hand, and the information relating to the Company and its Subsidiaries, on the other hand.

(d) In addition, so long as the Notes remain outstanding and during any period during which the Company is not subject to Section 13 or 15(d) of the Exchange Act nor exempt therefrom pursuant to Rule 12g3-2(b), the Company shall furnish to the Holders and, upon their request, prospective purchasers of the Notes, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(e) Notwithstanding the foregoing, at any time following such time as the Company first becomes required to be subject to the reporting requirements of Section 13(a) or 15(d) of the Exchange Act, notwithstanding that the Company may not be required to be or remain subject to the reporting requirements of Section 13(a) or 15(d) of the Exchange Act, the Company will file with the SEC (unless such filing is not permitted under the Exchange Act or by the SEC), so long as the Notes are outstanding, the annual reports, information, documents and other reports that the Company is required to file with the SEC pursuant to such Section 13(a) or 15(d) or would be so required to file if the Company were so subject. The Company will be deemed to have satisfied the requirements of Section 4.04(a) if the Company files reports under Section 13(a) or 15(d) of the Exchange Act with the SEC via the EDGAR (or successor) filing system and such reports are publicly available.

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

(a) The Company shall deliver to the Trustee, within one hundred twenty (120) days after the end of each fiscal year of the Company, an Officers' Certificate stating that a review of the activities of the Company and its Restricted Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Amended Indenture, and further stating, as to each such Officer signing such certificate, that to the best of such Officer's knowledge the Company has kept, observed, performed and fulfilled each and every condition and covenant contained in this Amended Indenture and no Default or Event of Default has occurred and is continuing (or, if a Default or Event of Default shall have occurred to either such Officer's knowledge, describing all such Defaults or Events of Default of which such Officer may have knowledge and what action the Company is taking or proposes to take with respect thereto). For purposes of this Section 4.05(a), such compliance shall be determined without regard to any period of grace or requirement of notice under this Amended Indenture.

(b) The Company shall, so long as any of the Notes is outstanding, deliver to the Trustee, upon any of its Officers becoming aware of (1) any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company proposes to take with respect thereto, within ten days of its occurrence, and (2) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect;

(c) The Company shall deliver to the Trustee and the Collateral Agent, at the times specified (in the case of clauses (3) and (5) below) or otherwise upon the reasonable request of the Collateral Agent, in form and detail satisfactory to the Collateral Agent or otherwise as required by Section 11.01 hereof:

(1) a schedule of all oil, gas, and other mineral production attributable to all material Oil and Gas Properties of the Collateral Grantors, and in any event all such Oil and Gas Properties included in the most recent Engineering Report;

(2) all title or other information received after the Original Issue Date by the Collateral Grantors which discloses any material defect in the title to any material asset included in the most recent Engineering Report;

(3) (I) as soon as available and in any event within ninety (90) days after each January 1, commencing with January 1, 2021, an annual Engineering Report as of each December 31 with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by an independent engineering firm of recognized standing acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent) in accordance with accepted industry practices, and (II) within ninety (90) days after each July 1 commencing with July 1, 2016, an Engineering Report as of each June 30, with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by the Company in accordance with accepted industry practices;

(4) an updated reserve report with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Collateral Grantors prepared by an independent engineering firm of recognized standing acceptable to the Collateral Agent (in the case of delivery upon the request of the Collateral Agent) in accordance with accepted industry practices;

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

(i) a certificate of an Officer (in form and substance reasonably satisfactory to the Collateral Agent in the case of delivery upon the request of the Collateral Agent):

(A) setting forth as of a recent date, a true and complete list of all Hedging Agreements of the Company and each Restricted Subsidiary, the material terms thereof (including the type, term, effective date, termination date and notional amounts or volumes), the net mark-to-market value therefor, any new credit support agreements relating thereto, any margin required or supplied under any credit support document, and the counterparty to each such agreement; and

(B) comparing aggregate notional volumes of all Hedging Agreements of the Company and each Restricted Subsidiary, which were in effect during such period (other than basis differential hedgings) and the actual production volumes for each of natural gas and crude oil during such period, which certificate shall certify that the hedged volumes for each of natural gas and crude oil did not exceed one hundred percent (100%) of actual production or if such hedged volumes did exceed actual production, specify the amount of such excess;

(ii) a report, prepared by or on behalf of the Company detailing on a monthly basis for the next twelve month period (A) the projected production of Hydrocarbons by the Company and the Restricted Subsidiaries and the assumptions used in calculating such projections, (B) an annual operating budget for the Company and the Restricted Subsidiaries, and (C) such other information as may be reasonably requested by the Collateral Agent (in the case of delivery upon the request of the Collateral Agent);

(iii) if requested by the Trustee or Collateral Agent, a list of all Persons purchasing Hydrocarbons from the Company to the extent that the Company or any Restricted Subsidiary controls the marketing and the sale of such Hydrocarbons (which listings shall include, with respect to each such purchaser, the legal name and address thereof, the appropriate contact person thereat, the Oil and Gas Properties from which Hydrocarbons were purchased and the volume of Hydrocarbons purchased);

(iv) an Officer's Certificate, certifying whether the Company is in compliance with the mortgage and title requirements set forth in Section 11.01 hereof and setting forth the actual percentages as to which compliance has been achieved and if the Company is not in compliance the Company shall identify which Oil and Gas Properties are required to be mortgaged and/or as to which adequate title information has not been delivered; and

(6) prompt written notice (and in any event within thirty (30) days prior thereto) of any change (I) in any Collateral Grantor's corporate name or in any trade name used to identify such Person in the conduct of its business or in the ownership of its properties, (II) in the location of any Collateral Grantor's chief executive office or principal place of business, (III) in any Collateral Grantor's identity or corporate structure or in the jurisdiction in which such Person is incorporated or formed, (IV) in any Collateral Grantor's jurisdiction of organization or such Person's organizational identification number in such jurisdiction of organization, and (V) in any Collateral Grantor's federal taxpayer identification number.

(7) In the event the Company or any Subsidiary Guarantor intends to sell, transfer, assign or otherwise dispose of any Oil or Gas Properties or any Equity Interests in any Subsidiary Guarantor (provided that this clause shall not be construed to permit any such sale, transfer, assignment or disposition that is not in accordance with this Amended Indenture), prior written notice of such disposition, the price thereof and the anticipated date of closing and any other details thereof reasonably requested by the Trustee or the Collateral Agent or any Holder. If the Company or any Subsidiary Guarantor receives any notice of early termination of any Hedging Contract to which it is a party from any of its counterparties, or any Hedging Contract to which the Company or any

Subsidiary Guarantor is a party is liquidated, prompt written notice of the receipt of such early termination notice or such liquidation, as the case may be, together with a reasonably detailed description or explanation thereof and any other details thereof requested by the Trustee or the Collateral Agent or any Holder.

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

(a) The Company shall pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (1) all material taxes, assessments and governmental charges levied or imposed upon the Company or any Restricted Subsidiary or upon the income, profits or Property of the Company or any Restricted Subsidiary and (2) all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a Lien upon the Property of the Company or any Restricted Subsidiary; *provided*, *however*, that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings and for which appropriate provision has been made in accordance with GAAP.

(b) The Company shall cause all material Properties owned by the Company or any Restricted Subsidiary and used or held for use in the conduct of its business or the business of any Restricted Subsidiary to be maintained and kept in good condition, repair and working order (ordinary wear and tear excepted), all as in the judgment of the Company or such Restricted Subsidiary may be necessary so that its business may be properly and advantageously conducted at all times; *provided, however*, that nothing in this Section 4.06 shall prevent the Company or any Restricted Subsidiary from discontinuing the maintenance of any of such Properties if such discontinuance is, in the judgment of the Company or such Restricted Subsidiary, as the case may be, desirable in the conduct of the business of the Company or such Restricted Subsidiary and not disadvantageous in any material respect to the Holders. Notwithstanding the foregoing, nothing contained in this Section 4.06 shall limit or impair in any way the right of the Company and its Restricted Subsidiaries to sell, divest and otherwise to engage in transactions that are otherwise permitted by this Amended Indenture.

(c) The Company will, and will cause each Restricted Subsidiary to (i) conduct its operations on all Oil and Gas Properties and other material Properties or cause such Oil and Gas Properties and other material Properties to be operated in a careful and efficient manner in accordance with the practices of the industry and in compliance with all applicable contracts and agreements and in compliance with all applicable laws, including applicable pro ration requirements and environmental laws, from time to time constituted to regulate the development and operation of its Oil and Gas Properties and the production and sale of Hydrocarbons and other minerals therefrom, except, in each case, where the failure to comply could not reasonably be expected to have a Material Adverse Effect, (ii) promptly perform or make reasonable and customary efforts to cause to be performed, in accordance with industry standards, the obligations required by each and all of the assignments, deeds, leases, sub-leases, contracts and agreements affecting its interests in its Oil and Gas Properties and other material Properties, (iii) operate its Oil and Gas Properties and other material Properties or cause or make reasonable and customary efforts to cause such Oil and Gas Properties and other material Properties to be operated in accordance with the practices of the industry and in material compliance with all applicable contracts and agreements and in compliance in all material respects with all applicable laws, and (iv) to the extent the Company or a Restricted Subsidiary is not the operator of any Oil and Gas Property, use reasonable efforts to cause the operator to comply with this clause (c).

Section 4.07. Limitation on Restricted Payments.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, take the following actions (each, a "*Restricted Payment*"):

(1) declare or pay any dividend on, or make any other distribution to holders of, any shares of Capital Stock of the Company or any Restricted Subsidiary (other than dividends or distributions payable solely in shares of Qualified Capital Stock of the Company or in options, warrants or other rights to purchase Qualified Capital Stock of the Company);

(2) purchase, redeem or otherwise acquire or retire for value any Capital Stock of the Company or any Affiliate thereof (other than any Wholly Owned Restricted Subsidiary of the Company) or any options, warrants or other rights to acquire such Capital Stock (other than the purchase, redemption, acquisition or

retirement of any Disqualified Capital Stock of the Company solely in shares of Qualified Capital Stock of the Company);

(3) make any principal payment on or repurchase, redeem, defease or otherwise acquire or retire for value, prior to any scheduled principal payment, scheduled sinking fund payment or maturity, any Subordinated Indebtedness (excluding any intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries), except in any case out of the proceeds of Permitted Refinancing Indebtedness; or

(4) make any Restricted Investment.

(b) Notwithstanding paragraph (a) above, the Company and its Restricted Subsidiaries may take the following actions so long as no Default or Event of Default shall have occurred and be continuing:

(1) the payment of any dividend payable from a Restricted Subsidiary to the Company or any other Restricted Subsidiary of the Company;

(2) the repurchase, redemption or other acquisition or retirement of any shares of any class of Capital Stock of the Company or any Restricted Subsidiary, in exchange for, or out of the aggregate Net Cash Proceeds of, a substantially concurrent issue and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of the Company;

(3) the repurchase, redemption, repayment, defeasance or other acquisition or retirement for value of any Subordinated Indebtedness in exchange for, or out of the aggregate Net Cash Proceeds from, a substantially concurrent issue and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of the Company;

(4) the purchase, redemption, repayment, defeasance or other acquisition or retirement for value of Subordinated Indebtedness (other than Disqualified Capital Stock) in exchange for, or out of the aggregate Net Cash Proceeds of, a substantially concurrent incurrence (other than to a Restricted Subsidiary) of Subordinated Indebtedness of the Company so long as (a) the principal amount of such new Indebtedness does not exceed the principal amount (or, if such Subordinated Indebtedness being refinanced provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration thereof, such lesser amount as of the date of determination) of the Subordinated Indebtedness being so purchased, redeemed, repaid, defeased, acquired or retired, plus the amount of any premium (including the Applicable Premium) required to be paid in connection with such refinancing pursuant to the terms of the Indebtedness refinanced or the amount of any premium (including the Applicable Premium) reasonably determined by the Company as necessary to accomplish such refinancing, plus the amount of expenses of the Company incurred in connection with such refinancing, (b) such new Indebtedness is subordinated to the Notes at least to the same extent as such Subordinated Indebtedness so purchased, redeemed, repaid, defeased, acquired or retired, and (c) such new Indebtedness has an Average Life to Stated Maturity that is longer than the Average Life to Stated Maturity of the Notes and such new Indebtedness has a Stated Maturity for its final scheduled principal payment that is at least ninety-one (91) days later than the Stated Maturity for the final scheduled principal payment of the Notes; and

(5) any other Restricted Payment not to exceed $1.0 million in the aggregate.

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

The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create or suffer to exist or allow to become effective any consensual encumbrance or restriction of any kind on the ability of any Restricted Subsidiary: (a) to pay dividends, in cash or otherwise, or make any other distributions on or in respect of its Capital Stock, or make payments on any Indebtedness owed, to the Company or any other Restricted Subsidiary, (b) to make loans or advances to the Company or any other Restricted Subsidiary or (c) to transfer any of its Property to the Company or any other Restricted Subsidiary (any such restrictions being collectively referred to herein as a "*Payment Restriction*"). However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(a) Liens securing Indebtedness otherwise permitted to be incurred under the provisions of Sections 4.09 and 4.12 hereof that limit the right of the debtor to dispose of the assets subject to such Liens;

(b) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Company or any Restricted Subsidiary, or customary restrictions in licenses relating to the Property covered thereby and entered into in the ordinary course of business;

(c) any instrument governing Indebtedness of a Person acquired by the Company or any Restricted Subsidiary at the time of such acquisition, which encumbrance or restriction is not applicable to any other Person, other than the Person, or the Property of the Person, so acquired, *provided* that such Indebtedness was not incurred in anticipation of such acquisition; or

(d) any instrument governing Indebtedness or Disqualified Capital Stock of a Restricted Subsidiary that is not a Subsidiary Guarantor; *provided* that (a) such Indebtedness or Disqualified Capital Stock is permitted under Section 4.09 and (b) the terms and conditions of any Payment Restrictions thereunder are not materially more restrictive than the Payment Restrictions contained in this Amended Indenture as in effect on the Original Issue Date.

Section 4.09. Limitation on Indebtedness and Disqualified Stock.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, create, incur, assume, guarantee or in any manner become directly or indirectly liable for the payment of (collectively, "*incur*") any Indebtedness (including any Acquired Indebtedness), and the Company shall not, and shall not permit any of its Restricted Subsidiaries to, issue any Disqualified Capital Stock.

(b) Notwithstanding the prohibitions of Section 4.09(a), the Company and its Restricted Subsidiaries may incur any of the following items of Indebtedness (collectively, "*Permitted Indebtedness*"):

(1) the incurrence by the Company and the Subsidiary Guarantors of (x) Indebtedness represented by the Series 1 Notes issued on the Original Issue Date and any Series 1 Additional Notes issued in connection with the payment of interest thereon, and (y) Indebtedness represented by the Series 2 Notes issued on the Series 2 Issue Date and any Series 2 Additional Notes issued in connection with the payment of interest thereon;

(2) Indebtedness outstanding or in effect on the Original Issue Date;

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

(i) if the Company is the obligor on such Indebtedness and a Subsidiary Guarantor is not the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Convertible Note Obligations, or if a Subsidiary Guarantor is the obligor on such Indebtedness and neither the Company nor another Subsidiary Guarantor is the obligee, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Convertible Note Obligations; and

(ii) (A) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (B) any sale or other transfer of any such Indebtedness to a Person that is neither the Company nor a Restricted Subsidiary of the Company will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (3);

(4) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations under Hedging Contracts that are (i) in the ordinary course of business and not for speculative purposes and (ii) intended to be commercially or economically appropriate to mitigate or manage risks, respond to commodity

market conditions and/or implement optimization strategies in the conduct and management of the Company's and its Restricted Subsidiaries' business;

(5) the incurrence by the Company or any of its Restricted Subsidiaries of obligations relating to net Hydrocarbon balancing positions arising in the ordinary course of business;

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

(7) Indebtedness in respect of bid, performance or surety bonds issued for the account of the Company or any Restricted Subsidiary in the ordinary course of business, including guaranties and letters of credit supporting such bid, performance or surety obligations (in each case other than for an obligation for money borrowed); and

(8) Indebtedness incurred to finance the acquisition, construction, or improvement of fixed or capital assets (including Capital Lease Obligations) not exceeding $1.0 million in the aggregate.

(c) For purposes of this Section 4.09, Indebtedness of any Person that becomes a Restricted Subsidiary by merger, consolidation or other acquisition shall be deemed to have been incurred by the Company and the Restricted Subsidiary at the time such Person becomes a Restricted Subsidiary.

Section 4.10. Limitation on Asset Sales.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, consummate any Asset Sale unless (1) the Company or such Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the Fair Market Value of the Property subject to such Asset Sale and (2) all of the consideration paid to the Company or such Restricted Subsidiary in connection with such Asset Sale is in the form of cash, Cash Equivalents or Liquid Securities.

Section 4.11. Limitation on Transactions with Affiliates.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into or suffer to exist any transaction or series of related transactions (including, without limitation, the sale, purchase, exchange or lease of Property or the rendering of any services) with, or for the benefit of, any Affiliate of the Company (each, an "*Affiliate Transaction*"), unless:

(1) such transaction or series of related transactions is on terms that are no less favorable to the Company or such Restricted Subsidiary, as the case may be, than would be available in a comparable transaction in arm's-length dealings with an unrelated third party; and

(2) the Company delivers to the Trustee:

(i) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $1.0 million but no greater than $10.0 million, an Officers' Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this Section 4.11; and

(ii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $5.0 million, an Officers' Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions complies with this Section 4.11 and that such Affiliate Transaction or series of Affiliate Transactions has been approved by a majority of the Disinterested Directors of the Company.

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of Section 4.11(a):

(1) loans or advances to officers, directors and employees of the Company or any Restricted Subsidiary made in the ordinary course of business in an aggregate amount not to exceed $500,000 outstanding at any one time;

(2) indemnities of officers, directors, employees and other agents of the Company or any Restricted Subsidiary permitted by corporate charter or other organizational document, bylaw or statutory provisions;

(3) the payment of reasonable and customary fees and expenses to directors of the Company or any of its Restricted Subsidiaries who are not employees of the Company or any Affiliate;

(4) the Company's employee compensation and other benefit arrangements;

(5) transactions exclusively between or among the Company and any of the Restricted Subsidiaries or exclusively between or among such Restricted Subsidiaries; *provided* that such transactions are not otherwise prohibited by this Amended Indenture; and

(6) any Restricted Payment permitted to be paid pursuant to Section 4.07.

Section 4.12. Limitation on Liens.

The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness on any of its Property, except for Permitted Liens.

Section 4.13. Additional Subsidiary Guarantors.

(a) Any Restricted Subsidiary that is not already a Subsidiary Guarantor shall become a Subsidiary Guarantor by executing (1) a supplemental indenture and delivering it to the Trustee within twenty (20) Business Days of the date such Subsidiary is formed or acquired; *provided* that the foregoing shall not apply to Subsidiaries of the Company that have properly been designated as Unrestricted Subsidiaries in accordance with this Amended Indenture for so long as they continue to constitute Unrestricted Subsidiaries, (2) amendments to the Collateral Agreements pursuant to which it will grant a Lien on any Collateral held by it in favor of the Collateral Agent for the benefit of the Secured Parties, and become a Collateral Grantor thereunder, and cause such Liens to be perfected as required thereby and (3) deliver to the Trustee or any other Agent, resolutions, corporate documents, Opinions of Counsel and other customary documents requested by the Trustee or other Agent.

(b) Notwithstanding the foregoing and the other provisions of this Amended Indenture, any Subsidiary Guarantee incurred by a Restricted Subsidiary pursuant to this Section 4.13 shall provide by its terms that it shall be automatically and unconditionally released and discharged upon the terms and conditions set forth in Section 10.03 hereof.

Section 4.14. Organizational Existence.

Except as expressly permitted by Article 5 hereof, Section 4.10 hereof or other provisions of this Amended Indenture, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its legal existence and the rights (charter and statutory), licenses and franchises of the Company and each Restricted Subsidiary; *provided* that (a) the Company shall not be required to preserve any such legal existence of its Restricted Subsidiaries if the Board of Directors of the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Restricted Subsidiaries, taken as a whole, and that the loss thereof is not disadvantageous in any material respect to the Holders and (b) the Company and the Restricted Subsidiaries shall not be required to preserve such rights, licenses or franchises if the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Restricted Subsidiaries, taken as a whole, and that the loss thereof is not disadvantageous in any material respect to the Holders.

Section 4.15. Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries.

The Company (a) shall not permit any Restricted Subsidiary to issue or sell any Preferred Stock to any Person other than to the Company or one of its Wholly Owned Restricted Subsidiaries and (b) shall not permit any Person other than the Company or one of its Wholly Owned Restricted Subsidiaries to own any Preferred Stock of any other Restricted Subsidiary.

Section 4.16. Limitation on Sale and Leaseback Transactions.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, enter into any Sale/Leaseback Transaction unless (1) the Company or such Restricted Subsidiary, as the case may be, would be able to incur Indebtedness in an amount equal to the Attributable Indebtedness with respect to such Sale/Leaseback Transaction or (2) the Company or such Restricted Subsidiary receives proceeds from such Sale/Leaseback Transaction at least equal to the Fair Market Value thereof and otherwise in compliance with Section 4.16 hereof.

Section 4.17. Further Assurances.

(a) The Company shall, and shall cause each other Collateral Grantor to, at the Company's sole cost and expense:

(1) at the request of the Collateral Agent, execute and deliver all such agreements and instruments and take all further action as may be reasonably necessary or desirable (a) to describe more fully or accurately the Property intended to be Collateral or the obligations intended to be secured by any Collateral Agreement and/or (b) to continue and maintain the Collateral Agent's perfected Lien in the Collateral with the priority required by this Amended Indenture and the other Convertible Note Documents; and

(2) at the request of the Collateral Agent, file any such notice filings or other agreements or instruments as may be reasonably necessary or desirable under applicable law to perfect the Liens created by the Collateral Agreements.

(b) From and after the Original Issue Date, if the Company or any other Collateral Grantor acquires any Property that constitutes Collateral for the Convertible Notes Obligations, if and to the extent that any Convertible Note Document requires any supplemental Collateral Agreement for such Collateral or other actions to achieve a first-priority perfected Lien on such Collateral, the Company shall, or shall cause any other applicable Collateral Grantor to, promptly take such other actions in favor of the Collateral Agent as shall be reasonably necessary to grant a perfected first-priority Lien in such Collateral to the Collateral Agent, subject to the terms of this Amended Indenture, the Collateral Trust and Intercreditor Agreement and the other Convertible Note Documents.

(c) The Company and the Subsidiary Guarantors will (i) maintain with financially sound and reputable insurance companies not Affiliates of the Company, insurance with respect to its Properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons, and (ii) within forty-five (45) days of the Original Issue Date with respect to the Series 1 Notes and within forty-five (45) days of the Series 2 Issue Date with respect to the Series 2 Notes (or, in each case, such other later date as consented to by the Trustee at the direction of the Majority Holders), cause all property and general liability insurance policies to name the Collateral Agent on behalf of the Secured Parties as additional insured (with respect to liability and property policies), loss payee (with respect to property policies) or lender's loss payee (with respect to property policies), as appropriate, and make commercially reasonable efforts to provide that no cancellation, material addition in amount or material change in coverage shall be effective until after ten (10) days' written notice to the Collateral Agent. So long as an Event of Default is not then continuing, the Collateral Agent, on behalf of the Secured Parties, shall release, endorse and turn over to the Company or the applicable Subsidiary Guarantor any insurance proceeds received by the Collateral Agent; *provided* that the application of such proceeds is not in violation of the Collateral Trust and Intercreditor Agreement.

Section 4.18. Use of Proceeds. The Company shall use the proceeds of the Series 2 Notes solely for the payment of fees, closing payments, expenses or other amounts incurred or paid by the Company or a Subsidiary Guarantor in connection with the Gavilan Acquisition and the Gavilan Purchase Agreement and to finance the transactions contemplated thereby.

Section 4.19. Buy-In Rights.

(a) During the Buy-In Rights Notice Period but only if such Buy-In Rights Notice Period occurs during the Buy-In Rights Period, the Company shall provide to each Potential Equity Holder written notice of a one-time offer to sell Series 2 Notes to such Potential Equity Holder pursuant to the terms of this Section 4.19 ("*Buy-In Offer*").

(b) A Buy-In Offer shall be on the same terms and conditions as those provided to the Series 2 Holders on the Series 2 Issue Date, except (i) the purchase price for the purchase by any Potential Equity Holder of Series 2 Notes pursuant to this Section 4.19 shall be such Potential Equity Holder's Series 2 Buy-In Purchase Price, (ii) no commitment or other fees shall be paid, offered, or issued to any Potential Equity Holder in connection with the purchase of Series 2 Notes pursuant to this Section 4.19 and (iii) each Potential Equity Holder accepting a Buy-In Offer shall, in addition to the Series 2 Buy-In Purchase Price, pay to the Company an option fee equal to such Potential Equity Holder's Buy-In Purchase Option Fee.

(c) A Buy-In Offer to a Potential Equity Holder shall include (i) the principal amount of Series 2 Notes being offered for purchase to such Potential Equity Holder, which shall be such Potential Equity Holder's Buy-In Series 2 Note Amount, (ii) such Potential Equity Holder's Series 2 Buy-In Purchase Price, (iii) such Potential Equity Holder's Buy-In Purchase Option Fee, (iv) a notice that such Buy-In Offer may be accepted against payment in immediately available U.S. dollars, without setoff, counterclaim or defense, of such Potential Equity Holder's Series 2 Buy-In Purchase Price and Buy-In Purchase Option Fee, (v) instructions on how to accept such Buy-In Offer, together with notice that such Buy-In Offer is void, and may not be accepted, after the last day of the Buy-In Rights Acceptance Period and that such Buy-In Offer will be deemed to have been rejected if not accepted on or before the last day of the Buy-In Rights Acceptance Period, (vi) notice that if such Potential Equity Holder accepts such Buy-In Offer, it shall be obligated to purchase Series 1 Notes as contemplated by Section 4.20 and (vii) a notice that no Potential Equity Holder shall be permitted to accept such Buy-In Offer, and the Company shall not be required to sell Series 2 Notes to such Potential Equity Holder, if such Buy-In Offer and sale of Series 2 Notes to such Potential Equity Holder would violate applicable securities laws or require registration under the Securities Act.

(d) The Company shall use commercially reasonable efforts to consummate the sale of Series 2 Notes pursuant to this Section 4.19 within thirty (30) days following the last day of the Buy-In Rights Acceptance Period.

(e) The offer and sale of Series 2 Notes with respect to each Potential Equity Holder pursuant to this Section 4.19 shall only be required and made if such offer and sale is made in compliance with applicable securities laws and exempt from the registration requirements of the Securities Act.

(f) The Company shall instruct Potential Equity Holders who accept a Buy-In Offer to pay the Series 2 Buy-In Purchase Price and Buy-In Purchase Option Fee by wire transfer of immediately available U.S. dollars, without setoff, counterclaim or defense, to a segregated blocked deposit account of the Company. Such deposit account shall be subject to a first priority security interest in favor of the Collateral Agent and be under the sole "control" of the Collateral Agent (within the meaning of Section 9-104 of the Uniform Commercial Code). To the extent the Company receives any amount of Series 2 Buy-In Purchase Price or Buy-In Purchase Option Fee not deposited to such deposit account, the Company shall promptly deposit such amounts to such deposit account. The Series 2 Buy-In Purchase Price and Buy-In Purchase Option Fee received by the Company from the Potential Equity Holders shall be used for no purpose other than to redeem Series 2 Notes pursuant to Section 3.05. The Collateral Agent shall permit withdrawal of amounts on deposit in such deposit account upon the instruction of the Majority Holders.

Section 4.20. Series 1 Buy-In Obligations. As a condition to the acceptance by a Potential Equity Holder of a Buy-In Offer, such Potential Equity Holder shall be obligated to purchase all or a portion of the Series 1 Notes

offered to such Potential Equity Holder pursuant to the Securities Purchase Agreement, dated as of July 10, 2020 (the "*Securities Purchase Agreement*"), by and among the Company and the Series 1 Holders party thereto (such Series 1 Holders, the "*Buy-In Series 1 Sellers*"), solely to the extent any such offer is made to such Potential Equity Holder by the applicable Buy-In Series 1 Seller before the end of the Buy-In Rights Acceptance Period and such Series 1 Notes are made available for purchase before the deadline set forth in the next sentence, such that the percentage of such Series 1 Notes purchased by such Potential Equity Holder pursuant to the offer made under the Securities Purchase Agreement is equal to the percentage of the Buy-In Series 2 Note Amount purchased by such Potential Equity Holder in accordance with Section 4.19. The Company, the applicable Potential Equity Holders and the applicable Series 1 Holders shall use commercially reasonable efforts to consummate the sale of Series 1 Notes pursuant to this Section 4.20 within thirty (30) days following the last day of the Buy-In Rights Acceptance Period. Section 3.7(a) of the Securities Purchase Agreement is integrated into this Amended Indenture and deemed a term of the Series 1 Notes as if set forth in this Amended Indenture.

ARTICLE 5
CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

Section 5.01. Company May Consolidate, etc., Only on Certain Terms.

(a) The Company shall not, in any single transaction or a series of related transactions, merge or consolidate with or into any other Person, or sell, assign, convey, transfer, lease or otherwise dispose of all or substantially all the Properties of the Company and its Restricted Subsidiaries on a consolidated basis to any Person or group of Affiliated Persons, and the Company shall not permit any of its Restricted Subsidiaries to enter into any such transaction or series of related transactions if such transaction or series of transactions, in the aggregate, would result in a sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the Properties of the Company and its Restricted Subsidiaries on a consolidated basis to any other Person or group of Affiliated Persons, unless at the time and after giving effect thereto:

(1) either (i) if the transaction is a merger or consolidation, the Company shall be the surviving Person of such merger or consolidation, or (ii) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or to which the Properties of the Company or its Restricted Subsidiaries, as the case may be, are sold, assigned, conveyed, transferred, leased or otherwise disposed of (any such surviving Person or transferee Person being called the "*Surviving Entity*") shall be a corporation organized and existing under the laws of the United States of America, any state thereof or the District of Columbia and shall, in either case, expressly assume by an indenture supplemental to this Amended Indenture executed and delivered to the Trustee, in form satisfactory to the Trustee, and pursuant to agreements reasonably satisfactory to the Trustee or the Collateral Agent, as applicable, all the obligations of the Company under the Notes, this Amended Indenture and the other Convertible Note Documents to which the Company is a party and, in each case, such Convertible Note Documents shall remain in full force and effect;

(2) immediately after giving effect to such transaction or series of related transactions on a pro forma basis (and treating any Indebtedness not previously an obligation of the Company or any of its Restricted Subsidiaries which becomes the obligation of the Company or any of its Restricted Subsidiaries in connection with or as a result of such transaction or transactions as having been incurred at the time of such transaction or transactions), no Default or Event of Default shall have occurred and be continuing;

(3) if the Company is not the continuing obligor under the Amended Indenture, then each Subsidiary Guarantor, unless it is the Surviving Entity, shall have by supplemental indenture confirmed that its Subsidiary Guarantee of the Notes shall apply to the Surviving Entity's obligations under this Amended Indenture and the Notes;

(4) any Collateral owned by or transferred to the Surviving Entity shall continue to constitute Collateral under this Amended Indenture and the Collateral Agreements; and

(5) the Company (or the Surviving Entity if the Company is not the continuing obligor under the Amended Indenture) shall have delivered to the Trustee, in form and substance reasonably satisfactory to the Trustee, (i) an Officers' Certificate and Opinion of Counsel stating that such consolidation, merger,

conveyance, transfer, lease or other disposition and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, comply with the Amended Indenture and (ii) an Opinion of Counsel stating that the requirements of Section 5.01(a)(1) hereof have been satisfied.

Section 5.02. Successor Substituted.

Upon any consolidation of the Company with or merger of the Company into any other corporation or any sale, assignment, lease, conveyance, transfer or other disposition of all or substantially all of the Properties of the Company and its Restricted Subsidiaries on a consolidated basis in accordance with Section 5.01 hereof, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Amended Indenture and the other Convertible Note Documents with the same effect as if such Surviving Entity had been named as the Company herein, and in the event of any such sale, assignment, lease, conveyance, transfer or other disposition, the Company (which term shall for this purpose mean the Person named as the "Company" in the first paragraph of this Amended Indenture or any successor Person which shall theretofore become such in the manner described in Section 5.01 hereof), except in the case of a lease, shall be discharged from all obligations and covenants under this Amended Indenture and the Notes, and the Company may be dissolved and liquidated and such dissolution and liquidation shall not cause a Change of Control under clause (1) of the definition thereof to occur unless the sale, assignment, lease, conveyance, transfer or other disposition of all or substantially all of the Properties of the Company and its Restricted Subsidiaries on a consolidated basis to any Person otherwise results in a Change of Control.

ARTICLE 6
DEFAULTS AND REMEDIES

Section 6.01. Events of Default.

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

(a) default in the payment of the principal of or premium (including the Applicable Premium), if any, on any of the Notes when the same becomes due and payable, whether such payment is due at Stated Maturity, upon acceleration or repurchase pursuant to Article 15 hereof, upon redemption, or otherwise;

(b) default in the payment of any installment of interest on any of the Notes, when it becomes due and payable, and the continuance of such default for a period of thirty (30) days;

(c) default in the performance or breach of the provisions of Article 5 or Article 8 hereof or the failure to make or consummate an offer to repurchase Notes in accordance with the provisions of Section 15.02;

(d) the Company or any Subsidiary Guarantor shall fail to perform or observe any other term, covenant or agreement contained in this Amended Indenture, the Notes, any Subsidiary Guarantee or any other Convertible Note Documents (other than a default specified in subparagraph (a), (b) or (c) above) for a period of sixty (60) days after written notice of such failure stating that it is a "notice of default" hereunder shall have been given (x) to the Company by the Trustee or (y) to the Company and the Trustee by the Holders of at least twenty-five percent (25%) in aggregate principal amount of the Notes then outstanding, taken as a whole;

(e) (i) the occurrence and continuation beyond any applicable grace period of any default in the payment of the principal of (or premium (including the Applicable Premium), if any, on) or interest on any Indebtedness of the Company (other than the Notes) or any Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed when due, or any other default resulting in acceleration of any Indebtedness of the Company or any Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed, *provided* that the aggregate principal amount of such Indebtedness, together with the aggregate principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, shall exceed $5.0 million; or (ii) the occurrence and continuation beyond any applicable grace period of any default under any

Specified Secured Hedging Documents for which the Company, any Subsidiary Guarantor or any Restricted Subsidiary is responsible or liable on a recourse basis resulting in the payments under such Specified Secured Hedging Documents becoming due and payable prior to the date on which they would otherwise have become due and payable, provided that the aggregate amount of such payments due under such Specified Secured Hedging Documents shall exceed $5.0 million;

(f) any Subsidiary Guarantee shall for any reason cease to be, or be asserted by the Company or any Subsidiary Guarantor, as applicable, not to be, in full force and effect (except pursuant to the release of any such Subsidiary Guarantee in accordance with this Amended Indenture);

(g) failure by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary to pay final judgments or orders rendered against the Company or any Subsidiary Guarantor or any other Restricted Subsidiary aggregating in excess of $2.0 million (net of any amounts covered by insurance with a reputable and creditworthy insurance company that has not disclaimed liability) and either (a) commencement by any creditor of an enforcement proceeding upon such judgment (other than a judgment that is stayed by reason of pending appeal or otherwise) or (b) the occurrence of a 60-day period during which a stay of such judgment or order, by reason of pending appeal or otherwise, was not in effect;

(h) the entry of a decree or order by a court having jurisdiction in the premises (a) for relief in respect of the Company or any Subsidiary Guarantor or any other Restricted Subsidiary in an involuntary case or proceeding under the Federal Bankruptcy Code or any other applicable federal or state bankruptcy, insolvency, reorganization or other similar law or (b) adjudging the Company or any Subsidiary Guarantor or any other Restricted Subsidiary bankrupt or insolvent, or approving a petition seeking reorganization, arrangement, adjustment or composition of the Company or any Subsidiary Guarantor or any other Restricted Subsidiary under the Federal Bankruptcy Code or any applicable federal or state law, or appointing under any such law a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or any Subsidiary Guarantor or any other Restricted Subsidiary or of a substantial part of its consolidated assets, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of sixty (60) consecutive days;

(i) the commencement by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary of a voluntary case or proceeding under the Federal Bankruptcy Code or any other applicable federal or state bankruptcy, insolvency, reorganization or other similar law or any other case or proceeding to be adjudicated bankrupt or insolvent, or the consent by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary to the entry of a decree or order for relief in respect thereof in an involuntary case or proceeding under the Federal Bankruptcy Code or any other applicable federal or state bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or Insolvency or Liquidation Proceeding or case against it, or the filing by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary of a petition or consent seeking reorganization or relief under any applicable federal or state law, or the consent by it under any such law to the filing of any such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee or sequestrator (or other similar official) of the Company or any Subsidiary Guarantor or any other Restricted Subsidiary or of any substantial part of its consolidated assets, or the making by it of an assignment for the benefit of creditors under any such law, or the admission by it in writing of its inability to pay its debts generally as they become due or taking of corporate action by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary in furtherance of any such action;

(j) any representation or warranty made or deemed made by or on behalf of the Company or any Subsidiary Guarantor in or in connection with this Amended Indenture or any other Convertible Note Document or any amendment or modification hereof or thereof, or any waiver hereunder or thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Amended Indenture or any other Convertible Note Document or any amendment or modification hereof or thereof, or any waiver hereunder or thereunder, shall prove to have been incorrect in any material respect (or, in the case of any such representation or warranty under this Amended Indenture or any other Convertible Note Document already qualified by materiality, such representation or warranty shall prove to have been incorrect) when made or deemed made; and

(k) any Collateral Agreement ceases for any reason to be valid, binding and in full force and effect or any Lien created by any Collateral Agreement ceases to be enforceable and of the same effect and priority purported to be created thereby, other than as expressly permitted hereunder or thereunder.

Section 6.02. Acceleration of Maturity; Rescission and Annulment.

(a) If an Event of Default (other than an Event of Default specified in Section 6.01(h) or (i) hereof) occurs and is continuing, the Trustee or the Majority Holders, by written notice to the Company (and to the Trustee if such notice is given by the Holders), may declare all unpaid principal of, premium (including the Applicable Premium), if any, and accrued and unpaid interest on all the Notes to be due and payable immediately, upon which declaration all amounts payable in respect of the Notes shall be immediately due and payable. If an Event of Default specified in Section 6.01(h) or (i) hereof occurs and is continuing, the amounts described above shall become and be immediately due and payable without any declaration, notice or other act on the part of the Trustee or any Holder. If the Notes are accelerated or otherwise become due prior to the Stated Maturity thereof as a result of or following an Event of Default (including, but not limited to, upon the occurrence of an Event of Default described in Section 6.01(h) or (i) hereof), the amount that becomes due and payable shall include (in addition to amounts described in the prior sentence) a premium equal to the Applicable Premium calculated as of the date of such acceleration or date the Notes become due prior to the Stated Maturity thereof, determined as if such acceleration were an optional redemption of the Notes on the date of such acceleration or due date.

(b) At any time after a declaration of acceleration has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article provided, the Majority Holders, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if:

(1) the Company or any Subsidiary Guarantor has paid (or issued Additional Notes with respect to the payment of interest) or deposited with the Trustee a sum sufficient to pay:

(i) all overdue interest on all outstanding Notes,

(ii) all unpaid principal of (and premium (including the Applicable Premium), if any, on) any outstanding Notes which have become due otherwise than by such declaration of acceleration, including any Notes required to have been purchased pursuant to Section 3.03 hereof and interest on such unpaid principal at the rate borne by the Notes,

(iii) to the extent that payment of such interest is lawful, interest on overdue interest and overdue principal at the rate borne by the Notes (without duplication of any amount paid or deposited pursuant to clauses (I) and (II) above), and

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

(2) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction as certified to the Trustee by the Company; and

(3) all Events of Default, other than the non-payment of amounts of principal of (or premium (including the Applicable Premium), if any, on) or interest on Notes which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 6.13 hereof.

(c) No such rescission shall affect any subsequent default or impair any right consequent thereon.

(d) Except as specifically provided for in this Amended Indenture, each Holder has the right to maintain its investment in the Notes free from redemption or repayment by the Company and the provision for payment of a Applicable Premium above by the Company in the event that the Notes are accelerated or otherwise

become due prior to the Stated Maturity thereof as a result of or following an Event of Default is intended to provide compensation for the deprivation of such right under such circumstances. Without limiting the generality of the foregoing, it is understood and agreed that, if the Notes are accelerated or otherwise become due prior to the Stated Maturity thereof as a result of or following an Event of Default (including, but not limited to, upon the occurrence of an Event of Default described in Section 6.01(h) or (i) hereof), the Applicable Premium with respect to an optional redemption of the Notes will also be due and payable as though the Notes were optionally redeemed and shall constitute part of the Obligations with respect to the Notes, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the Company and the Holders as to a reasonable calculation of each Holder's lost profits and damages as a result thereof. Any Applicable Premium shall be presumed to be the liquidated damages sustained by each Holder as the result of the early redemption or repayment, and the Company agrees that it is reasonable under the circumstances currently existing. The Applicable Premium shall also be payable in the event the Notes (and/or this Amended Indenture) are satisfied or released by foreclosure (whether or not by power of judicial proceeding), deed in lieu of foreclosure, court order or by any other means. THE COMPANY EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Company expressly agrees (to the fullest extent it may lawfully do so) that: (A) the Applicable Premium is reasonable and is the product of an arm's-length transaction between sophisticated business people, ably represented by counsel; (B) the Applicable Premium shall be payable notwithstanding the then prevailing market rates at the time redemption or repayment is made; (C) no portion of the Applicable Premium represents unmatured interest within the meaning of 11 U.S.C. §502(b)(2); (D) there has been a course of conduct between Holders and the Company giving specific consideration in this transaction for such agreement to pay the Applicable Premium; and (E) the Company shall be estopped hereafter from claiming differently than as agreed to in this paragraph. The Company expressly acknowledges that its agreement to pay the Applicable Premium to Holders as herein described is a material inducement to Holders to purchase, exchange into, or otherwise accept the Notes.

Section 6.03. Collection of Indebtedness and Suits for Enforcement by Trustee.

(a) The Company covenants that if

(1) default is made in the payment of any installment of interest on any Note when such interest becomes due and payable and such default continues for a period of thirty (30) days, or

(2) default is made in the payment of the principal of (or premium (including the Applicable Premium), if any, on) any Note at the Maturity thereof or with respect to any Note required to have been purchased by the Company pursuant to Section 3.03 hereof,

then the Company will, upon demand of the Trustee, pay to the Trustee for the benefit of the Holders of such Notes, the whole amount then due and payable on such Notes for principal (and premium (including the Applicable Premium), if any) and Cash Interest, and interest on any overdue principal (and premium (including the Applicable Premium), if any) and, to the extent that payment of such interest shall be legally enforceable, upon any overdue installment of interest, at the rate borne by the Notes, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

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

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

Section 6.04. Trustee May File Proofs of Claim.

(a) In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company, any Subsidiary Guarantor or any other obligor upon the Notes, their creditors or the Property of the Company, of any Subsidiary Guarantor or of any such other obligor, the Trustee (irrespective of whether the principal of the Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company, the Subsidiary Guarantors or such other obligor for the payment of overdue principal, premium (including the Applicable Premium), if any, or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(1) to file and prove a claim for the whole amount of principal (and premium (including the Applicable Premium), if any) and interest owing and unpaid in respect of the Notes and to file such other papers or documents and take any other actions including participation as a full member of any creditor or other committee as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and

(2) to collect and receive any money or other Property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06 hereof.

(b) Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the Subsidiary Guarantees or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.05. Trustee May Enforce Claims Without Possession of Notes.

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

Section 6.06. Application of Money Collected.

Any money collected by the Trustee pursuant to this Article 6 shall be applied, subject to the Collateral Trust and Intercreditor Agreement, in the following order, at the date or dates fixed by the Trustee and, in the case of the distribution of such money on account of principal (or premium (including the Applicable Premium), if any) or Cash Interest, upon presentation of the Notes and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

(a) FIRST: to the payment of all amounts due the Trustee under Section 7.06 hereof;

(b) SECOND: subject to Section 6.16 below, to the payment of the amounts then due and unpaid for principal of (and premium (including the Applicable Premium), if any, on) and Cash Interest on the Notes in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority

of any kind, according to the amounts due and payable on such Notes for principal (and premium (including the Applicable Premium), if any) and Cash Interest, respectively; and

(c) THIRD: to the payment of any and all other amounts under the Convertible Note Documents; and

(d) FOURTH: the balance, if any, to the Company, or to whomsoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

Section 6.07. Limitation on Suits.

No Holder of any Notes shall have any right to institute any proceeding, judicial or otherwise, with respect to the Amended Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(a) such Holder has previously given written notice to the Trustee of a continuing Event of Default;

(b) the Majority Holders shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

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

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

(e) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Majority Holders;

it being understood and intended that no one or more Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of the Amended Indenture to affect, disturb or prejudice the rights of any other Holders, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under the Amended Indenture, except in the manner herein provided and for the equal and ratable benefit of all the applicable Holders.

Section 6.08. Unconditional Right of Holders to Receive Principal, Premium and Interest.

Notwithstanding any other provision in the Amended Indenture, the Holder of any Note shall have the right, which is absolute and unconditional, to receive payment, as provided herein and in such Note of the principal of (and premium (including the Applicable Premium), if any, on) and (subject to Section 2.12 hereof) interest on, such Note on the respective Stated Maturities expressed in such Note (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

Section 6.09. Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Amended Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Subsidiary Guarantors, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereunder and all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 6.10. Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07 hereof, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.11. Delay or Omission Not Waiver.

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

Section 6.12. Control by Holders.

(a) The Majority Holders shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; *provided* that

(1) such direction shall not be in conflict with any rule of law or with the Amended Indenture or the Collateral Trust and Intercreditor Agreement,

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

(3) the Trustee need not take any action which might involve it in personal liability, and

(4) the Trustee may decline to take any action that would benefit some Holders to the detriment of other Holders.

(b) Prior to taking any such action under this Section 6.12, the Trustee shall be entitled to security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities that may be incurred by it in taking or declining to take any such action hereunder.

Section 6.13. Waiver of Past Defaults.

(a) Subject to Section 6.02(b)(1)(iv) hereof, the Majority Holders may, on behalf of the Holders of all the Notes, waive any existing Default or Event of Default hereunder and its consequences, except a Default or Event of Default

(1) in respect of the payment of the principal of (or premium (including the Applicable Premium), if any, on) or interest on any Note, or

(2) in respect of a covenant or provision hereof which under Article 9 hereof cannot be modified or amended without the consent of the Holder of each outstanding Note affected thereby.

(b) Upon any such waiver, such Default or Event of Default shall cease to exist for every purpose under this Amended Indenture, but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

Section 6.14. Waiver of Stay, Extension or Usury Laws.

Each of the Company and the Subsidiary Guarantors covenants (to the extent that each may lawfully do so) that it will not at any time insist upon, plead or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension, or usury law or other law wherever enacted, now or at any time hereafter in force, which would prohibit or forgive the Company or any Subsidiary Guarantor from paying all or any portion of the principal of (premium (including the Applicable Premium), if any, on) or interest on the Notes as contemplated herein, or which may affect the covenants or the performance of this Amended Indenture; and (to the extent that it may lawfully do so) each of the Company and the Subsidiary Guarantors hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 6.15. The Collateral Agent.

Whenever in the exercise of any remedy available to the Trustee or the exercise of any trust or power conferred on it with respect to the Notes, the Trustee may also direct the Collateral Agent in the exercise of any of the rights and remedies available to the Collateral Agent pursuant to the Collateral Agreements.

Section 6.16. Priority Amount. If any Aggregate Buy-In Funds have not been paid to the Series 2 Holders specified in Section 3.05(a) (the "*Specified Series 2 Holders*") or if any such Aggregate Buy-In Funds that have been paid to the Specified Series 2 Holders are recovered therefrom in connection with any bankruptcy or insolvency proceeding of the Company or any of its Subsidiaries, then notwithstanding anything herein to the contrary, the Holders agree, inter se, that prior to any other distributions under clause (b) of Section 6.06, an amount equal to the sum of such unpaid amounts and such recovered amounts (the "*Specified Priority Amount*") shall be distributed pro rata among the Specified Series 2 Holders on the basis that is contemplated under Section 3.05(a) hereof; provided that any claims of such Specified Series 2 Holders that remain undischarged following such distribution shall share equally and ratably under Section 6.06(b) with all other claims of the Holders. This Section 6.16 shall constitute an intercreditor and subordination agreement among the Holders and is enforceable among the Holders regardless of any insolvency or bankruptcy proceeding of the Company or any of its Subsidiaries.

ARTICLE 7
TRUSTEE

Section 7.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing and is known to the Trustee, the Trustee shall exercise such of the rights and powers vested in it by this Amended Indenture and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Amended Indenture and no implied covenants or obligations shall be read into this Amended Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, and shall be fully protected in so relying, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Amended Indenture; *provided, however*, that, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Amended Indenture, but the Trustee has no obligation to determine the accuracy or completeness (other than as to conformity with the requirements of this Amended Indenture) of the statements made therein.

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(1) this paragraph shall not limit the effect of Section 7.01(b) hereof;

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

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.12 hereof.

(d) Whether or not therein expressly so provided, every provision of this Amended Indenture that in any way relates to the Trustee is subject to provisions of this Section.

(e) The Trustee shall have no duty to monitor the performance or compliance of the Company with its obligations hereunder or any under supplement hereto, nor shall it have any liability in connection with the malfeasance or nonfeasance by the Company. The Trustee shall have no liability in connection with compliance by the Company with statutory or regulatory requirements related to this Amended Indenture or any Notes issued pursuant hereto.

Section 7.02. Certain Rights of Trustee.

Subject to the provisions of Section 7.01 hereof:

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

(b) any request or direction of the Company mentioned herein shall be sufficient if evidenced by a Company Request or Company Order and any resolution of the Board of Directors shall be sufficient if evidenced by a Board Resolution;

(c) whenever in the administration of this Amended Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers' Certificate, an Opinion of Counsel or both, and the Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel;

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

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

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may reasonably see fit;

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

(h) the Trustee shall not be liable for any action taken, suffered or omitted by it in good faith and believed by it in good faith to be authorized or within the discretion or rights or powers conferred upon it by this Amended Indenture;

(i) the Trustee shall not be deemed to have notice or knowledge of any matter unless a Responsible Officer has actual knowledge thereof or unless written notice thereof is received by a Responsible Officer of the Trustee at its Corporate Trust Office and such notice references the Notes and this Amended Indenture;

(j) the Trustee shall not be required to advance, expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, and the Trustee may refuse to perform any duty or exercise any right or power that would require it to expend or risk its own funds or incur any financial liability, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it;

(k) the Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default or Event of 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 Amended Indenture;

(l) anything in this Amended Indenture notwithstanding, in no event shall the Trustee be liable for any special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including but not limited to loss of profit), even if the Trustee has been advised as to the likelihood of such loss or damage and regardless of the form of action;

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

(n) The Trustee shall not be liable for the actions or omissions of the Company or any Paying Agent (other than the Trustee), any authenticating agent (other than the Trustee) or any other Person and, without limiting the foregoing, the Trustee shall not be under any obligation to monitor, evaluate or verify compliance by the Company or any such other Person with the terms hereof;

(o) the Trustee shall not be under any obligation to take any action in the performance of its duties hereunder that would reasonably be expected to violate any applicable law;

(p) the Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder;

(q) the delivery of documents and information to the Trustee under Section 4.04 is for informational purposes only, and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein or determinable from the information contained therein, including the Company's compliance with any of its covenants hereunder;

(r) the rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder, and by the Trustee or any agent, employee or representative of the Trustee in its capacity as trustee under any other agreement executed in connection with this

Amended Indenture to which the Trustee or such Person is a party, including any Person serving as trustee under any Mortgage;

(s) the permissive rights of the Trustee enumerated herein shall not be construed as duties; and

(t) notwithstanding anything to the contrary contained herein, the Trustee shall have no responsibility for (i) preparing, recording, filing, re- recording, or re-filing any financing statement, perfection statement, continuation statement or other instrument in any public office or for otherwise ensuring the perfection or maintenance of any security interest granted pursuant to, or contemplated by, any document; (ii) taking any necessary steps to preserve rights against any parties with respect to the Collateral; or (iii) taking any action to protect against any diminution in value of the Collateral.

Section 7.03. Trustee Not Responsible for Recitals or Issuance of Notes.

The recitals contained herein and in the Notes, except for the Trustee's certificates of authentication, shall be taken as the statements of the Company or the Subsidiary Guarantors, as the case may be, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Amended Indenture, the Subsidiary Guarantees or the Notes. The Trustee shall not be accountable for the use or application by the Company of any Notes or the proceeds thereof.

Section 7.04. May Hold Notes.

The Trustee, any Paying Agent, any Registrar or any other agent of the Company, the Subsidiary Guarantors or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with the Company and the Subsidiary Guarantors with the same rights it would have if it were not the Trustee, Paying Agent, Registrar or such other agent.

Section 7.05. Money Held in Trust.

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Company or any Subsidiary Guarantor.

Section 7.06. Compensation and Reimbursement.

(a) The Company agrees:

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

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Amended Indenture (including the compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Trustee's willful misconduct, negligence or bad faith, as determined by a court of competent jurisdiction in a final, non-appealable judgment.

(b) The Company and the Subsidiary Guarantors jointly and severally agree to indemnify the Trustee for, and to hold it harmless against, any loss, liability, claim, damage or expense incurred by it (i) arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder or (ii) in connection with enforcing this indemnification provision, except to the extent any such loss liability, claim damage or expense is determined by a court of competent jurisdiction in a final, non-appealable judgment to have been caused by the Trustee's own willful misconduct or negligence. The Trustee shall notify the

Company and the Subsidiary Guarantors promptly of any claim for which it intends to seek indemnity. Failure by the Trustee to so notify the Company and the Subsidiary Guarantors shall not relieve the Company or the Subsidiary Guarantors of their obligations hereunder. The Company and the Subsidiary Guarantors shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel and the Company and the Subsidiary Guarantors shall pay the reasonable fees and expenses of such counsel. The Company and the Subsidiary Guarantors need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld, conditioned or delayed.

(c) The obligations of the Company and the Subsidiary Guarantors under this Section 7.06 to compensate the Trustee, to pay or reimburse the Trustee for expenses, disbursements and advances and to indemnify and hold harmless the Trustee shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Amended Indenture, the resignation or removal of the Trustee, or any other termination under any Insolvency or Liquidation Proceeding. As security for the performance of such obligations of the Company and the Subsidiary Guarantors, the Trustee shall have a claim and lien prior to the Notes upon all property and funds held or collected by the Trustee as such, except funds held in trust for payment of principal of (and premium (including the Applicable Premium), if any, on) or interest on particular Notes. Such lien shall survive the satisfaction and discharge of this Amended Indenture, the resignation or removal of the Trustee or any other termination under any Insolvency or Liquidation Proceeding.

(d) When the Trustee incurs expenses or renders services after the occurrence of an Event of Default specified in paragraph (h) or (i) of Section 6.01 hereof, such expenses and the compensation for such services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Insolvency or Liquidation Proceeding.

Section 7.07. Corporate Trustee Required; Eligibility.

There shall at all times be a Trustee hereunder which shall be eligible to act as Trustee under TIA Section 310(a)(1) and shall have a combined capital and surplus of at least $50.0 million. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of federal, state, territorial or District of Columbia supervising or examining authority, then for the purposes of this Section 7.07, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article 7.

Section 7.08. Conflicting Interests.

The Trustee shall comply with the provisions of Section 310(b) of the TIA (as though the TIA applied to the Amended Indenture); *provided* that there shall be excluded from the operation of TIA Section 310(b)(1) any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Company are outstanding if the requirements for such exclusion set forth in TIA Section 310(b)(1) are met.

Section 7.09. Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article 7 shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 7.10 hereof.

(b) The Trustee may resign at any time by giving written notice thereof to the Company. If the instrument of acceptance by a successor Trustee required by Section 7.10 hereof shall not have been delivered to the Trustee within thirty (30) days after the giving of such notice of resignation, the resigning Trustee may, at the expense of the Company, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time by Act of the Majority Holders, delivered to the Trustee and to the Company.

(d) If at any time:

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

(2) the Trustee shall cease to be eligible under Section 7.07 hereof and shall fail to resign after written request therefor by the Company or by any Holder who has been a bona fide Holder for at least six months, or

(3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company, by a Board Resolution, may remove the Trustee, or (ii) subject to TIA Section 315(e) (as though the TIA applied to the Amended Indenture), any Holder who has been a bona fide Holder for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Company, by a Board Resolution, shall promptly appoint a successor Trustee. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Majority Holders delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the successor Trustee appointed by the Company. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, the retiring Trustee or any Holder who has been a bona fide Holder for at least six months may, on behalf of himself and all others similarly situated, at the expense of the Company, petition any court of competent jurisdiction for the appointment of a successor Trustee. The evidence of such successorship may, but need not be, evidenced by a supplemental indenture.

(f) The Company shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee to the Holders in the manner provided for in Section 14.05 hereof. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

(g) Notwithstanding the replacement of the Trustee pursuant to this Section 7.09, the Company's obligations under Section 7.06 hereof shall continue for the benefit of the retiring Trustee.

Section 7.10. Acceptance of Appointment by Successor.

(a) Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of all amounts due it under Section 7.06 hereof, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all money and other Property held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

(b) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

Section 7.11. Merger, Conversion, Consolidation or Succession to Business.

Any corporation or banking association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or banking association resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or banking association succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation or banking association shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Notes shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes; and in case at that time any of the Notes shall not have been authenticated, any successor Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Amended Indenture provided; *provided, however*, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Notes in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 7.12. Preferential Collection of Claims Against Company.

If and when the Trustee shall be or become a creditor of the Company (or any other obligor under the Notes), the Trustee shall be subject to the provisions of the TIA (as though the TIA applies to this Amended Indenture) regarding the collection of claims against the Company (or any such other obligor).

Section 7.13. Notice of Defaults.

If a Default occurs hereunder, the Trustee shall transmit in the manner and to the extent provided in TIA Section 313(c) (as though the TIA applied to the Amended Indenture), or, in the case of a Global Note, in accordance with the Applicable Procedures, notice of such Default within ninety (90) days after the Trustee receives notice of such Default, unless such Default shall have been cured or waived; *provided, however*, that, except in the case of a Default in the payment of the principal of (or premium (including the Applicable Premium), if any, on) or interest on any Note, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interest of the Holders. The Trustee shall not be deemed to have notice of any Default, other than a Default under Section 6.01(a) or 6.01(b) hereof, unless written notice of such 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 Amended Indenture. No duty imposed upon the Trustee in this Amended Indenture shall be applicable with respect to any Default of which the Trustee is not deemed to have notice.

Section 7.14. Reports by Trustee.

(a) Within sixty (60) days after May 15 of each year commencing with May 15, 2021, the Trustee shall transmit by mail to the Holders, as their names and addresses appear in the Note Register, a brief report dated as of such May 15 in accordance with and to the extent required under TIA Section 313(a) (as though the TIA applied to this Amended Indenture). The Trustee shall also comply with TIA Sections 313(b) and 313(c).

(b) The Company shall promptly notify the Trustee in writing if the Notes become listed on any stock exchange or automatic quotation system and thereafter shall promptly file all reports with the Commission and such stock exchange as are required to be filed by the rules and regulations of the Commission and of such stock exchange.

(c) A copy of each Trustee's report, at the time of its mailing to Holders of Notes, shall be mailed to the Company and filed with the Commission and each stock exchange, if any, on which the Notes are listed.

ARTICLE 8
REPURCHASE OF NOTES UPON CERTAIN EVENTS

Section 8.01. Repurchase at Option of Holders Upon a Fundamental Change.

(a) If a Fundamental Change occurs at any time prior to the Maturity Date, each Holder shall have the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes, or any portion of the principal amount thereof that is equal to at least $1,000 or, if greater, any integral multiple of $1.00, on the date (the "*Fundamental Change Repurchase Date*") specified by the Company that is not less than twenty (20) calendar days or more than thirty-five (35) calendar days following the date of the Fundamental Change Company Notice (as defined below) at a repurchase price equal to one hundred percent (100%) of the aggregate principal amount thereof, plus accrued and unpaid interest thereon, if any, to, but excluding, the Fundamental Change Repurchase Date, plus the Applicable Premium (the "*Fundamental Change Repurchase Price*"). The Fundamental Change Repurchase Date shall be subject to postponement, without penalty to the Company, in order to allow the Company to comply with applicable law as a result of any changes to such applicable law occurring after the Original Issue Date.

(b) Each Holder may exercise the option provided for in Section 15.02(a) hereof, at its option, by:

(1) delivery to the Paying Agent by a Holder of a duly completed notice (the *"Fundamental Change Repurchase Notice*") in the form set forth in Exhibit A to the Form of Note attached hereto as Exhibit A or Exhibit B, as applicable, if the Notes are Physical Notes, or in compliance with the Depositary's procedures for surrendering interests in Global Notes, if the Notes are Global Notes, in each case on or before the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date; and

(2) delivery of the Notes, if the Notes are Physical Notes, to the Paying Agent at any time after delivery of the Fundamental Change Repurchase Notice (together with all necessary endorsements for transfer) at the Corporate Trust Office of the Paying Agent or book-entry transfer of the Notes, if the Notes are Global Notes, in compliance with the procedures of the Depositary, in each case such delivery being a condition to receipt by the Holder of the Fundamental Change Repurchase Price therefor.

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Fundamental Change Repurchase Notice contemplated by this Section 8.01 shall have the right to withdraw, in whole or in part, such Fundamental Change Repurchase Notice at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 8.02 hereof.

The Paying Agent shall promptly notify the Company of the receipt by it of any Fundamental Change Repurchase Notice or written notice of withdrawal thereof.

(c) On or before the 10th calendar day after the occurrence of the effective date of a Fundamental Change, the Company shall provide to all Holders of Notes and the Trustee, the Conversion Agent (in the case of a Conversion Agent other than the Trustee) and the Paying Agent (in the case of a Paying Agent other than the Trustee) a notice (the "*Fundamental Change Company Notice*") of the occurrence of the effective date of the Fundamental Change and of the repurchase right at the option of the Holders arising as a result thereof. In the case of Physical Notes, such notice shall be by first class mail or, in the case of Global Notes, such notice shall be delivered in accordance with the Applicable Procedures of the Depositary. Each Fundamental Change Company Notice shall specify:

(1) the events causing the Fundamental Change;

(2) the effective date of the Fundamental Change;

(3) the last date on which a Holder may exercise the repurchase right pursuant to this Article 8;

(4) the Fundamental Change Repurchase Price;

(5) the Fundamental Change Repurchase Date;

(6) the name and address of the Paying Agent and the Conversion Agent, if applicable;

(7) if applicable, the Conversion Price and the Conversion Rate and any adjustments thereto;

(8) that the Notes with respect to which a Fundamental Change Repurchase Notice has been delivered by a Holder may be converted only if the Holder validly withdraws the Fundamental Change Repurchase Notice in accordance with the terms of this Amended Indenture; and

(9) the procedures that Holders must follow to require the Company to repurchase their Notes;

provided, however, that, if the Notes are Global Notes, the Holders (and holders of a beneficial interest in such Global Notes) must comply with the Applicable Procedures of the Depositary.

No failure of the Company to give the foregoing notices and no defect therein shall limit the Holders' repurchase rights or affect the validity of the proceedings for the repurchase of the Notes pursuant to this Section 8.01.

At the Company's request, the Paying Agent shall give such notice in the Company's name and at the Company's expense; *provided, however*, that, in all cases, the text of such Fundamental Change Company Notice shall be prepared by the Company.

(d) Notwithstanding anything to the contrary herein, the Company shall not be required to purchase, or to make an offer to purchase, the Notes upon a Fundamental Change if a third party makes such an offer in the same manner, at the same time and otherwise in compliance with the requirements for an offer made by the Company as set forth above (including, without limitation, the requirement to comply with applicable securities laws), and such third party purchases all Notes properly surrendered and not validly withdrawn under its offer in the same manner, at the same time and otherwise in compliance with the requirements for an offer made by the Company as set forth above (including the requirement to pay the Fundamental Change Repurchase Price on the later of the Fundamental Change Repurchase Date and the time of book-entry transfer or delivery of the relevant Notes); *provided* that the Company will continue to be obligated to (x) deliver the applicable Fundamental Change Company Notice to the Holders (which Fundamental Change Company Notice will state that such third party will make such an offer to purchase the Notes) and to simultaneously with such Fundamental Change Company Notice publish a notice containing such information on the Company's website or through such other public medium as the Company may use at that time, (y) comply with applicable securities laws as set forth herein in connection with any such purchase and (z) pay the applicable Fundamental Change Repurchase Price on the later of the applicable Fundamental Change Repurchase Date and the time of book-entry transfer or delivery of the relevant Notes in the event such third party fails to make such payment in such amount at such time.

(e) Notwithstanding the foregoing, no Notes may be repurchased by the Company on any date at the option of the Holders upon a Fundamental Change if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes). The Paying Agent will promptly return to the respective Holders thereof any Physical Notes held by it during the acceleration of the Notes (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes), or any instructions for book-entry transfer of the Notes in compliance with the procedures of the Depositary shall be deemed to have been cancelled, and, upon such return or cancellation, as the case may be, the Fundamental Change Repurchase Notice with respect thereto shall be deemed to have been withdrawn.

Section 8.02. Withdrawal of Fundamental Change Repurchase Notice.

(a) A Fundamental Change Repurchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the Corporate Trust Office of the Paying Agent in accordance with this Section 8.02 at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date, specifying:

(1) the principal amount of the Notes with respect to which such notice of withdrawal is being submitted (which must be at least $1,000 or, if greater, an integral multiple of $1.00),

(2) if Physical Notes have been issued, the certificate number of the Note in respect of which such notice of withdrawal is being submitted (which must be at least a $1,000 or, if greater, an integral multiple of $1.00), and

(3) the principal amount, if any, of such Note that remains subject to the original Fundamental Change Repurchase Notice, which portion must be in principal amount of at least $1,000 or, if greater, an integral multiple of $1.00;

provided, however, that if the Notes are Global Notes, the notice must comply with appropriate procedures of the Depositary.

Section 8.03. Deposit of Fundamental Change Repurchase Price.

(a) The Company will deposit with the Trustee (or other Paying Agent appointed by the Company, or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 4.03 hereof) on or prior to 11:00 a.m., New York City time, on the Fundamental Change Repurchase Date an amount of money sufficient to repurchase all of the Notes to be repurchased at the appropriate Fundamental Change Repurchase Price. Subject to receipt of funds and/or Notes by the Trustee (or other Paying Agent appointed by the Company), payment for Notes surrendered for repurchase (and not withdrawn prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date) will be made on the later of:

(1) the Fundamental Change Repurchase Date (provided the Holder has satisfied the conditions in Section 3.03 hereof) and

(2) the time of book-entry transfer or the delivery of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Holder thereof in the manner required by Section 8.01 hereof by mailing checks for the amount payable to the Holders of such Notes entitled thereto as they shall appear in the Note Register; *provided, however*, that payments to the Depositary shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee. The Trustee shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Fundamental Change Repurchase Price.

(b) If by 11:00 a.m. New York City time, on the Fundamental Change Repurchase Date, the Trustee (or other Paying Agent appointed by the Company) holds money sufficient to make payment on all the Notes or portions thereof that are to be repurchased on such Fundamental Change Repurchase Date, then, with respect to the Notes that have been properly surrendered for repurchase and have not been validly withdrawn, (i) such Notes will cease to be outstanding, (ii) interest will cease to accrue on such Notes (whether or not book-entry transfer of the Notes has been made or the Notes have been delivered to the Trustee or the Paying Agent) and (iii) all other rights of the Holders of such Notes will terminate (other than the right to receive the Fundamental Change Repurchase Price).

(c) Upon surrender of a Physical Note that is to be repurchased in part pursuant to Section 15.02 hereof, the Company shall execute and the Trustee shall authenticate and deliver to the Holder a new Physical Note in an authorized denomination equal in principal amount to the unrepurchased portion of the Physical Note surrendered.

Section 8.04. Covenant to Comply with Applicable Laws Upon Repurchase of Notes. In connection with any repurchase or redemption of Notes, the Company will, if required and applicable to the Company:

(a) comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act;

(b) file a Schedule TO or any other required schedule under the Exchange Act; and

(c) otherwise comply with all federal and state securities laws;

in each case, to the extent practicable, so as to permit the rights and obligations under this Article 8 to be exercised in the time and in the manner specified in this Article 8.

ARTICLE 9
SUPPLEMENTAL INDENTURES

Section 9.01. Without Consent of Holders of Notes.

Without the consent of any Holders, the Company, when authorized by a Board Resolution, each of the Subsidiary Guarantors, when authorized by a Board Resolution, and the Trustee upon Company Request, at any time and from time to time, may amend or supplement any of the Convertible Note Documents in the following circumstances, in form satisfactory to the Trustee, for any of the following purposes:

(a) to evidence the succession of another Person to the Company and the assumption by any such successor of the covenants of the Company contained in the Amended Indenture and in the Notes;

(b) to add to the covenants of the Company for the benefit of the Holders or to surrender any right or power herein conferred upon the Company;

(c) to alter the provisions of Article 2 hereof or the Restricted Notes Legend relating to the form of the Notes (including any related definitions) in a manner that does not materially adversely affect the legal rights of any Holder;

(d) to cure any ambiguity, to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Amended Indenture, *provided* that such action shall not adversely affect the legal rights of any Holder;

(e) to add any Restricted Subsidiary as an additional Subsidiary Guarantor as provided in Section 4.13(a) hereof or to evidence the succession of another Person to any Subsidiary Guarantor pursuant to Section 10.02(b) hereof and the assumption by any such successor of the covenants and agreements of such Subsidiary Guarantor contained herein, in the Notes and in the Subsidiary Guarantee of such Subsidiary Guarantor;

(f) to release a Subsidiary Guarantor from its Subsidiary Guarantee pursuant to Section 10.03 hereof;

(g) to provide for uncertificated Notes in addition to or in place of certificated Notes;

(h) to make, complete or confirm any grant of Collateral permitted or required by this Amended Indenture or any of the Convertible Note Documents;

(i) to add any additional Collateral or to evidence the release of any Liens, in each case as provided in this Amended Indenture or the other Convertible Note Documents, as applicable; and

(j) with respect to the Collateral Agreements, as provided in the Collateral Trust and Intercreditor Agreement.

Section 9.02. With Consent of Holders of Notes.

(a) The Company, when authorized by a Board Resolution, each of the Subsidiary Guarantors, when authorized by a Board Resolution, and the Trustee upon Company Request may amend or supplement this Amended Indenture and the other Convertible Note Documents for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Amended Indenture or the other Convertible Note Documents, or of modifying in any manner the rights of the Holders under this Amended Indenture or the other Convertible Note Documents, in each case with any consent of holders of other Convertible Note Obligations that may be required with respect to an amendment of or waiver under the Collateral Trust and Intercreditor Agreement or any other Collateral Agreement; *provided* that (i) no such amendment or supplement affecting the rights or obligations of the Holders of the outstanding Series 1 Notes shall be effective without the consent of the Holders of a majority in aggregate principal amount of the outstanding Series 1 Notes, (ii) no such amendment or supplement affecting the rights or obligations of the Holders of the outstanding Series 2 Notes shall be effective without the consent of the Holders of a majority in aggregate principal amount of the outstanding Series 2 Notes, and (iii) no such amendment or supplement shall:

(1) without the consent of the Holder of each outstanding Note affected thereby:

(i) change the Stated Maturity of the principal of, or any installment of interest on, any Note, or reduce the principal amount thereof or the rate of interest thereon or any premium (including the Applicable Premium) thereon, or change the coin or currency in which principal of any Note or any premium (including the Applicable Premium) or the interest on any Note is payable, or impair the right to institute suit for the enforcement of any such payment after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date);

(ii) reduce the percentage of aggregate principal amount of the outstanding Notes, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver of compliance with certain provisions of the Amended Indenture or certain defaults hereunder or the consequences of a default provided for in the Amended Indenture;

(iii) modify any of the provisions of this Section 9.02 or Section 6.13 hereof, except to increase any percentage of Holders referred to therein or to provide that certain other provisions of this Amended Indenture cannot be modified or waived without the consent of the Holder of each outstanding Note affected thereby;

(iv) modify any provisions of the Amended Indenture relating to the Subsidiary Guarantees in a manner adverse to the Holders, except in accordance with the terms of this Amended Indenture, the Collateral Trust and Intercreditor Agreement or the Security Agreement;

(v) amend, change or modify the obligation of the Company pursuant to Article 15 hereof, or modify any of the provisions or definitions with respect thereto;

(vi) release any Subsidiary Guarantor of the Notes from any of its obligations under its Subsidiary Guaranty or this Amended Indenture, except in accordance with the terms of this Amended Indenture, or the Collateral Trust and Intercreditor Agreement;

(vii) release all or a substantial part of the Collateral, except in accordance with the terms of this Amended Indenture or the Collateral Agreements; or

(2) modify, eliminate or replace (I) without the consent each Holder, the definition of Majority Holders, or (II) without the consent of the Specified Secured Hedging Counterparties, any term or condition hereof that (directly or indirectly) would have a disproportionately adverse effect on the rights of Specified Secured Hedging Counterparties as Secured Parties relative to the rights of other Secured Parties, including the Specified Secured Hedging Counterparties rights under the Collateral Trust and Intercreditor Agreement.

(b) If either the Series 1 Notes or Series 2 Notes become convertible pursuant to Section 12.01(a) hereof and, on or before the third Business Day preceding the Fundamental Change Conversion Cut-off Day, Holders representing at least two-thirds of such series of outstanding Notes provide written notice to the Trustee stating that such Holders have elected to require that all such series of outstanding Notes be converted pursuant to Section 12.01(a) hereof, regardless of whether any Holder of such series of Notes has exercised the Repurchase Option under Section 8.01 hereof (the "*Mandatory Conversion Election*"), then all such series of Notes that have not been converted at the election of the Holder thereof pursuant to Section 12.01(a) hereof shall nevertheless be deemed to be converted pursuant to the second proviso of Section 12.01(a) hereof and, without limiting the binding effect of this Amended Indenture of the Holders, each Holder by purchasing and accepting any Note shall have, and shall be deemed to have, expressly agreed to the terms of this clause (c) and Section 12.01(a) hereof.

(c) It shall not be necessary for any Act of the Holders under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such Act shall approve the substance thereof.

Section 9.03. Consents in Connection with Purchase, Tender or Exchange.

A consent to any amendment, supplement or waiver under this Amended Indenture by any Holder given in connection with a purchase, tender or exchange of such Holder's Notes shall not be rendered invalid by such purchase, tender or exchange.

Section 9.04. Revocation and Effect of Consents.

(a) Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of such Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and, except as provided in clause (c) of this Section 9.04, thereafter binds every Holder.

(b) The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver. If a record date is fixed, then notwithstanding the second to last sentence of the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to consent to such amendment, supplement or waiver or revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No consent shall be valid or effective for more than ninety (90) days after such record date except to the extent that the requisite number of consents to the amendment, supplement or waiver have been obtained within such 90-day period or as set forth in clause (c) of this Section 9.04.

(c) After an amendment, supplement or waiver becomes effective, it shall bind every Holder, unless it makes a change described in any of clauses (i) through (v) of Section 9.02(a) hereof, in which case, the amendment, supplement or waiver shall bind only each Holder of a Note who has consented to it and every subsequent Holder of a Note or portion of a Note that evidences the same indebtedness as the consenting Holder's Note.

Section 9.05. Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company, in exchange for all Notes, may issue and the Trustee shall authenticate new Notes that reflect the amendment, supplement or waiver. Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06. Trustee to Sign Amendments, etc.

The Trustee shall sign any amendment or supplemental indenture or grant any waiver authorized pursuant to this Article 9 if the amendment or supplemental indenture or waiver does not adversely affect its rights, duties, liabilities or immunities. If any such amendment, supplemental indenture or waiver does adversely affect the rights, duties, liabilities or immunities of the Trustee, the Trustee may, but need not, sign such amendment, supplemental indenture or grant such waiver. In executing any such amendment, supplemental indenture or waiver, the Trustee shall be entitled to receive and (subject to Section 7.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 14.01 hereof, an Officers' Certificate and an Opinion of Counsel each stating that the execution of such amendment, supplemental indenture or waiver is authorized or permitted by this Amended Indenture.

ARTICLE 10
SUBSIDIARY GUARANTEES

Section 10.01. Unconditional Guarantee.

(a) Each Subsidiary Guarantor hereby unconditionally, jointly and severally, guarantees to each Holder of Notes authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, the full and prompt performance of the Company's obligations under the Amended Indenture and the Notes and that:

(1) the principal of (and premium (including the Applicable Premium), if any, on) and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, to the extent lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(2) in case of any extension of time of payment or renewal of any Notes or of any such other obligations, the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise; subject, however, in the case of clauses (a) and (b) above, to the limitations set forth in Section 10.04 hereof.

(b) Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Subsidiary Guarantors will be jointly and severally obligated to pay the same immediately. Each Subsidiary Guarantor hereby agrees that its obligations hereunder shall, to the extent permitted by law, be unconditional, irrespective of the validity, regularity or enforceability of the Notes or the Amended Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Subsidiary Guarantor hereby waives, to the extent permitted by law, diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever, and covenants that its Subsidiary Guarantee will not be discharged except by complete performance of the obligations contained in the Notes, this Amended Indenture and in this Subsidiary Guarantee. If any Holder or the Trustee is required by any court or otherwise to return to the Company, any Subsidiary Guarantor, or any custodian, trustee, liquidator or other similar official acting in relation to the Company or any Subsidiary Guarantor, any amount paid by the Company or any Subsidiary Guarantor to the Trustee or such Holder, this Subsidiary Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect. Each Subsidiary Guarantor agrees it shall not be entitled to enforce any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Subsidiary Guarantor further agrees that, as between each Subsidiary Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by each Subsidiary Guarantor for the purpose of this Subsidiary Guarantee.

Section 10.02. Subsidiary Guarantors May Consolidate, etc., on Certain Terms.

(a) Except as set forth in Article 5 hereof, nothing contained in this Amended Indenture or in any of the Notes shall prevent any consolidation or merger of a Subsidiary Guarantor with or into the Company or another Subsidiary Guarantor or shall prevent any sale, conveyance or other disposition of all or substantially all the Properties of a Subsidiary Guarantor to the Company or another Subsidiary Guarantor.

(b) Except as set forth in Article 5 hereof, nothing contained in this Amended Indenture or in any of the Notes shall prevent any consolidation or merger of a Subsidiary Guarantor with or into a Person other than the Company or another Subsidiary Guarantor (whether or not Affiliated with such Subsidiary Guarantor), or successive consolidations or mergers in which a Subsidiary Guarantor or its successor or successors shall be a party or parties, or shall prevent any sale, conveyance or other disposition of all or substantially all the Properties of a Subsidiary Guarantor to a Person other than the Company or another Subsidiary Guarantor (whether or not Affiliated with such Subsidiary Guarantor) authorized to acquire and operate the same; *provided* that (i) immediately after such transaction, and giving effect thereto, no Default or Event of Default shall have occurred as a result of such transaction and be continuing, (ii) such transaction shall not violate any of the covenants of Sections 4.01 through 4.17 hereof, and (iii) upon any such consolidation, merger, sale, conveyance or other disposition, such Subsidiary Guarantor's Subsidiary Guarantee set forth in this Article 10, and the due and punctual performance and observance of all of the covenants and conditions of this Amended Indenture to be performed by such Subsidiary Guarantor, shall be expressly assumed, by supplemental indenture satisfactory in form to the Trustee, executed and delivered to the Trustee, by such Person formed by such consolidation or into which such Subsidiary Guarantor shall have merged (if other than such Subsidiary Guarantor), or by the Person that shall have acquired such Property (except to the extent the following Section 10.03 hereof would result in the release of such Subsidiary Guarantee, in which case such surviving Person or transferee of such Property shall not have to execute any such supplemental indenture and shall not have to assume such Subsidiary Guarantor's Subsidiary Guarantee). In the case of any such consolidation, merger, sale, conveyance or other disposition and upon the assumption by the successor Person, by supplemental indenture executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual performance and observance of all of the covenants and conditions of this Amended Indenture to be performed by the applicable Subsidiary Guarantor, such successor Person shall succeed to and be substituted for such Subsidiary Guarantor with the same effect as if it had been named herein as the initial Subsidiary Guarantor.

Section 10.03. Release of Subsidiary Guarantors.

Upon the sale or disposition (by merger or otherwise) of a Subsidiary Guarantor (or all or substantially all of its Properties) to a Person other than the Company or another Subsidiary Guarantor and pursuant to a transaction that is otherwise in compliance with the terms of this Amended Indenture, including but not limited to the provisions of Section 10.02 hereof or pursuant to Article 5 hereof, such Subsidiary Guarantor shall be deemed released from its Subsidiary Guarantee and all related obligations under this Amended Indenture; *provided* that any such release shall occur only to the extent that all obligations of such Subsidiary Guarantor under all of its guarantees of, and under all of its pledges of assets or other security interests which secure, other Indebtedness of the Company or any other Restricted Subsidiary shall also be released upon such sale or other disposition. The Trustee shall deliver an appropriate instrument evidencing such release upon receipt of a Company Request accompanied by an Officers' Certificate and an Opinion of Counsel certifying that such sale or other disposition was made by the Company in accordance with the provisions of this Amended Indenture. In addition, in the event that any Subsidiary Guarantor ceases to guarantee payment of, or in any other manner to remain liable (whether directly or indirectly) with respect to, any and all other Indebtedness of the Company or any other Restricted Subsidiary of the Company, such Subsidiary Guarantor shall also be released from its Subsidiary Guarantee and the related obligations under this Amended Indenture for so long as it remains not liable with respect to all such other Indebtedness. The Trustee shall deliver an appropriate instrument evidencing such release upon receipt of a Company Request accompanied by an Officers' Certificate and an Opinion of Counsel certifying that such Subsidiary Guarantor has ceased to guarantee or otherwise be liable with respect to such other Indebtedness of the Company and the other Restricted Subsidiaries. Each Subsidiary Guarantor that is designated as an Unrestricted Subsidiary in accordance with the provisions of this Amended Indenture shall be released from its Subsidiary Guarantee and all related obligations under this Amended Indenture for so long as it remains an Unrestricted Subsidiary. The Trustee shall deliver an appropriate instrument evidencing such release upon its receipt of the Board Resolution designating such Unrestricted Subsidiary. Any Subsidiary Guarantor not released in accordance with this Section 10.03 shall remain liable for the full amount of

principal of (and premium (including the Applicable Premium), if any, on) and interest on the Notes as provided in this Article 10.

Section 10.04. Limitation of Subsidiary Guarantors' Liability.

Each Subsidiary Guarantor, and by its acceptance hereof each Holder, hereby confirm that it is the intention of all such parties that the guarantee by such Subsidiary Guarantor pursuant to its Subsidiary Guarantee not constitute a fraudulent transfer or conveyance for purposes of the Federal Bankruptcy Code, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law. To effectuate the foregoing intention, the Holders and each Subsidiary Guarantor hereby irrevocably agree that the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee shall be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Subsidiary Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Subsidiary Guarantor in respect of the obligations of such other Subsidiary Guarantor under its Subsidiary Guarantee hereof, result in the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee not constituting such a fraudulent conveyance or fraudulent transfer. This Section 10.04 is for the benefit of the creditors of each Subsidiary Guarantor.

Section 10.05. Severability.

In case any provision of this Subsidiary Guarantee shall be invalid, illegal or unenforceable, that portion of such provision that is not invalid, illegal or unenforceable shall remain in effect, and the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

ARTICLE 11
SECURITY

Section 11.01. Collateral Agreements; Additional Collateral.

(a) In order to secure the due and punctual payment of the Convertible Note Obligations (i) on the Original Issue Date, simultaneously with the execution and delivery of the Existing Indenture (except as otherwise expressly provided in Section 11.01 of the Existing Indenture or a Collateral Agreement), the Company and the Subsidiary Guarantors party to the Existing Indenture shall have executed the Collateral Agreements granting to the Collateral Agent for the benefit of the Secured Parties a first-priority perfected Lien in the Collateral, subject to the Collateral Trust and Intercreditor Agreement, and (ii) on the Series 2 Issue Date, simultaneously with the execution and delivery of the Amended Indenture (except as otherwise expressly provided in Section 11.01 of this Amended Indenture or a Collateral Agreement), the Company and the Subsidiary Guarantors shall have executed such Collateral Agreements and joinders thereto granting to the Collateral Agent for the benefit of the Secured Parties a first-priority perfected Lien on the assets constituting Collateral purchased under and pursuant to the Gavilan Purchase Agreement, subject to the Collateral Trust and Intercreditor Agreement.

(b) The Company shall promptly deliver, and to cause each of the other Collateral Grantors to deliver, but in each case not later than (i) the date that is thirty (30) days following the Original Issue Date (or such later time as acceptable to the Collateral Agent and the Majority Holders in their sole discretion, as extended via electronic mail), to further secure the Secured Obligations, deeds of trust, Mortgages, chattel mortgages, security agreements, financing statements and other Collateral Agreements in form and substance satisfactory to the Collateral Agent for the purpose of granting, confirming, and perfecting first-priority Liens in all of the Collateral Grantors' Oil and Gas Properties (including, for sake of clarity, one hundred percent (100%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties constituting Proved Reserves and one hundred percent (100%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties constituting Proved Developed Producing Reserves), and (ii) the date that is forty-five (45) days following the Series 2 Issue Date (or such later time as acceptable to the Collateral Agent and the Majority Holders in their sole discretion, as extended via electronic mail), to further secure the Secured Obligations, deeds of trust, Mortgages, chattel mortgages, security agreements, financing statements, other Collateral Agreements, and any joinders and supplements thereto, in form and substance satisfactory to the Collateral Agent for the purpose of, in each instance, granting, confirming, and perfecting first-priority Liens in all of the Collateral Grantors' assets purchased under and pursuant to the Gavilan Purchase Agreement; *provided*, however, that the Collateral Agent shall have the right to exclude from the foregoing requirements any portion of such assets that the Majority Holders deem

to not be sufficiently valuable to justify the expense of obtaining the grant, confirmation or perfection of such first-priority Lien or that the Majority Holders anticipate will be the subject of an Asset Sale permitted by this Amended Indenture. Concurrently with the delivery required by this clause (b), the Company shall deliver to the Collateral Agent, and shall semi-annually on or before April 1 and October 1 in each calendar year, an Officers' Certificate certifying that as of the date of such certificate, (i) no Default has occurred and is continuing and (ii) the Collateral Agreements grant liens and securities interests on all of the Collateral Grantors' Oil and Gas Properties set forth in the most recently delivered Engineering Report, excluding any Oil and Gas Properties disposed of as permitted by this Amended Indenture or any Oil and Gas Properties subject to the requirements of clauses (c) or (e) below.

(c) In connection with each delivery of an Engineering Report and a certificate delivered pursuant to clause (b) of this Section 11.01, the Company shall review the list of current Mortgaged Properties to ascertain whether the Mortgaged Properties represent all of the Collateral Grantors' Oil and Gas Properties (including, for sake of clarity, one hundred percent one hundred percent (100%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties constituting Proved Reserves and one hundred percent (100%) of the PV-9 of the Collateral Grantors' Oil and Gas Properties constituting Proved Developed Producing Reserves); *provided*, however, the Collateral Agent shall have the right to exclude from the foregoing requirement any portion of the Collateral Grantors' Oil and Gas Properties that the Majority Holders deem to not be sufficiently valuable to justify the expense of obtaining the grant, confirmation or perfection of such first-priority Lien or that the Majority Holders anticipate will be the subject of an Asset Sale permitted by this Amended Indenture. In the event that the Mortgaged Properties do not represent all of the Collateral Grantors' Oil and Gas Properties (other than exceptions permitted by the Collateral Agent in accordance with the preceding sentence), then the Company shall, and shall cause its Restricted Subsidiaries to, promptly grant to the Collateral Agent as security for the Secured Obligations a first-priority perfected Lien on additional Oil and Gas Properties not already subject to a Lien created by Collateral Agreements. All such Liens will be created and perfected by and in accordance with the provisions of deeds of trust, security agreements and financing statements or other Collateral Agreements, all in form and substance satisfactory to the Collateral Agent and in sufficient executed (and acknowledged where necessary or appropriate) counterparts for recording purposes. In order to comply with the foregoing, if any Restricted Subsidiary places a Lien on its Oil and Gas Properties and such Subsidiary is not a Subsidiary Guarantor, then it shall become a Subsidiary Guarantor and comply with the requirements of this Amended Indenture that apply to Subsidiary Guarantors. To the extent that any Oil and Gas Properties constituting Collateral are disposed of after the date of any applicable Engineering Report or certificate delivered pursuant to clause (b) of this Section 11.01, such Oil and Gas Properties shall be deemed excluded from such Engineering Report or certificate for the purpose of determining whether such Mortgage requirement is met after giving effect to such release.

(d) The Company also agrees to promptly deliver, or to cause to be promptly delivered, to the extent not already delivered, whenever requested by the Collateral Agent in its sole and absolute discretion (1) favorable title information (including, if reasonably requested by the Collateral Agent, title opinions) acceptable to the Collateral Agent with respect to any Collateral Grantor's Oil and Gas Properties, and demonstrating that such Collateral Grantor has good and defensible title to such properties and interests, free and clear of all Liens (other than Permitted Liens) and covering such other matters as the Collateral Agent may reasonably request and (2) favorable opinions of counsel satisfactory to the Collateral Agent in its sole discretion opining that the forms of Mortgage are sufficient to create valid first deed of trust or mortgage liens in such properties and interests and first priority assignments of and security interests in the Oil and Gas Properties attributable to such properties and interests and proceeds thereof.

(e) If (1) a Collateral Grantor acquires any asset or property of a type that is required to constitute Collateral pursuant to the terms of this Amended Indenture and such asset or property is not automatically subject to a first-priority perfected Lien in favor of the Collateral Agent, (2) a Subsidiary of the Company that is not already a Subsidiary Guarantor is required to become a Subsidiary Guarantor pursuant to Section 4.13 or (3) any Collateral Grantor creates any additional Lien upon any Oil and Gas Properties, or any other assets or properties to secure any Convertible Note Obligations (or takes additional actions to perfect any existing Lien on Collateral), then such Collateral Grantor or such other Subsidiary shall, as soon as practicable after the acquisition of the applicable asset or property, the occurrence of the event requiring such Subsidiary to become a Subsidiary Guarantor or the creation of any such additional Lien or taking of any such additional perfection action (and, in any event, within ten Business Days after such acquisition, event or creation), (i) grant to the Collateral Agent a first-priority perfect Lien in all assets and property of such Collateral Grantor or such other Subsidiary that are required to, but do not already,

constitute Collateral, (ii) deliver any certificates to the Collateral Agent in respect thereof and (iii) take all other appropriate actions as necessary to ensure the Collateral Agent has a first-priority perfect Lien therein.

(f) The Company shall cause every Subsidiary Guarantor to make all filings (including filings of continuation statements and amendments to Uniform Commercial Code financing statements in the United States (or the applicable political subdivision, territory or possession thereof) that may be necessary to continue the effectiveness of such Uniform Commercial Code financing statements) and take all other actions as are reasonably necessary or required by the Collateral Agreements to maintain (at the sole cost and expense of the Subsidiary Guarantors) the security interest created by the Collateral Agreements in the Collateral as a first-priority perfected Lien.

(g) All references to a "first-priority perfected Lien" in this Section 11.01 shall be understood to be subject to the terms of the Collateral Trust and Intercreditor Agreement, if any.

(h) The Company shall, and shall cause every other Collateral Grantor to, from time to time take the actions required by Section 4.17.

Section 11.02. Release of Liens Securing Notes.

The Collateral Grantors shall be entitled to releases of assets included in the Collateral from the Liens securing Convertible Note Obligations under any one or more of the following circumstances:

(a) upon the full and final payment in cash and performance of all Convertible Note Obligations of the Company and the Subsidiary Guarantors;

(b) with respect to any asset constituting Collateral, if such Collateral is sold or otherwise disposed of to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary in accordance with Section 4.10 (other than the provisions thereof relating to the future use of proceeds of such sale or other disposition)*; provided* that to the extent that any Collateral is sold or otherwise disposed of in accordance with Section 4.10, the non-cash consideration received is pledged as Collateral under the Collateral Agreements contemporaneously with such sale, in accordance with the requirements set forth in this Amended Indenture and the Collateral Agreements*; provided*, *further*, that the Liens securing the Convertible Note Obligations will not be released if the sale or disposition is subject to Section 5.01;

(c) upon satisfaction and discharge of the Notes in accordance with Article 8;

(d) if any Subsidiary Guarantor is released from its Subsidiary Guarantee in accordance with the terms of this Amended Indenture, that Subsidiary Guarantor's assets and property included in the Collateral shall be released from the Liens securing the Convertible Note Obligations;

(e) with the requisite consent of Holders given in accordance with this Amended Indenture and any other consents required by the Collateral Trust and Intercreditor Agreement or the other Collateral Agreements; or

(f) upon the conversion of all of the Notes into Common Stock in accordance with Article 12.

Section 11.03. Release Documentation.

Upon compliance with the conditions to release of all or any portion of the Collateral set forth in Section 11.02, the Collateral Agent and the Trustee shall forthwith take all necessary action (at the written request of and the expense of the Company, accompanied by an Officers' Certificate and Opinion of Counsel that the conditions precedent to such release have been satisfied) to release and re-convey to the applicable Collateral Grantor the applicable portion of the Collateral that is authorized to be released pursuant to Section 11.02, and shall deliver such Collateral in its possession to the applicable Collateral Grantor, including, without limitation, executing and delivering releases and satisfactions wherever required.

Section 11.04. No Impairment of the Security Interests.

The Company shall not, and shall not permit any other Collateral Grantor to take any action, or knowingly omit to take any action, which action or omission would have the result of materially impairing the validity, perfection or priority of the security interests in the Collateral created by the Collateral Agreements (except as permitted in this Amended Indenture, the Collateral Trust and Intercreditor Agreement or the other Collateral Agreements, including any action that would result in a Permitted Lien).

Section 11.05. Collateral Agent.

(a) The Trustee and each of the Holders by acceptance of the Notes hereby authorize the appointment of the Collateral Agent as the Trustee's and the Holders' collateral agent under the Collateral Agreements, and the Trustee and each of the Holders by acceptance of the Notes hereby irrevocably authorize the Collateral Agent to take such action on their behalf under the provisions of the Collateral Agreements, including the Collateral Trust and Intercreditor Agreement, and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Amended Indenture, the Collateral Trust and Intercreditor Agreement and the other Collateral Agreements, together with such powers as are reasonably incidental thereto.

(b) The Collateral Agent may resign and its successor appointed in accordance with the terms of the Collateral Trust and Intercreditor Agreement.

(c) The Trustee is authorized and directed by the Holders and the Holders by acquiring the Notes are deemed to have authorized the Trustee, as applicable, to (1) enter into the Collateral Trust and Intercreditor Agreement, (2) bind the Holders on the terms as set forth in the Collateral Trust and Intercreditor Agreement, (3) perform and observe its obligations and exercise its rights and powers under the Collateral Trust and Intercreditor Agreement, including entering into amendments permitted by the terms of this Amended Indenture, the Collateral Trust and Intercreditor Agreement or the other Collateral Agreements and (4) cause the Collateral Agent to enter into and perform its obligations under the Collateral Agreements. The Collateral Agent is authorized and directed by the Trustee and the Holders and the Holders by acquiring the Notes are deemed to have authorized the Collateral Agent, to (i) enter into the other Collateral Agreements to which it is a party, (ii) bind the Trustee and the Holders on the terms as set forth in such Collateral Agreements and (iii) perform and observe its obligations and exercise its rights and powers under such Collateral Agreements, including entering into amendments permitted by the terms of this Amended Indenture or the Collateral Agreements. Each Holder, by its acceptance of a Note, is deemed to have consented and agreed to the terms of the Collateral Trust and Intercreditor Agreement and each other Collateral Agreement, as originally in effect and as amended, restated, replaced, supplemented or modified from time to time in accordance with its terms or the terms of this Amended Indenture. Each of the Trustee and the Holders by acquiring the Notes is hereby deemed to (A) agree that it will be bound by and will take no actions contrary to the provisions of the Collateral Trust and Intercreditor Agreement and the Security Agreement and (B) acknowledge that it has received copies of the Collateral Trust and Intercreditor Agreement and that the exercise of certain of the Trustee's rights and remedies hereunder may be subject to, and restricted by, the provisions of the Collateral Trust and Intercreditor Agreement. NOTWITHSTANDING ANY OTHER PROVISION CONTAINED IN THIS AMENDED INDENTURE, IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THE PROVISIONS OF THIS AMENDED INDENTURE AND THE COLLATERAL TRUST AND INTERCREDITOR AGREEMENT, THE COLLATERAL TRUST AND INTERCREDITOR AGREEMENT, AS APPLICABLE, SHALL CONTROL.

(d) The Collateral Agent shall have no obligation whatsoever to the Trustee or any of the Holders to assure that the Collateral exists or is owned by the Company or any of the Collateral Grantors or is cared for, protected or insured or has been encumbered, or that the Collateral Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, maintained or enforced or are entitled to any particular priority, or to determine whether all of the applicable Collateral Grantor's property constituting Collateral intended to be subject to the Lien and security interest of the Collateral Agreements has been properly and completely listed or delivered, as the case may be, or the genuineness, validity, marketability or sufficiency thereof or title thereto.

(e) The grant of permissive rights or powers to the Collateral Agent shall not be construed to impose duties to act. For the avoidance of doubt, nothing herein shall require the Collateral Agent to file financing

statements or continuation statements, or be responsible for maintaining the security interests purported to be created by the Collateral Agreements and such responsibility shall be solely that of the Company.

Section 11.06. Purchaser Protected.

No purchaser or grantee of any property or rights purporting to be released from the Liens in favor of the Collateral Agent shall be bound to ascertain the authority of the Collateral Agent or Trustee to execute the release or to inquire as to the existence of any conditions herein prescribed for the exercise of such authority so long as the conditions set forth in Section 11.03 have been satisfied.

Section 11.07. Authorization of Receipt of Funds by the Trustee Under the Collateral Agreements.

The Trustee is authorized to receive any funds for the benefit of Holders distributed under the Collateral Agreements and to apply such funds as provided in Section 6.06.

Section 11.08. Powers Exercisable by Receiver or Trustee.

In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article 11 upon the Company or any other Collateral Grantor, as applicable, with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Company or any other Collateral Grantor, as applicable, or of any officer or officers thereof required by the provisions of this Article 11.

Section 11.09. Compensation and Indemnification.

The Collateral Agent shall be entitled to the compensation and indemnification set forth in Section 7.06 (with the references to the Trustee therein being deemed to refer to the Collateral Agent).

ARTICLE 12
CONVERSION

Section 12.01. Conversion.

(a) If a Fundamental Change occurs, each Holder of a Note shall have the right, at such Holder's option, to convert all or any portion of such Note by giving a notice at any time on or before the 4th Business Day preceding the Fundamental Change Repurchase Date (the "*Conversion Notice*") relating to such Fundamental Change (the "*Fundamental Change Conversion Cut-off Day*"); *provided* that a Holder that, pursuant to Section 8.01, has exercised its Repurchase Option in connection with such Fundamental Change shall not be entitled to exercise this conversion right unless it irrevocably withdraws its election to exercise such Repurchase Option pursuant to Section 8.02 or the following proviso applies; *provided further*, that if a Mandatory Conversion Election has been made pursuant to Section 9.02(b), then any Holder that has not exercised this conversion right by the Fundamental Change Conversion Cut-off Day shall be deemed to have irrevocably exercised such conversion right as of 5:00 pm, New York time, on the Fundamental Change Conversion Cut-off Day and, if such Holder has previously elected to exercise its Repurchase Option pursuant to Section 8.01, then such Repurchase Option election shall as of such time be deemed automatically withdrawn, void and of no further force and effect.

(b) Without limiting the conversion rights provided under Section 12.01(a), if a Scenario 1 Final Equity Distribution or a Scenario 2 Final Equity Distribution occurs (i) each Holder of a Series 1 Note shall have the right, at such Holder's option, to convert all or any portion of such Note by giving a Conversion Notice at any time during the Final Conversion Period, and (ii) each Holder of a Series 2 Note shall have the right, at such Holder's option, to convert all or any portion of such Note by giving a Conversion Notice at any time during the Final Conversion Period.

(c) Notes converted under Section 12.01(a) shall cease to accrue interest on the 30th day preceding the occurrence of the relevant Fundamental Change. Notes converted under Section 12.01(b) shall cease to accrue interest on the first day of the Final Conversion Period. The accrued and unpaid interest on any Note being converted shall be added to the principal amount of such Note being converted.

(d) For each Note properly tendered for conversion hereunder, the Company shall issue and deliver to the converting Holder a number of shares equal to the Note Conversion Amount divided by the applicable Conversion Price (plus cash in lieu of fractional shares of Common Stock in accordance with Section 12.03 and adjusted pro rata for amounts being converted in integral multiples of $1.00). The Company shall cause such issuance and delivery of shares issuable upon conversion to be made promptly and in no event later than fifteen (15) days following the applicable Conversion Calculation Date; *provided* that such issuance and delivery shall be contingent on the Holder's compliance with Section 12.01(e). The shares of Common Stock due upon conversion of a Global Note shall be delivered by the Company in accordance with the Depositary's customary practices.

(e) If any Person that is to receive, and become the Beneficial Owner of, the shares of Common Stock as a result of any conversion hereunder is not a party to and bound by the Shareholders' Agreement, then, so long as the Shareholders' Agreement is in effect, the issuance of and delivery to such Person of any shares of Common Stock to be issued as a result of such conversion shall be contingent upon the receipt by the Company of a duly executed joinder agreement pursuant to which such Person becomes party to and bound by the Shareholders' Agreement, and until such joinder agreement is delivered, such transfer shall be void and of no effect.

(f) At the request of any Holder, the Company will use its reasonable efforts to cooperate with such Holder to confirm with brokers whether such Holder will or will not be an "affiliate" of the Company for purposes of the Securities Act and/or the Exchange Act upon any Optional Conversion.

Section 12.02. Conversion Procedures.

(a) To convert its Note pursuant to any of the conversion rights provided in Section 12.01 (each, a "*Conversion*"), a Holder of a Definitive Note must:

(1) complete and manually sign the Conversion Notice with appropriate signature guarantee, and deliver the completed Conversion Notice (which shall be irrevocable) to the Conversion Agent;

(2) surrender the Note to the Conversion Agent;

(3) furnish appropriate endorsements and transfer documents if required by the Registrar or Conversion Agent; and

(4) pay all transfer or similar taxes if required pursuant to Section 12.04.

If a Holder holds a beneficial interest in a Global Note, to convert such Note, the Holder must comply with clause (4) above and the Depositary's procedures for converting a beneficial interest in a Global Note.

(b) A Note shall be deemed to have been converted immediately prior to the close of business on the Conversion Date. The Person in whose name the shares of Common Stock shall be issued upon any conversion pursuant to this Article 12 shall become the holder of record of such shares as of the close of business on the applicable Conversion Date. Prior to such time, a Holder receiving shares of Common Stock upon conversion shall not be entitled to any rights relating to such shares of Common Stock, including, among other things, the right to vote, tender in a tender offer and receive dividends and notices of shareholder meetings. On and after the close of business on the applicable Conversion Date with respect to a conversion of a Note pursuant hereto, all rights of the Holder of such Note shall terminate, other than the right to receive the consideration deliverable or payable upon conversion of such Note as provided in this Article 12, and all Liens securing the Obligations under such Note shall be released and terminated. Settlement of any conversion provided in this Article 12 shall occur on the third Business Day immediately following the applicable Conversion Date.

Section 12.03. Cash in Lieu of Fractional Shares.

The Company will not issue a fractional share of Common Stock upon conversion of a Note. Instead, the Company shall pay cash in lieu of fractional shares based on the Conversion Price.

Section 12.04. Taxes on Conversion.

The Company shall pay any documentary, stamp or similar issue or transfer tax or duty due on the issue, if any, of Common Stock upon the conversion of a Note. However, such Holder shall pay any such tax or duty that is due because such shares are issued in a name other than such Holder's name. The Conversion Agent may refuse to deliver a certificate representing the Common Stock to be issued in a name other than such Holder's name until the Conversion Agent receives a sum sufficient to pay any tax or duty which will be due because such shares are to be issued in a name other than such Holder's name.

Section 12.05. Company to Reserve Common Stock.

(a) The Company shall at all times reserve out of its authorized but unissued Common Stock or Common Stock held in its treasury a sufficient number of shares of Common Stock to permit the conversion, in accordance herewith, of all of the Notes (assuming, for such purposes, that at the time of computation of such number of shares, all such Notes would be held or converted by a single Holder, as applicable).

(b) All shares of Common Stock issued upon conversion of the Notes shall be validly issued, fully paid and non-assessable and, subject to the terms and conditions of the Stockholders Agreement, shall be free of preemptive or similar rights and free of any lien or adverse claim that arises from the action or inaction of the Company.

(c) The Company and the Holder (to the extent in such Holder's control) shall comply with all securities laws regulating the conversion of Notes.

Section 12.06. No Adjustments.

The Conversion Price and the Conversion Rate shall not be adjusted for any transaction or event other than as specified in this Article 12.

Section 12.07. Notice of Adjustments.

Whenever either the Conversion Price or the Conversion Rate is adjusted, the Company shall promptly mail to Holders at the addresses appearing on the Registrar's books a notice of the adjustment and file with the Trustee and the Conversion Agent an Officers' Certificate briefly stating the facts requiring the adjustment and the manner of computing it. The certificate shall be conclusive evidence of the correctness of such adjustment.

Section 12.08. Notice of Certain Transactions.

In the event that:

(a) the Company takes any action that would require an adjustment in the Conversion Price or the Conversion Rate;

(b) the Company takes any action that would require a supplemental indenture pursuant to Article 19; or

(c) there is a dissolution or liquidation of the Company;

the Company shall promptly mail to Holders at the addresses appearing on the Registrar's books and the Trustee a written notice stating the proposed record date and effective date of the transaction referred to in clause (a), (b) or (c) of this Section 12.088.

ARTICLE 13
SATISFACTION AND DISCHARGE

Section 13.01. Satisfaction and Discharge of Amended Indenture.

(a) The Amended Indenture shall upon Company Request cease to be of further effect (except as to surviving rights of registration of transfer or exchange of Notes, as expressly provided for in the Amended Indenture) as to all outstanding Notes, and the Trustee, at the expense of the Company, shall, upon payment of all amounts due the Trustee under Section 7.06 hereof, execute proper instruments acknowledging satisfaction and discharge of this Amended Indenture when

(1) either

(i) all Notes theretofore authenticated and delivered (other than (i) Notes which have been replaced as provided in Section 2.07 hereof and (ii) Notes for whose payment money or United States governmental obligations of the type described in clause (1) of the definition of Cash Equivalents have theretofore been deposited in trust with the Trustee or any Paying Agent or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 4.03 hereof) have been delivered to the Trustee for cancellation, or

(ii) all such Notes not theretofore delivered to the Trustee for cancellation

(A) have become due and payable, or

(B) will become due and payable at the Stated Maturity thereof within one year, or

(C) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company, and the Company, in the case of clause (II)(A) or (II)(B) above or this (II)(C), has irrevocably deposited or caused to be deposited with the Trustee funds in an amount sufficient to pay and discharge the entire indebtedness on such Notes not theretofore delivered to the Trustee for cancellation, for principal (and premium (including the Applicable Premium), if any) and interest to the date of such deposit (in the case of Notes which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be, together with instructions from the Company irrevocably directing the Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be;

(2) the Company has paid or caused to be paid all other sums then due and payable hereunder by the Company; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, which, taken together, state that all conditions precedent herein relating to the satisfaction and discharge of this Amended Indenture with respect to the Notes have been complied with.

(b) Notwithstanding the satisfaction and discharge of this Amended Indenture, the obligations of the Company to the Trustee under Section 7.06 hereof and, if money shall have been deposited with the Trustee pursuant to this Section 13.01, the obligations of the Trustee under Section 13.02 hereof and the last paragraph of Section 4.03 hereof shall survive.

Section 13.02. Application of Trust Money.

Subject to the provisions of Section 4.03(e) hereof, all money deposited with the Trustee pursuant to Section 13.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Amended Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium (including the Applicable Premium), if any) and interest for whose payment such money has been deposited with the Trustee.

ARTICLE 14
MISCELLANEOUS

Section 14.01. Compliance Certificates and Opinions.

(a) Upon any application or request by the Company or any Subsidiary Guarantor to the Trustee to take any action under any provision of this Amended Indenture, the Company or such Subsidiary Guarantor, as the case may be, shall furnish to the Trustee such certificates and opinions as may be required under the TIA or this Amended Indenture. Each such certificate and each such legal opinion shall be in the form of an Officers' Certificate or an Opinion of Counsel, as applicable, and shall comply with the requirements of this Amended Indenture.

(b) Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Amended Indenture shall include:

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

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of each such Person, such Person has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether, in the opinion of each such Person, such condition or covenant has been complied with.

(c) The certificates and opinions provided pursuant to this Section 14.01 and the statements required by this Section 14.01 shall be satisfactory to the Trustee.

Section 14.02. Form of Documents Delivered to Trustee.

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

(b) Any certificate or opinion of an officer may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which such officer's certificate or opinion is based are erroneous. Any such Opinion of Counsel may be based, insofar as it relates to factual matters, upon an officers' certificate, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate with respect to such matters is erroneous.

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

Section 14.03. Acts of Holders.

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

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

(c) The ownership, principal amount and serial numbers of Notes held by any Person, and the date of holding the same, shall be proved by the Note Register.

(d) If the Company shall solicit from the Holders of Notes any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. Such record date shall be the record date specified in or pursuant to such Board Resolution, which shall be a date not earlier than the date thirty (30) days prior to the first solicitation of Holders generally in connection therewith and not later than the date such solicitation is completed. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of outstanding Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the outstanding Notes shall be computed as of such record date, *provided* that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Amended Indenture not later than eleven months after the record date.

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

Section 14.04. Notices, etc. to Trustee, Company and Subsidiary Guarantors.

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

(a) the Trustee by any Holder, the Company or any Subsidiary Guarantor shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing (in the English language) and delivered in

person or mailed by certified or registered mail (return receipt requested) to the Trustee at its Corporate Trust Office; or

(b) the Company or any Subsidiary Guarantor by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if made, given, furnished or filed in writing (in the English language) and delivered in person or mailed by certified or registered mail (return receipt requested) to the Company or such Subsidiary Guarantor, as applicable, addressed to it at the Company's offices located at Pennzoil Place, 700 Milam Street, Ste. 600, Houston, TX 77002, Attention: Chief Financial Officer, or at any other address otherwise furnished in writing to the Trustee by the Company.

Section 14.05. Notice to Holders; Waiver.

(a) Where this Amended Indenture provides for notice of any event to any Holder by the Company or the Trustee, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing (in the English language) and mailed, first-class postage prepaid, to each Holder affected by such event, at such Holder address as it appears in the Note Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to a Holder is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to such Holder shall affect the sufficiency of such notice with respect to other Holders. Any notice mailed to a Holder in the manner herein prescribed shall be conclusively deemed to have been received by such Holder, whether or not such Holder actually receives such notice. Notwithstanding any other provision of this Amended Indenture or any Note, where this Amended Indenture or any Note provides for notice of any event (including any notice of redemption) to a Holder of a Global Note (whether by mail or otherwise), such notice shall be sufficiently given if given to the Depositary (or its designee) pursuant to the customary procedures of the Depositary or its designee, including by electronic mail in accordance with the Applicable Procedures or the Depositary's other operational arrangements. Where this Amended 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 a Holder shall be filed by such Holder with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

(b) In case by reason of the suspension of or irregularities in regular mail service or by reason of any other cause, it shall be impracticable to mail notice of any event to Holders when such notice is required to be given pursuant to any provision of this Amended Indenture, then any manner of giving such notice as shall be satisfactory to the Trustee shall be deemed to be a sufficient giving of such notice for every purpose hereunder.

(c) The Trustee may rely upon and comply with instructions or directions sent via unsecured facsimile or email transmission and the Trustee shall not be liable for any loss, liability or expense of any kind incurred by the Company or the Holders due to the Trustee's reliance upon and compliance with instructions or directions given by unsecured facsimile or email transmission; *provided* that such losses have not arisen from the gross negligence or willful misconduct of the Trustee, it being understood that the failure of the Trustee to verify or confirm that the person providing the instructions or directions, is, in fact, an authorized person does not constitute gross negligence or willful misconduct.

Section 14.06. Effect of Headings and Table of Contents.

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

Section 14.07. Successors and Assigns.

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

Section 14.08. Severability.

In case any provision in this Amended Indenture or in the Notes or the Subsidiary Guarantees shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and a Holder shall have no claim therefor against any party hereto.

Section 14.09. Benefits of Supplemental Indenture.

Nothing in this Amended Indenture or in the Notes, express or implied, shall give to any Person (other than the parties hereto, any Paying Agent, any Registrar and their successors hereunder and the Holders) any benefit or any legal or equitable right, remedy or claim under this Amended Indenture.

Section 14.10. Governing Law.

THIS AMENDED INDENTURE, THE SUBSIDIARY GUARANTEES, THE NOTES, AND THE COLLATERAL TRUST AND INTERCREDITOR AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY. THE COMPANY AND EACH SUBSIDIARY GUARANTOR IRREVOCABLY SUBMIT TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AMENDED INDENTURE, THE NOTES OR THE SUBSIDIARY GUARANTEES, AND THE COMPANY AND EACH SUBSIDIARY GUARANTOR IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED BY ANY SUCH COURT.

Section 14.11. Legal Holidays.

In any case where any delivery of Additional Notes, Redemption Date, or Stated Maturity or Maturity of the Notes shall not be a Business Day, then (notwithstanding any other provision of this Amended Indenture or of the Notes or the Subsidiary Guarantee) delivery of Additional Notes or any other payment of interest or principal (and premium (including the Applicable Premium), if any) need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the original delivery date of Additional Notes, Redemption Date or at the Stated Maturity or Maturity; *provided* that, with respect to the Redemption Date, Stated Maturity or Maturity of the Notes, no interest shall accrue for the period from and after such Redemption Date, Stated Maturity or Maturity, as the case may be.

Section 14.12. No Personal Liability of Directors, Officers, Employees and Stockholders.

No director, officer, employee, incorporator, stockholder, member, partner or trustee of the Company or any Subsidiary Guarantor, as such, shall have any liability for any obligations of the Company or any Subsidiary Guarantor under the notes, the Amended Indenture or the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 14.13. Duplicate Originals.

The parties may sign any number of copies or counterparts of this Amended Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

Section 14.14. No Adverse Interpretation of Other Agreements.

This Amended Indenture may not be used to interpret another indenture, loan or debt agreement of the Company or any of its Subsidiaries. Any such indenture, loan or debt agreement may not be used to interpret this Amended Indenture.

Section 14.15. Force Majeure.

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 14.16. Waiver of Jury Trial.

EACH OF THE COMPANY, THE SUBSIDIARY GUARANTORS AND THE TRUSTEE AND HOLDERS OF NOTES BY ACCEPTING A BENEFICIAL INTEREST IN THE NOTES HEREBY IRREVOCABLE WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AMENDED INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 14.17. Trust Indenture Act Inapplicable.

For the avoidance of doubt, the TIA is not applicable to the Amended Indenture and the Amended Indenture is not qualified and shall not be qualified under the TIA. Any references in the Amended Indenture of the Notes to the TIA are intended to apply selective portions of the TIA optionally but should not be interpreted as applying the terms of the TIA generally.

Section 14.18. Amendment and Restatement of Existing Indenture.

Effective on the date hereof, the Existing Indenture shall be amended and restated in its entirety and replaced by this Amended Indenture. All references to the "Indenture" in the Convertible Note Documents (including the Series 1 Notes) are understood to be references to this Amended Indenture and all references to "Subsidiary Guarantors" in the Series 1 Notes are understood to be references to the Subsidiary Guarantors party hereto, *provided, that,* except as noted above in this Section 14.18, defined terms used in the Series 1 Notes and not otherwise defined therein shall have the meaning ascribed thereto in the Existing Indenture as in effect on the Original Issue Date.

Section 14.19. No Novation. This Amended Indenture amends, restates and supersedes the Existing Indenture, with the obligations under the Existing Indenture of the Company and the Subsidiary Guarantors being deemed continuing obligations amended and restated in their entirety by this Amended Indenture. This Amended Indenture shall not be deemed to be a novation of the obligations under the Existing Indenture.

ARTICLE 15
POST EFFECTIVE DATE EQUITY DISTRIBUTION

Section 15.01. Post-Effective Date Equity Distribution Determinations.

(a) *Initial Determinations*. Promptly, and in any event within ten days after the occurrence of the Post-Effective Date Equity Distribution, the Company shall determine each of the items listed below and deliver an Officer's Certificate to the Trustee setting forth its determination of such items, together with reasonably detailed materials showing its calculation thereof, and certifying that such determinations and calculations are accurate and complete:

(1) Total amount of Authorized Plan Distribution Shares outstanding immediately after the Post-Effective Date Equity Distribution ("*Total Outstanding Shares*");

(2) The aggregate number of Total Outstanding Shares beneficially owned by the DIP Lenders and their Affiliates (the "*DIP Lender Equity Holdings*"); *provided* that such aggregate number shall not include any shares of Common Stock acquired by a DIP Lender or an Affiliate in the Post-Effective Date Equity Distribution;

(3) The percentage of the Total Outstanding Shares represented by the DIP Lender Equity Holdings (the "*DIP Lender Equity Percentage*"); and

(4) Which of the following has occurred: a Scenario 1 Final Equity Distribution, Scenario 2 Final Equity Distribution or Scenario 3 Final Equity Distribution.

(b) *Additional Determinations*. If a Scenario 2 Final Equity Distribution occurs, then the Company shall determine the following additional items as soon as reasonably practicable and deliver an Officer's Certificate to the Trustee setting forth its determination of such items, together with reasonably detailed materials showing its calculation thereof, and certifying that such determinations and calculations are accurate and complete:

(1) The principal amount of Series 1 Notes equal to (x) the aggregate outstanding principal amount of Series 1 Notes (without giving effect to any increase in such principal amount pursuant to the interest payment terms of the Notes) multiplied by (y) 1.0 minus the DIP Lender Equity Percentage (expressed in decimal form) (such principal amount, the "*Pro Rata Note Amount*");

(2) The portion of the Pro Rata Note Amount that the DIP Lenders as Beneficial Owners thereof have transferred to other parties that beneficially own any of the Total Outstanding Shares (the "*Transferred Note Amount*"); *provided* that for purposes of making this determination any portion of the Pro Rata Note Amount that is transferred by a DIP Lender to any of its Affiliates shall be counted as part of the Transferred Note Amount;

(3) Whether the Transferred Note Amount equals or exceed eighty percent (80%) of the Pro Rata Note Amount; and

(4) If the Transferred Note Amount is less than eighty percent (80%) of the Pro Rata Note Amount, an amount equal to the Pro Rata Note Amount minus the Transferred Note Amount (the "*Residual Amount*").

Section 15.02. Repurchase at Option of DIP Lenders.

(a) If (i) a Scenario 2 Final Equity Distribution occurs, (ii) a Residual Amount of greater than zero is determined and (iii) a Residual Repurchase Waiver (as defined in Section 15.02(d) hereof) has not occurred, then each Series 1 Holder that is a DIP Lender shall have the right, at such Series 1 Holder's option, to require the Company to repurchase all or any portion (that is equal to $1,000 or a greater amount that is an integral multiple of $1.00) of such Series 1 Holder's pro rata share of the Residual Amount (determined as provided in Section 15.02(d)) for cash on the date (the "*Residual Amount Repurchase Date*") that is not less than thirty (30) calendar days or more than sixty (60) calendar days following the date on which the Officer's Certificate referred to in Section 15.01(b) is delivered to the Trustee at a repurchase price equal to one hundred percent (100%) of the aggregate principal amount thereof, plus accrued and unpaid interest thereon, if any, to, but excluding, the Residual Amount Repurchase Date (the "*Residual Repurchase Price*"). The Company shall specify the Residual Amount Repurchase Date by written notice given to the Trustee and the DIP Lenders by no later than twenty (20) days prior to such Residual Amount Repurchase Date (the "*Residual Amount Option Notice*").

(b) Each Series 1 Holder entitled to exercise the option provided for in Section 15.02(a) may do so, at its option, by:

(1) delivery to the Paying Agent by a Series 1 Holder of a duly completed notice (the "*Residual Repurchase Notice*") in the form set forth in Exhibit A to the Form of Note attached hereto as Exhibit A, if the Notes are Physical Notes, or in compliance with the Depositary's procedures for surrendering interests in Global Notes, if the Notes are Global Notes, in each case on or before the close of business on the fifth Business Day immediately preceding the Residual Amount Repurchase Date, which Residual Repurchase Note shall specify the portion of the Series 1 Holder's pro rata share of the Residual Amount that is to be repurchased; and

(2) delivery of the Notes, if the Notes are Physical Notes, to the Paying Agent at any time after delivery of the Residual Repurchase Notice (together with all necessary endorsements for transfer) at the Corporate Trust Office of the Paying Agent or book-entry transfer of the Notes, if the Notes are Global Notes, in compliance with the procedures of the Depositary, in each case such delivery being a condition to receipt by the Series 1 Holder of the Residual Amount Repurchase Price therefor.

(c) The Company will deposit with the Trustee (or other Paying Agent appointed by the Company, or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 4.04) on or prior to 11:00 a.m., New York City time, on the Residual Amount Repurchase Date an amount of money sufficient to repurchase all of the Notes to be repurchased at the appropriate Residual Repurchase Price. Subject to receipt of funds and/or Notes by the Trustee (or other Paying Agent appointed by the Company), payment for Notes surrendered for repurchase (and not withdrawn prior to the close of business on the Business Day. immediately preceding the Residual Amount Repurchase Date) will be made on the later of (i) the Residual Amount Repurchase Date (*provided* the Series 1 Holder has satisfied the conditions in Section 15.02(a) hereof) and (ii) the time of book-entry transfer or the delivery of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Series 1 Holder thereof in the manner required by Section 2.06 hereof by mailing checks for the amount payable to the Series 1 Holders of such Notes entitled thereto as they shall appear in the Note Register; *provided, however*, that payments to the Depositary shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee. The Trustee shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Residual Amount Repurchase Price.

(d) In the event that the Company delivers an Officer's Certificate pursuant to Section 15.01(b) hereof showing that a Residual Amount of greater than zero has been determined, the Company shall promptly, and no later than three Business Days after delivering such Officer's Certificate, provide written notice to each DIP Lender that is a Beneficial Owner of any Series 1 Notes (i) apprising such DIP Lender of the determinations set forth in such Officer's Certificate, (ii) referring such DIP Lender to the provisions of this Section 15.02, (iii) requesting that such DIP Lender return a form accompanying such notice (the "*Waiver Form*") indicating whether such DIP Lender votes in favor of or against waiving the repurchase option provided to such DIP Lender under Section 15.02(a) hereof and (iv) stating that any vote in favor of waiving such repurchase option shall only be effective if received by the Trustee on or before a date specified in such notice (the "*Residual Repurchase Cut-off Date*"), which shall be a Business Day selected by the Company occurring at least twenty (20) calendar days following the date on which the Company delivered its Officer's Certificate pursuant to Section 15.01(b) hereof. If on or before the Residual Repurchase Cut-off Date, DIP Lenders holding more than fifty percent (50%) of the aggregate principal amount of all Series 1 Notes then held by DIP Lenders have delivered to the Trustee executed Waiver Forms voting in favor of waiving the repurchase option under Section 15.02(a) hereof, then such repurchase option shall be irrevocably waived (a "*Residual Repurchase Waiver*") and for purposes of Section 15.02(a) a Residual Repurchase Waiver shall have occurred and no DIP Lender shall be entitled to exercise a repurchase option under this Section 15.02. If such Waiver Forms from DIP Lenders holding more than fifty percent (50%) of the aggregate principal amount of all Series 1 Notes then held by DIP Lenders are not delivered to the Trustee on or before the Residual Repurchase Cut-off Date, then no Residual Repurchase Waiver shall have occurred for purposes of Section 15.02(a) hereof. Following the Residual Repurchase Cut-off Date, the Trustee shall promptly determine whether a Residual Repurchase Waiver has occurred and by written notice advise the Company and each of the DIP Lenders of such determination.

(e) Each DIP Lender's pro rata share of the Residual Amount shall equal the product of (i) the Residual Amount multiplied by (ii) a fraction, the numerator of which is the aggregate principal amount of Series 1 Notes held by such DIP Lender and the denominator of which is the aggregate principal amount of all outstanding Series 1 Notes, determined as of the Business Day immediately preceding the date on which the Company gives the Residual Amount Option Notice.

[Signatures on following pages]

IN WITNESS WHEREOF, the parties have caused this Amended Indenture to be duly executed and delivered as of the date first set forth above.

COMPANY:

MESQUITE ENERGY, INC.

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

SUBSIDIARY GUARANTORS:

SN PALMETTO, LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

SN MARQUIS LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

SN COTULLA ASSETS, LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

SN OPERATING, LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

SN TMS, LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

SN CATARINA, LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

ROCKIN L RANCH COMPANY, LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

SN EF MAVERICK, LLC

By: _____

Name: Garrick A. Hill
Title: An Authorized Signatory

SN PAYABLES, LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

SN TMS, LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

SN CATARINA, LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

ROCKIN L RANCH COMPANY, LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

SN EF MAVERICK, LLC

By: _____

Name: Garrick A. Hill
Title: An Authorized Signatory

SN PAYABLES, LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

MESQUITE COMANCHE HOLDINGS, LLC

By: _____

Name: Cameron W. George
Title: Chief Executive Officer

TRUSTEE:

WILMINGTON SAVINGS FUND SOCIETY, FSB

By: _____

Name: Geoffrey J. Lewis
Title: Vice President

[Signature Page to Amended and Restated Convertible Notes Indenture]

EXHIBIT A

[FORM OF SERIES 1 NOTE]

[See attached]

[FORM OF FACE OF NOTE]

(Face of Note)

[GLOBAL NOTE 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 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (*"DTC"*), TO THE COMPANY OR ITS AGENTS FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

[Restricted Notes Legends]

[Restricted Notes Legend for securities offered otherwise than in Reliance on Regulation S]

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS SECURITY IS HEREBY NOTIFIED THAT THE SELLER OF THIS SECURITY MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER.

THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) TO THE COMPANY, (II) WITHIN THE UNITED STATES TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (III) TO AN "ACCREDITED INVESTOR" WITHIN THE MEANING OF RULE 501(A)(1),(2),(3) OR (7) UNDER THE SECURITIES ACT THAT, PRIOR TO SUCH TRANSFER, FURNISHES THE TRUSTEE A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS RELATING TO THE TRANSFER OF THIS SECURITY (THE FORM OF WHICH CAN BE OBTAINED FROM THE TRUSTEE) AND, IF SUCH TRANSFER IS IN RESPECT OF AN AGGREGATE PRINCIPAL AMOUNT OF SECURITIES LESS THAN $250,000, AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT, (IV) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 904 UNDER THE SECURITIES ACT, (V) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE) OR (VI) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH OF CASES (I) THROUGH (VI) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THIS SECURITY FROM IT OF THE RESALE RESTRICTIONS REFERRED TO IN (A) ABOVE.

[Restricted Notes Legend for Securities Offered in Reliance on Regulation S]

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION ORIGINALLY EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ALL APPLICABLE STATE SECURITIES LAWS. TERMS USED ABOVE HAVE THE MEANINGS GIVEN TO THEM IN REGULATION S UNDER THE SECURITIES ACT.

[Restricted Notes Legend for Temporary Regulation S Global Security]

EXCEPT AS SET FORTH BELOW, BENEFICIAL OWNERSHIP INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL SECURITY WILL NOT BE EXCHANGEABLE FOR INTERESTS IN THE PERMANENT REGULATION S GLOBAL SECURITY OR ANY OTHER SECURITY REPRESENTING AN INTEREST IN THE SECURITIES REPRESENTED HEREBY WHICH DO NOT CONTAIN A LEGEND CONTAINING RESTRICTIONS ON TRANSFER, UNTIL THE EXPIRATION OF THE "40-DAY DISTRIBUTION COMPLIANCE PERIOD" (WITHIN THE MEANING OF RULE 903(b)(2) OF REGULATION S UNDER THE SECURITIES ACT) AND THEN ONLY UPON CERTIFICATION IN FORM REASONABLY SATISFACTORY TO THE TRUSTEE THAT SUCH BENEFICIAL INTERESTS ARE OWNED EITHER BY NON-U.S. PERSONS OR U.S. PERSONS WHO PURCHASED SUCH INTERESTS IN A TRANSACTION THAT DID NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT. DURING SUCH 40-DAY DISTRIBUTION COMPLIANCE PERIOD, BENEFICIAL OWNERSHIP INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL SECURITY MAY ONLY BE SOLD, PLEDGED OR TRANSFERRED (I) TO THE

COMPANY, (II) OUTSIDE THE UNITED STATES IN A TRANSACTION IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (III) IN ACCORDANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR (IV) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES. HOLDERS OF INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL SECURITY WILL NOTIFY ANY PURCHASER OF THIS SECURITY OF THE RESALE RESTRICTIONS REFERRED TO ABOVE, IF THEN APPLICABLE.

AFTER THE EXPIRATION OF THE DISTRIBUTION COMPLIANCE PERIOD, BENEFICIAL INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL SECURITY MAY BE EXCHANGED FOR INTERESTS IN A RULE 144A GLOBAL SECURITY ONLY IF (1) SUCH EXCHANGE OCCURS IN CONNECTION WITH A TRANSFER OF THE SECURITIES IN COMPLIANCE WITH RULE 144A AND (2) THE TRANSFEROR OF THE REGULATION S GLOBAL SECURITY FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE (IN THE FORM ATTACHED TO THIS CERTIFICATE) TO THE EFFECT THAT THE REGULATION S GLOBAL SECURITY IS BEING TRANSFERRED (A) TO A PERSON WHO THE TRANSFEROR REASONABLY BELIEVES TO BE A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A, (B) TO A PERSON WHO IS PURCHASING FOR ITS OWN ACCOUNT OR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, AND (C) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

AFTER THE EXPIRATION OF THE DISTRIBUTION COMPLIANCE PERIOD, BENEFICIAL INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL SECURITY MAY BE EXCHANGED FOR INTERESTS IN AN IAI GLOBAL SECURITY ONLY IF (1) SUCH EXCHANGE OCCURS IN CONNECTION WITH A TRANSFER OF THE SECURITIES IN COMPLIANCE WITH AN EXEMPTION UNDER THE SECURITIES ACT AND (2) THE TRANSFEROR OF THE REGULATION S GLOBAL SECURITY FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE (IN THE FORM ATTACHED TO THIS CERTIFICATE) TO THE EFFECT THAT THE REGULATION S GLOBAL SECURITY IS BEING TRANSFERRED (A) TO AN "ACCREDITED INVESTOR" WITHIN THE MEANING OF RULE 501(A)(1),(2),(3) OR (7) UNDER THE SECURITIES ACT THAT, PRIOR TO SUCH TRANSFER, FURNISHES THE TRUSTEE A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS RELATING TO THE TRANSFER OF THIS SECURITY (THE FORM OF WHICH CAN BE OBTAINED FROM THE TRUSTEE) AND, IF SUCH TRANSFER IS IN RESPECT OF AN AGGREGATE PRINCIPAL AMOUNT OF SECURITIES LESS THAN $250,000, AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

BENEFICIAL INTERESTS IN A RULE 144A GLOBAL SECURITY OR AN IAI GLOBAL SECURITY MAY BE TRANSFERRED TO A PERSON WHO TAKES DELIVERY IN THE FORM OF AN INTEREST IN THE REGULATION S GLOBAL SECURITY, WHETHER BEFORE OR AFTER THE EXPIRATION OF THE 40-DAY DISTRIBUTION COMPLIANCE PERIOD, ONLY IF THE TRANSFEROR FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE TO THE EFFECT THAT SUCH TRANSFER IS BEING MADE IN ACCORDANCE WITH RULE 903 OR 904 OF REGULATION S OR RULE 144 (IF AVAILABLE).

No. [ ] Principal Amount $[ ]

CUSIP NO. [●]

ISIN NO. [●]

Mesquite Energy, Inc.

15% Convertible Secured PIK Notes due 2023

Mesquite Energy, Inc., a Delaware corporation, promises to pay to , or registered assigns, the principal sum of Dollars on July 15, 2023 (the "Maturity Date") [or such greater or lesser amount as may be indicated on Schedule A hereto][1].

Interest Payment Dates: January 15, April 15, July 15 and October 15, commencing on October 15, 2020

Record Dates: January 1, April 1, July 1 and October 1

Additional provisions of this Note are set forth on the other side of this Note.

[1] If this Note is a Global Note, add this provision.

IN WITNESS WHEREOF, Mesquite Energy, Inc. has caused this instrument to be duly executed.

MESQUITE ENERGY, INC.

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Wilmington Savings Fund Society, FSB
as Trustee, certifies that this is one of the
Notes referred to in the Indenture.

By: _____
Authorized Signatory

Dated: _____, 20___

[FORM OF REVERSE SIDE OF NOTE]

15% Convertible Secured PIK Notes due 2023

Capitalized terms used herein but not defined shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest. Mesquite Energy, Inc., a Delaware corporation (such corporation, and its successors and assigns under the Indenture hereinafter referred to, being herein called the "*Company*"), promises to pay interest on the unpaid principal amount of this Note at the rate of 15% per annum, that will be computed on the basis of a 360-day year of twelve 30-day months with such interest compounding on the 15th day of each calendar month during each interest payment period. The Company will pay such accrued and compounded interest in kind quarterly in arrears on each January 15, April 15, July 15 and October 15 (each an "*Interest Payment Date*"), commencing October 15, 2020. Notwithstanding the foregoing sentence, with respect to any Interest Payment Date, the Company may elect to satisfy such interest payment by paying cash (such interest payment, "*Cash Interest*") at the interest rate of 13% per annum, accrued and compounded monthly during the applicable interest period and computed on the basis of a 360-day year of twelve 30-day months, provided that the Company make such election pursuant to the terms and conditions of Section 2.14 of the Indenture. If any date for payment on the Notes falls on a day that is not a Business Day, such payment may be made on the next succeeding Business Day with the same force and effect as if made on the due date, and no additional interest will accrue solely as a result of such delayed payment. Interest on the Notes will accrue from the most recent date to which interest has been paid (either in kind or by paying Cash Interest pursuant to Section 2.14 of the Indenture) by issuing Additional Notes (or, if the option to pay Cash Interest has been made pursuant to Section 2.14 of the Indenture, Cash Interest), and if no interest has been paid (either in kind or in Cash Interest), from the date of original issuance thereof. The Company shall pay interest on overdue principal at the rate borne by the Notes plus 1% per annum, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

Unless the Company has elected to pay Cash Interest pursuant to Section 2.14 of the Indenture, Interest on the Notes (except for the final scheduled interest period) will be payable by issuing additional securities (the "*Additional Notes*") in an amount equal to the applicable amount of interest for the interest period (rounded down to the nearest whole dollar). In such case, not later than 10 business days prior to the relevant Interest Payment Date, the Company shall deliver to the Trustee and the Paying Agent (if other than the Trustee), (i) with respect to Notes represented by Definitive Notes, the required amount of Additional Notes represented by Definitive Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such Additional Notes or (ii) with respect to Notes represented by one or more Global Notes, a Company Order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the depositary or otherwise, the required amount of Additional Notes represented by Global Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such new Global Notes). All Additional Notes issued pursuant to an interest payment as described above will mature on July 15, 2023 and will be governed by, and subject to the terms, provisions and conditions of, the Indenture. The Additional Notes shall have the same rights and benefits as the Notes issued on the Issue Date, and shall be treated together with the Notes as a single class for all purposes under the Indenture. Interest on the Notes for the final scheduled interest period shall be payable in cash on the Maturity Date.

Any Additional Notes shall, after being executed and authenticated pursuant to the Indenture, be (i) if such Additional Notes are Definitive Notes, mailed to the Person entitled thereto as shown on the Note Register maintained by the Registrar for the Definitive Notes as of the relevant record date or (ii) if such Additional Notes are Global Notes, deposited into the account specified by the Holder or Holders thereof as of the relevant record date. Alternatively, in connection with any payment of interest, the Company may direct the Paying Agent to make appropriate amendments to the schedule of principal amounts of the relevant Global Notes outstanding for which Additional Notes will be issued and arrange for deposit into the account specified by the Holder or Holders thereof as of the relevant record date.

Notwithstanding anything to the contrary herein or in the Indenture, and for the avoidance of doubt, accrued and unpaid interest that is due and payable at the Maturity of this Note, with respect to redemption, with respect to

defaulted interest or with respect to any requirement of the Company to purchase this Note shall be payable solely in Cash Interest at an interest rate of 15% per annum.

2. Method of Payment. Unless an election to pay Cash Interest has been made pursuant to Section 2.14 of the Indenture, the Company will pay interest on the Notes (except for interest accrued during the final scheduled interest period and interest accrued on defaulted interest) by issuing Additional Notes to the Persons who are registered Holders of Notes at the close of business on the record date next preceding the Interest Payment Date even if Notes are canceled after the record date and on or before the Interest Payment Date. Holders must surrender Notes to a Paying Agent to collect principal payments. The Company will pay principal and Cash Interest in money of the United States of America that at the time of payment is legal tender for payment of public and private debts. Payments in respect of the Notes represented by a Global Note (including principal, premium (including the Applicable Premium) and Cash Interest) will be made by wire transfer of immediately available funds to the accounts specified by The Depository Trust Company. The Company will make all payments in respect of a Definitive Note (including principal, premium (including Applicable Premium), if any, and Cash Interest), by mailing a check to the registered address of each Holder thereof; *provided* that payments on the Notes may also be made, in the case of a Holder of at least $500,000 aggregate principal amount of Notes, by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

3. Paying Agent and Registrar. Initially, Wilmington Savings Fund Society, FSB (the "*Trustee*") will act as Paying Agent and Registrar. The Company may appoint and change any Paying Agent, Registrar or co-registrar without notice. The Company may act as Paying Agent, Registrar or co-registrar.

4. Indenture. The Company issued the Notes under an Indenture dated as of July [10], 2020 ("*Indenture*") among the Company, the Subsidiary Guarantors and the Trustee. The Notes are subject to the terms of the Indenture, and Holders are referred to the Indenture for a statement of such terms. The Notes are secured obligations of the Company. In the event of a conflict between the Indenture and this Note, the terms of the Indenture shall control. The terms of the Notes include those stated in the Indenture.

The Indenture imposes certain limitations on the ability of the Company and its Restricted Subsidiaries to, among other things, make certain Investments and other Restricted Payments, incur Indebtedness, enter into consensual restrictions upon the payment of certain dividends and distributions by such Restricted Subsidiaries, issue or sell shares of certain capital stock of such Restricted Subsidiaries, enter into or permit certain transactions with Affiliates, create or incur Liens and make Asset Sales. The Indenture also imposes limitations on the ability of the Company or any Subsidiary Guarantor to consolidate or merge with or into any other Person or convey, transfer or lease all or substantially all of the Property of the Company or any Subsidiary Guarantor.

To guarantee the due and punctual payment of the principal and interest on the Notes and all other amounts payable by the Company under the Indenture and the Notes when and as the same shall be due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Notes and the Indenture, the Subsidiary Guarantors will unconditionally guarantee the Obligations on a joint and several basis pursuant to the terms of the Indenture.

5. Redemption. The Notes are subject to mandatory redemption or redemption at the Company's option upon the occurrence of certain events, as described in Article 3 of the Indenture.

6. Sinking Fund. The Notes are not subject to any sinking fund.

7. Repurchase of Notes at the Option of Holders upon Certain Events. Upon the occurrence of certain events, any Holder of Notes will have the right, subject to certain conditions specified in the Indenture, to cause the Company to repurchase all or any part of the Notes. Such repurchase rights are described further in Article 8 of the Indenture.

8. Conversion. Upon conversion of a Note pursuant to Article 12 of the Indenture, the Holder thereof shall be entitled to receive the shares of Common Stock payable upon conversion in accordance with Article 12 of the Indenture.

9. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in minimum denominations of $1,000 or any greater amount that is an integral multiple of $1.00. A Holder may transfer or exchange Notes in accordance with the Indenture. Upon any transfer or exchange, the Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements or transfer documents and to pay any taxes required by law or permitted by the Indenture.

10. Persons Deemed Owners. The registered Holder of this Note may be treated as the owner of it for all purposes.

11. Unclaimed Money. If money for the payment of principal or interest remains unclaimed for two years, the Trustee or Paying Agent shall pay the money back to the Company at its written request unless an abandoned property law designates another Person. After any such payment, Holders entitled to the money must look only to the Company and not to the Trustee for payment.

12. Amendment, Supplement and Waiver. The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the Subsidiary Guarantors and the rights of the Holders under the Indenture at any time by the Company, the Subsidiary Guarantors and the Trustee with the consent of the Majority Holders. The Indenture also contains provisions permitting the Holders of specified percentages in aggregate principal amount of the Notes at the time Outstanding, on behalf of the Holders of all the Notes, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by or on behalf of the Holder of this Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof whether or not notation of such consent or waiver is made upon this Note. Without the consent of any Holder, the Company, the Subsidiary Guarantors and the Trustee may amend or supplement the Indenture or the Notes to cure any ambiguity, defect or inconsistency, to add or release any Subsidiary Guarantor or Collateral pursuant to the Indenture and the Collateral Agreements and to make certain other specified changes and other changes that do not adversely affect the interests of any Holder.

13. Defaults and Remedies. As set forth in the Indenture, Events of Default include (i) default in the payment of the principal of or premium (including the Applicable Premium), if any, when the same becomes due and payable, whether such payment is due at Stated Maturity, upon acceleration or repurchase pursuant to Article 15 of the Indenture, upon redemption, or otherwise, (ii) default in the payment of any installment of interest, when it becomes due and payable, and the continuance of such default for a period of 30 days, (iii) default in the performance or breach of the provisions of Article 5, Article 8 or Section 15.02 of the Indenture, (iv) the Company or any Subsidiary Guarantor shall fail to perform or observe any other term, covenant or agreement (other than a default specified in subparagraph (i), ii) or (iii) above) for a period of 60 days after the written notice specified in the Indenture of such failure, (v) the occurrence and continuation beyond any applicable grace period of any default in the payment of the principal of (or premium (including the Applicable Premium), if any, on) or interest on any Indebtedness of the Company or any Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed when due, or any other default resulting in acceleration of any Indebtedness of the Company or any Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed, provided that the aggregate principal amount of such Indebtedness, together with the aggregate principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, shall exceed $5,000,000, (vi) any Subsidiary Guarantee shall for any reason cease to be, or be asserted by the Company or any Subsidiary Guarantor, as applicable, not to be, in full force and effect (except pursuant to the release of any such Subsidiary Guarantee in accordance with the Indenture), (vii) failure by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary to pay final judgments or orders rendered against the Company or any Subsidiary Guarantor or any other Restricted Subsidiary aggregating in excess of $2,000,000 (net of any amounts covered by insurance with a reputable and creditworthy insurance company that has not disclaimed liability) and either (a) commencement by any creditor of an enforcement proceeding upon such judgment (other than a judgment that is stayed by reason of pending appeal or otherwise) or (b) the occurrence of a 60-day period during which a stay of such judgment or order, by reason of pending appeal or

otherwise, was not in effect, and (viii) the occurrence of certain bankruptcy or insolvency events, (ix) breach of representations and warranties, and (x) any Collateral Agreement ceases for any reason to be valid, binding and in full force and effect or any Lien created by any Collateral Agreement ceases to be enforceable and of the same effect and priority purported to be created thereby, other than as expressly permitted hereunder or thereunder.

If any Event of Default occurs and is continuing, the Trustee or the Majority holders may declare the principal amount of all the Notes to be due and payable immediately, except that (i) in the case of an Event of Default arising from certain events of bankruptcy, insolvency or reorganization of the Company or any Restricted Subsidiary, the principal amount of the Notes will become due and payable immediately without further action or notice, and (ii) in the case of an Event of Default which relates to certain payment defaults or the acceleration with respect to certain Indebtedness, any such Event of Default and any consequential acceleration of the Notes will be automatically rescinded if any such Indebtedness is repaid or if the default relating to such Indebtedness is cured or waived, and if the holders thereof have accelerated such Indebtedness, such holders have rescinded their declaration of acceleration. No Holder may pursue any remedy under the Indenture unless the Trustee shall have failed to act after notice from such Holder of an Event of Default and written request by Majority Holders to institute proceedings in respect of such Event of Default, and the offer to the Trustee of indemnity reasonably satisfactory to it; however, such provision does not affect the right to sue for enforcement of any overdue payment on a Note by the Holder thereof.

Subject to certain limitations, the Majority Holders may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders notice of any continuing default (except default in payment of principal, premium or interest) if it determines in good faith that withholding the notice is in the interest of the Holders. The Company is required to file annual reports with the Trustee as to the absence or existence of defaults.

14. Trustee Dealings with the Company. The Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee.

15. No Personal Liability of Directors, Officers, Employees and Stockholders. No director, officer, employee, incorporator, stockholder, member, partner or trustee of the Company or any Subsidiary Guarantor, as such, shall have any liability for any obligations of the Company or any Subsidiary Guarantor under the notes, the Indenture or the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

16. Collateral Agreements. The obligations of the Company and the Subsidiary Guarantors under the Indenture, the Notes and the Subsidiary Guarantees will be secured by a perfected Lien granted to the Collateral Agent in the Collateral.

17. Authentication. This Note shall not be valid until an authorized signatory of the Trustee (or an authenticating agent) manually signs the certificate of authentication on the other side of this Note.

18. Abbreviations. Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

19. Governing Law. THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

20. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers and corresponding ISIN numbers to be printed on the Notes and the Trustee may use CUSIP numbers and corresponding ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers

either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

THE COMPANY WILL FURNISH TO ANY HOLDER OF NOTES UPON WRITTEN REQUEST AND WITHOUT CHARGE TO THE HOLDER A COPY OF THE INDENTURE WHICH HAS IN IT THE TEXT OF THIS NOTE.

EXHIBIT A

[FORM OF NOTICE OF CONVERSION]

To: Mesquite Energy, Inc.

The undersigned registered owner of this Note hereby exercises the option to convert this Note (which together with other Notes of the Holder being converted is in the aggregate principal amount of at least $1,000 or the greater amount in an integral multiple of $1.00) below designated, into shares of Common Stock, in accordance with the terms of the Indenture referred to in the Note, and directs that any shares of Common Stock issuable and deliverable upon such conversion, together with any cash for any fractional share, and any Notes representing any unconverted principal amount thereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If any shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all documentary, stamp or similar issue or transfer taxes, if any in accordance with Section 12.04 of the Indenture. Any amount required to be paid to the undersigned on account of interest accompanies the Note.

In the case of Definitive Notes, the certificate numbers of the Notes to be converted are as set forth below:

Date: _____

_____
Signature(s)

Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Common Stock are to be issued, or Notes are to be delivered, other than to and in the name of the registered holder.

Fill in for registration of shares if to be issued, and Notes if to be delivered, other than to and in the name of the registered holder:

_____
(Name)

_____
(Street Address)

_____
(City, State and Zip Code)
Please print name and address

Principal amount to be converted:
$ _____,000.00

NOTICE: The above signature(s) of the Holder (s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

_____

Social Security or Other Taxpayer
Identification Number

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to

_____

(Print or type assignee's name, address and zip code)

_____

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint agent to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date:

Your Signature: _____
Sign exactly as your name appears on the other side of this Note.

Signature Guarantee:

_____

(signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

In connection with any transfer of any of the Notes evidenced by this certificate occurring prior to the expiration of the period referred to in Rule 144 under the Securities Act after the later of the date of original issuance of such Notes and the last date, if any, on which such Notes were owned by the Company or any Affiliate of the Company, the undersigned confirms that such Notes are being transferred in accordance with its terms:

CHECK ONE BOX BELOW

(1) ☐ to the Company; or

(2) ☐ inside the United States to a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act of 1933, as amended (the "Securities Act") that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that such transfer is being made in reliance on Rule 144A, in each case pursuant to and in compliance with Rule 144A under the Securities Act; or

(3) ☐ outside the United States in an offshore transaction within the meaning of Regulation S under the Securities Act in compliance with Rule 904 under the Securities Act; or

(4) ☐ pursuant to the exemption from registration provided by Rule 144 under the Securities Act; or

(5) ☐ pursuant to another available exemption from registration under the Securities Act; or

(6) ☐ pursuant to an effective registration statement under the Securities Act;

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Article 8 of the Indenture, complete the following.

If you want to elect to have only part of this Note purchased by the Company pursuant to Article 8 of the Indenture, state the amount in integral multiples of $1.00 (but no less than $1,000) that you elect to have purchased: $

Date:

Your Signature: _____
Sign exactly as your name appears on the other side of this Note.

Soc. Sec. or Tax Identification No.:

Signature Guarantee:

_____
(signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

[TO BE ATTACHED TO GLOBAL NOTE]

SCHEDULE A

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

Date	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized officer of Trustee or Notes Custodian

ny-1948651

EXHIBIT B

[FORM OF SERIES 2 NOTE]

[See attached]

[FORM OF FACE OF SERIES 2 NOTE]

(Face of Series 2 Note)

[GLOBAL NOTE LEGEND]

THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS SERIES 2 NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS SERIES 2 NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (*"DTC"*), TO THE COMPANY OR ITS AGENTS FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

[Restricted Notes Legends]

[Restricted Notes Legend for securities offered otherwise than in Reliance on Regulation S]

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS SECURITY IS HEREBY NOTIFIED THAT THE SELLER OF THIS SECURITY MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER.

THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) TO THE COMPANY, (II) WITHIN THE UNITED STATES TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (III) TO AN "ACCREDITED INVESTOR" WITHIN THE MEANING OF RULE 501(A)(1),(2),(3) OR (7) UNDER THE SECURITIES ACT THAT, PRIOR TO SUCH TRANSFER, FURNISHES THE TRUSTEE A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS RELATING TO THE TRANSFER OF THIS SECURITY (THE FORM OF WHICH CAN BE OBTAINED FROM THE TRUSTEE) AND, IF SUCH TRANSFER IS IN RESPECT OF AN AGGREGATE PRINCIPAL AMOUNT OF SECURITIES LESS THAN $250,000, AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT, (IV) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 904 UNDER THE SECURITIES ACT, (V) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE) OR (VI) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH OF CASES (I) THROUGH (VI) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THIS SECURITY FROM IT OF THE RESALE RESTRICTIONS REFERRED TO IN (A) ABOVE.

[Restricted Notes Legend for Securities Offered in Reliance on Regulation S]

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION ORIGINALLY EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ALL APPLICABLE STATE SECURITIES LAWS. TERMS USED ABOVE HAVE THE MEANINGS GIVEN TO THEM IN REGULATION S UNDER THE SECURITIES ACT.

[Restricted Notes Legend for Temporary Regulation S Global Security]

EXCEPT AS SET FORTH BELOW, BENEFICIAL OWNERSHIP INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL SECURITY WILL NOT BE EXCHANGEABLE FOR INTERESTS IN THE PERMANENT REGULATION S GLOBAL SECURITY OR ANY OTHER SECURITY REPRESENTING AN INTEREST IN THE SECURITIES REPRESENTED HEREBY WHICH DO NOT CONTAIN A LEGEND CONTAINING RESTRICTIONS ON TRANSFER, UNTIL THE EXPIRATION OF THE "40-DAY DISTRIBUTION COMPLIANCE PERIOD" (WITHIN THE MEANING OF RULE 903(b)(2) OF REGULATION S UNDER THE SECURITIES ACT) AND THEN ONLY UPON CERTIFICATION IN FORM REASONABLY SATISFACTORY TO THE TRUSTEE THAT SUCH BENEFICIAL INTERESTS ARE OWNED EITHER BY NON-U.S. PERSONS OR U.S. PERSONS WHO PURCHASED SUCH INTERESTS IN A TRANSACTION THAT DID NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT. DURING SUCH 40-DAY

DISTRIBUTION COMPLIANCE PERIOD, BENEFICIAL OWNERSHIP INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL SECURITY MAY ONLY BE SOLD, PLEDGED OR TRANSFERRED (I) TO THE COMPANY, (II) OUTSIDE THE UNITED STATES IN A TRANSACTION IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (III) IN ACCORDANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR (IV) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES. HOLDERS OF INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL SECURITY WILL NOTIFY ANY PURCHASER OF THIS SECURITY OF THE RESALE RESTRICTIONS REFERRED TO ABOVE, IF THEN APPLICABLE.

AFTER THE EXPIRATION OF THE DISTRIBUTION COMPLIANCE PERIOD, BENEFICIAL INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL SECURITY MAY BE EXCHANGED FOR INTERESTS IN A RULE 144A GLOBAL SECURITY ONLY IF (1) SUCH EXCHANGE OCCURS IN CONNECTION WITH A TRANSFER OF THE SECURITIES IN COMPLIANCE WITH RULE 144A AND (2) THE TRANSFEROR OF THE REGULATION S GLOBAL SECURITY FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE (IN THE FORM ATTACHED TO THIS CERTIFICATE) TO THE EFFECT THAT THE REGULATION S GLOBAL SECURITY IS BEING TRANSFERRED (A) TO A PERSON WHO THE TRANSFEROR REASONABLY BELIEVES TO BE A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A, (B) TO A PERSON WHO IS PURCHASING FOR ITS OWN ACCOUNT OR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, AND (C) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

AFTER THE EXPIRATION OF THE DISTRIBUTION COMPLIANCE PERIOD, BENEFICIAL INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL SECURITY MAY BE EXCHANGED FOR INTERESTS IN AN IAI GLOBAL SECURITY ONLY IF (1) SUCH EXCHANGE OCCURS IN CONNECTION WITH A TRANSFER OF THE SECURITIES IN COMPLIANCE WITH AN EXEMPTION UNDER THE SECURITIES ACT AND (2) THE TRANSFEROR OF THE REGULATION S GLOBAL SECURITY FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE (IN THE FORM ATTACHED TO THIS CERTIFICATE) TO THE EFFECT THAT THE REGULATION S GLOBAL SECURITY IS BEING TRANSFERRED (A) TO AN "ACCREDITED INVESTOR" WITHIN THE MEANING OF RULE 501(A)(1),(2),(3) OR (7) UNDER THE SECURITIES ACT THAT, PRIOR TO SUCH TRANSFER, FURNISHES THE TRUSTEE A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS RELATING TO THE TRANSFER OF THIS SECURITY (THE FORM OF WHICH CAN BE OBTAINED FROM THE TRUSTEE) AND, IF SUCH TRANSFER IS IN RESPECT OF AN AGGREGATE PRINCIPAL AMOUNT OF SECURITIES LESS THAN $250,000, AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

BENEFICIAL INTERESTS IN A RULE 144A GLOBAL SECURITY OR AN IAI GLOBAL SECURITY MAY BE TRANSFERRED TO A PERSON WHO TAKES DELIVERY IN THE FORM OF AN INTEREST IN THE REGULATION S GLOBAL SECURITY, WHETHER BEFORE OR AFTER THE EXPIRATION OF THE 40-DAY DISTRIBUTION COMPLIANCE PERIOD, ONLY IF THE TRANSFEROR FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE TO THE EFFECT THAT SUCH TRANSFER IS BEING MADE IN ACCORDANCE WITH RULE 903 OR 904 OF REGULATION S OR RULE 144 (IF AVAILABLE).

No. [ ] Principal Amount $[ ]

CUSIP NO. [●]

ISIN NO. [●]

Mesquite Energy, Inc.

15% Convertible Secured PIK Notes due 2023

Mesquite Energy, Inc., a Delaware corporation, promises to pay to , or registered assigns, the principal sum of Dollars on July 15, 2023 (the "Maturity Date") [or such greater or lesser amount as may be indicated on Schedule A hereto][1].

Interest Payment Dates: January 15, April 15, July 15 and October 15, commencing on January 15, 2021

Record Dates: January 1, April 1, July 1 and October 1

Additional provisions of this Series 2 Note are set forth on the other side of this Series 2 Note.

[1] If this Note is a Global Note, add this provision.

IN WITNESS WHEREOF, Mesquite Energy, Inc. has caused this instrument to be duly executed.

MESQUITE ENERGY, INC.

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Wilmington Savings Fund Society, FSB
as Trustee, certifies that this is one of the
Series 2 Notes referred to in the Indenture.

By: _____
Authorized Signatory

Dated: _____, 20___

[FORM OF REVERSE SIDE OF SERIES 2 NOTE]

15% Convertible Secured PIK Notes due 2023

Capitalized terms used herein but not defined shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest. Mesquite Energy, Inc., a Delaware corporation (such corporation, and its successors and assigns under the Indenture hereinafter referred to, being herein called the "*Company*"), promises to pay interest on the unpaid principal amount of this Series 2 Note at the rate of 15% per annum, that will be computed on the basis of a 360-day year of twelve 30-day months with such interest compounding on the 15th day of each calendar month during each interest payment period. The Company will pay such accrued and compounded interest in kind quarterly in arrears on each January 15, April 15, July 15 and October 15 (each an "*Interest Payment Date*"), commencing January 15, 2021. Notwithstanding the foregoing sentence, with respect to any Interest Payment Date, the Company may elect to satisfy such interest payment by paying cash (such interest payment, "*Cash Interest*") at the interest rate of 13% per annum, accrued and compounded monthly during the applicable interest period and computed on the basis of a 360-day year of twelve 30-day months, provided that the Company make such election pursuant to the terms and conditions of Section 2.14 of the Indenture. If any date for payment on the Series 2 Notes falls on a day that is not a Business Day, such payment may be made on the next succeeding Business Day with the same force and effect as if made on the due date, and no additional interest will accrue solely as a result of such delayed payment. Interest on the Series 2 Notes will accrue from the most recent date to which interest has been paid (either in kind or by paying Cash Interest pursuant to Section 2.14 of the Indenture) by issuing Additional Notes (or, if the option to pay Cash Interest has been made pursuant to Section 2.14 of the Indenture, Cash Interest), and if no interest has been paid (either in kind or in Cash Interest), from the date of original issuance thereof. The Company shall pay interest on overdue principal at the rate borne by the Series 2 Notes plus 1% per annum, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

Unless the Company has elected to pay Cash Interest pursuant to Section 2.14 of the Indenture, Interest on the Series 2 Notes (except for the final scheduled interest period) will be payable by issuing additional securities (the "*Additional Notes*") in an amount equal to the applicable amount of interest for the interest period (rounded down to the nearest whole dollar). In such case, not later than 10 business days prior to the relevant Interest Payment Date, the Company shall deliver to the Trustee and the Paying Agent (if other than the Trustee), (i) with respect to Series 2 Notes represented by Definitive Notes, the required amount of Additional Notes represented by Definitive Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such Additional Notes or (ii) with respect to Series 2 Notes represented by one or more Global Notes, a Company Order to increase the outstanding principal amount of such Global Notes by the required amount (rounded down to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the depositary or otherwise, the required amount of Additional Notes represented by Global Notes (rounded down to the nearest whole dollar) and a Company Order to authenticate and deliver such new Global Notes). All Additional Notes issued pursuant to an interest payment as described above will mature on July 15, 2023 and will be governed by, and subject to the terms, provisions and conditions of, the Indenture. The Additional Notes shall have the same rights and benefits as the Series 2 Notes issued on the Series 2 Issue Date, and shall be treated together with the Series 2 Notes as a single class for all purposes under the Indenture. Interest on the Series 2 Notes for the final scheduled interest period shall be payable in cash on the Maturity Date.

Any Additional Notes shall, after being executed and authenticated pursuant to the Indenture, be (i) if such Additional Notes are Definitive Notes, mailed to the Person entitled thereto as shown on the Note Register maintained by the Registrar for the Definitive Notes as of the relevant record date or (ii) if such Additional Notes are Global Notes, deposited into the account specified by the Holder or Holders thereof as of the relevant record date. Alternatively, in connection with any payment of interest, the Company may direct the Paying Agent to make appropriate amendments to the schedule of principal amounts of the relevant Global Notes outstanding for which Additional Notes will be issued and arrange for deposit into the account specified by the Holder or Holders thereof as of the relevant record date.

Notwithstanding anything to the contrary herein or in the Indenture, and for the avoidance of doubt, accrued and unpaid interest that is due and payable at the Maturity of this Series 2 Note, with respect to redemption, with

respect to defaulted interest or with respect to any requirement of the Company to purchase this Series 2 Note shall be payable solely in Cash Interest at an interest rate of 15% per annum.

2. Method of Payment. Unless an election to pay Cash Interest has been made pursuant to Section 2.14 of the Indenture, the Company will pay interest on the Series 2 Notes (except for interest accrued during the final scheduled interest period and interest accrued on defaulted interest) by issuing Additional Notes to the Persons who are registered Holders of Series 2 Notes at the close of business on the record date next preceding the Interest Payment Date even if Series 2 Notes are canceled after the record date and on or before the Interest Payment Date. Holders must surrender Series 2 Notes to a Paying Agent to collect principal payments. The Company will pay principal and Cash Interest in money of the United States of America that at the time of payment is legal tender for payment of public and private debts. Payments in respect of the Series 2 Notes represented by a Global Note (including principal, premium (including the Applicable Premium) and Cash Interest) will be made by wire transfer of immediately available funds to the accounts specified by The Depository Trust Company. The Company will make all payments in respect of a Definitive Note (including principal, premium (including Applicable Premium), if any, and Cash Interest), by mailing a check to the registered address of each Holder thereof; *provided* that payments on the Series 2 Notes may also be made, in the case of a Holder of at least $500,000 aggregate principal amount of Series 2 Notes, by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

3. Paying Agent and Registrar. Initially, Wilmington Savings Fund Society, FSB (the "*Trustee*") will act as Paying Agent and Registrar. The Company may appoint and change any Paying Agent, Registrar or co-registrar without notice. The Company may act as Paying Agent, Registrar or co-registrar.

4. Indenture. The Company issued the Series 2 Notes under an Amended and Restated Indenture dated as of November 10, 2020 (as amended, restated, supplemented, or otherwise modified from time to time, the "*Indenture*") among the Company, the Subsidiary Guarantors and the Trustee. The Series 2 Notes are subject to the terms of the Indenture, and Holders are referred to the Indenture for a statement of such terms. The Series 2 Notes are secured obligations of the Company and the Subsidiary Guarantors. In the event of a conflict between the Indenture and this Series 2 Note, the terms of the Indenture shall control. The terms of the Series 2 Notes include those stated in the Indenture.

The Indenture imposes certain limitations on the ability of the Company and its Restricted Subsidiaries to, among other things, make certain Investments and other Restricted Payments, incur Indebtedness, enter into consensual restrictions upon the payment of certain dividends and distributions by such Restricted Subsidiaries, issue or sell shares of certain Capital Stock of such Restricted Subsidiaries, enter into or permit certain transactions with Affiliates, create or incur Liens and make Asset Sales. The Indenture also imposes limitations on the ability of the Company or any Subsidiary Guarantor to consolidate or merge with or into any other Person or convey, transfer or lease all or substantially all of the Property of the Company or any Subsidiary Guarantor.

To guarantee the due and punctual payment of the principal and interest on the Series 2 Notes and all other amounts payable by the Company under the Indenture and the Series 2 Notes when and as the same shall be due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Series 2 Notes and the Indenture, the Subsidiary Guarantors will unconditionally guarantee the Obligations on a joint and several basis pursuant to the terms of the Indenture.

5. Redemption. The Series 2 Notes are subject to mandatory redemption or redemption at the Company's option upon the occurrence of certain events, as described in Article 3 of the Indenture.

6. Sinking Fund. The Series 2 Notes are not subject to any sinking fund.

7. Repurchase of Series 2 Notes at the Option of Holders upon Certain Events. Upon the occurrence of certain events, any Holder of Series 2 Notes will have the right, subject to certain conditions specified in the Indenture, to cause the Company to repurchase all or any part of the Series 2 Notes. Such repurchase rights are described further in Article 8 of the Indenture.

8. Conversion. Upon conversion of a Series 2 Note pursuant to Article 12 of the Indenture, the Holder thereof shall be entitled to receive the shares of Common Stock payable upon conversion in accordance with Article 12 of the Indenture.

9. Denominations, Transfer, Exchange. The Series 2 Notes are in registered form without coupons in minimum denominations of $1,000 or any greater amount that is an integral multiple of $1.00. A Holder may transfer or exchange Series 2 Notes in accordance with the Indenture. Upon any transfer or exchange, the Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements or transfer documents and to pay any taxes required by law or permitted by the Indenture.

10. Persons Deemed Owners. The registered Holder of this Series 2 Note may be treated as the owner of it for all purposes.

11. Unclaimed Money. If money for the payment of principal or interest remains unclaimed for two years, the Trustee or Paying Agent shall pay the money back to the Company at its written request unless an abandoned property law designates another Person. After any such payment, Holders entitled to the money must look only to the Company and not to the Trustee for payment.

12. Amendment, Supplement and Waiver. The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the Subsidiary Guarantors and the rights of the Holders under the Indenture at any time by the Company, the Subsidiary Guarantors and the Trustee with the consent of the Majority Holders. The Indenture also contains provisions permitting the Holders of specified percentages in aggregate principal amount of the Notes at the time outstanding, on behalf of the Holders of all the Notes, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences in accordance with the terms of the Indenture. Any such consent or waiver by or on behalf of the Holder of this Series 2 Note shall be conclusive and binding upon such Holder and upon all future Holders of this Series 2 Note and of any Series 2 Note issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof whether or not notation of such consent or waiver is made upon this Series 2 Note. Without the consent of any Holder, the Company, the Subsidiary Guarantors and the Trustee may amend or supplement the Indenture or the Notes to cure any ambiguity, defect or inconsistency, to add or release any Subsidiary Guarantor or Collateral pursuant to the Indenture and the Collateral Agreements and to make certain other specified changes and other changes that do not adversely affect the interests of any Holder in accordance with the terms of the Indenture.

13. Defaults and Remedies. As set forth in the Indenture, Events of Default include (i) default in the payment of the principal of or premium (including the Applicable Premium), if any, when the same becomes due and payable, whether such payment is due at Stated Maturity, upon acceleration or repurchase pursuant to Article 15 of the Indenture, upon redemption, or otherwise, (ii) default in the payment of any installment of interest, when it becomes due and payable, and the continuance of such default for a period of 30 days, (iii) default in the performance or breach of the provisions of Article 5, Article 8 or Section 15.02 of the Indenture, (iv) the Company or any Subsidiary Guarantor shall fail to perform or observe any other term, covenant or agreement (other than a default specified in subparagraph (i), ii) or (iii) above) for a period of 60 days after the written notice specified in the Indenture of such failure, (v) (x) the occurrence and continuation beyond any applicable grace period of any default in the payment of the principal of (or premium (including the Applicable Premium), if any, on) or interest on any Indebtedness of the Company or any Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed when due, or any other default resulting in acceleration of any Indebtedness of the Company or any Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed, provided that the aggregate principal amount of such Indebtedness, together with the aggregate principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, shall exceed $5,000,000, or (y) the occurrence and continuation beyond any applicable grace period of any default under any Specified Secured Hedging Documents for which the Company, any Subsidiary Guarantor or any Restricted Subsidiary is responsible or liable on a recourse basis resulting in the payments under such Specified Secured Hedging Documents becoming due and payable prior to the date on which they would otherwise have become due and payable, provided that the aggregate amount of such payments due under such Specified Secured Hedging Documents shall exceed $5,000,000, (vi) any Subsidiary Guarantee shall for any reason cease to be, or be asserted by the Company or any Subsidiary Guarantor, as applicable, not to be, in full force and effect (except pursuant to the release of any such Subsidiary Guarantee in accordance with

the Indenture), (vii) failure by the Company or any Subsidiary Guarantor or any other Restricted Subsidiary to pay final judgments or orders rendered against the Company or any Subsidiary Guarantor or any other Restricted Subsidiary aggregating in excess of $2,000,000 (net of any amounts covered by insurance with a reputable and creditworthy insurance company that has not disclaimed liability) and either (a) commencement by any creditor of an enforcement proceeding upon such judgment (other than a judgment that is stayed by reason of pending appeal or otherwise) or (b) the occurrence of a 60-day period during which a stay of such judgment or order, by reason of pending appeal or otherwise, was not in effect, and (viii) the occurrence of certain bankruptcy or insolvency events, (ix) breach of representations and warranties, and (x) any Collateral Agreement ceases for any reason to be valid, binding and in full force and effect or any Lien created by any Collateral Agreement ceases to be enforceable and of the same effect and priority purported to be created thereby, other than as expressly permitted hereunder or thereunder.

If any Event of Default occurs and is continuing, the Trustee or the Majority Holders may declare the principal amount of all the Notes to be due and payable immediately, except that (i) in the case of an Event of Default arising from certain events of bankruptcy, insolvency or reorganization of the Company or any Restricted Subsidiary, the principal amount of the Notes will become due and payable immediately without further action or notice, and (ii) in the case of an Event of Default which relates to certain payment defaults or the acceleration with respect to certain Indebtedness, any such Event of Default and any consequential acceleration of the Notes will be automatically rescinded if any such Indebtedness is repaid or if the default relating to such Indebtedness is cured or waived, and if the holders thereof have accelerated such Indebtedness, such holders have rescinded their declaration of acceleration. No Holder may pursue any remedy under the Indenture unless the Trustee shall have failed to act after notice from such Holder of an Event of Default and written request by Majority Holders to institute proceedings in respect of such Event of Default, and the offer to the Trustee of indemnity reasonably satisfactory to it; however, such provision does not affect the right to sue for enforcement of any overdue payment on a Note by the Holder thereof.

Subject to certain limitations, the Majority Holders may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders notice of any continuing default (except default in payment of principal, premium or interest) if it determines in good faith that withholding the notice is in the interest of the Holders. The Company is required to file annual reports with the Trustee as to the absence or existence of defaults.

14. Trustee Dealings with the Company. The Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee.

15. No Personal Liability of Directors, Officers, Employees and Stockholders. No director, officer, employee, incorporator, stockholder, member, partner or trustee of the Company or any Subsidiary Guarantor, as such, shall have any liability for any obligations of the Company or any Subsidiary Guarantor under the Series 2 Notes, the Indenture or the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Series 2 Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Series 2 Notes.

16. Collateral Agreements. The obligations of the Company and the Subsidiary Guarantors under the Indenture, the Series 2 Notes and the Subsidiary Guarantees will be secured by a perfected Lien granted to the Collateral Agent in the Collateral.

17. Authentication. This Series 2 Note shall not be valid until an authorized signatory of the Trustee (or an authenticating agent) manually signs the certificate of authentication on the other side of this Series 2 Note.

18. Abbreviations. Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

19. Governing Law. THIS SERIES 2 NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

20. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers and corresponding ISIN numbers to be printed on the Series 2 Notes and the Trustee may use CUSIP numbers and corresponding ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Series 2 Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

THE COMPANY WILL FURNISH TO ANY HOLDER OF SERIES 2 NOTES UPON WRITTEN REQUEST AND WITHOUT CHARGE TO THE HOLDER A COPY OF THE INDENTURE WHICH HAS IN IT THE TEXT OF THIS SERIES 2 NOTE.

EXHIBIT A

[FORM OF NOTICE OF CONVERSION]

To: Mesquite Energy, Inc.

The undersigned registered owner of this Series 2 Note hereby exercises the option to convert this Series 2 Note (which together with other Series 2 Notes of the Holder being converted is in the aggregate principal amount of at least $1,000 or the greater amount in an integral multiple of $1.00) below designated, into shares of Common Stock, in accordance with the terms of the Indenture referred to in the Series 2 Note, and directs that any shares of Common Stock issuable and deliverable upon such conversion, together with any cash for any fractional share, and any Series 2 Notes representing any unconverted principal amount thereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If any shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all documentary, stamp or similar issue or transfer taxes, if any in accordance with Section 12.04 of the Indenture. Any amount required to be paid to the undersigned on account of interest accompanies the Series 2 Note.

In the case of Definitive Notes, the certificate numbers of the Series 2 Notes to be converted are as set forth below:

Date: _____

_____
Signature(s)

Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Common Stock are to be issued, or Series 2 Notes are to be delivered, other than to and in the name of the registered holder.

Fill in for registration of shares if to be issued, and Series 2 Notes if to be delivered, other than to and in the name of the registered holder:

_____
(Name)

_____
(Street Address)

_____
(City, State and Zip Code)
Please print name and address

Principal amount to be converted:
$ _____,000.00

ny-2009488

NOTICE: The above signature(s) of the Holder (s) hereof must correspond with the name as written upon the face of the Series 2 Note in every particular without alteration or enlargement or any change whatever.

_____

Social Security or Other Taxpayer
Identification Number

ASSIGNMENT FORM

To assign this Series 2 Note, fill in the form below:

I or we assign and transfer this Series 2 Note to

_____

(Print or type assignee's name, address and zip code)

_____

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint agent to transfer this Series 2 Note on the books of the Company. The agent may substitute another to act for him.

Date:

Your Signature: _____
Sign exactly as your name appears on the other side of this Series 2 Note.

Signature Guarantee:

_____

(signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

In connection with any transfer of any of the Series 2 Notes evidenced by this certificate occurring prior to the expiration of the period referred to in Rule 144 under the Securities Act after the later of the date of original issuance of such Series 2 Notes and the last date, if any, on which such Series 2 Notes were owned by the Company or any Affiliate of the Company, the undersigned confirms that such Series 2 Notes are being transferred in accordance with its terms:

CHECK ONE BOX BELOW

(1) ☐ to the Company; or

(2) ☐ inside the United States to a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act of 1933, as amended (the "Securities Act") that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that such transfer is being made in reliance on Rule 144A, in each case pursuant to and in compliance with Rule 144A under the Securities Act; or

(3) ☐ outside the United States in an offshore transaction within the meaning of Regulation S under the Securities Act in compliance with Rule 904 under the Securities Act; or

(4) ☐ pursuant to the exemption from registration provided by Rule 144 under the Securities Act; or

(5) ☐ pursuant to another available exemption from registration under the Securities Act; or

(6) ☐ pursuant to an effective registration statement under the Securities Act;

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Series 2 Note purchased by the Company pursuant to Article 8 of the Indenture, complete the following.

If you want to elect to have only part of this Series 2 Note purchased by the Company pursuant to Article 8 of the Indenture, state the amount in integral multiples of $1.00 (but no less than $1,000) that you elect to have purchased: $

Date:

Your Signature: _____
Sign exactly as your name appears on the other side of this Series 2 Note.

Soc. Sec. or Tax Identification No.:

Signature Guarantee:

_____
(signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

[TO BE ATTACHED TO GLOBAL NOTE]

SCHEDULE A

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

Date	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized officer of Trustee or Notes Custodian