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**SATURN OIL & GAS INC.**

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**Second Amended and Restated Term Loan Agreement**

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**DATED AS OF JULY 6, 2022**

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This **SECOND AMENDED AND RESTATED TERM LOAN AGREEMENT** is made as of July 6, 2022

BETWEEN:

**SATURN OIL & GAS INC.,**  
as Borrower

- and-

**THOSE ENTITIES WHICH ARE OR HEREAFTER BECOME  
LENDERS UNDER THIS AGREEMENT,**  
as Lenders

- and-

**WILMINGTON TRUST, N.A.,** as administrative agent and  
collateral agent for the Lenders

**RECITALS:**

- A. The Borrower, *[Redacted - commercially sensitive information]* (together, the “**Existing Lenders**”) and the Agent are parties to an amended and restated credit agreement dated as of February 17, 2022 (the “**Existing Credit Agreement**”) pursuant to which the Existing Lenders made the Existing Loans to the Borrower on the terms and subject to the conditions set forth in the Existing Credit Agreement.
- B. *[Redacted - commercially sensitive information]* (collectively, the “**New Lenders**”) intend to become parties to this Agreement and make Loans under this Agreement.
- C. The Borrower, the Lenders and the Agent have agreed to amend and restate the Existing Credit Agreement on the terms and subject to the conditions set forth in this Agreement.
- D. The Lenders wish the Agent to continue to act on their behalf in connection herewith.

**NOW THEREFORE**, in consideration of the covenants and agreements herein contained, the parties agree as follows:

**ARTICLE 1  
DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

The following terms used herein, including in the preamble, recitals, exhibits and schedules hereto, shall have the following meanings:

“**A&R Debenture**” has the meaning assigned to such term in Section 3.1(a).

“**Acquisition**” means the acquisition of the Acquisition Properties pursuant to the terms and conditions of the Acquisition Agreement.

**“Acquisition Agreement”** means the agreement of purchase and sale dated as of May 31, 2022 among [Redacted - confidential information], as vendor, and the Borrower, as purchaser, together with all exhibits and schedules thereto.

**“Acquisition Properties”** means the “Assets”, as defined in the Acquisition Agreement.

**“Additional Loans”** has the meaning assigned to such term in Section 2.1.

**“Advance Date”** means the date on which all of the conditions precedent set forth in Section 4.2 have been satisfied or waived and the Additional Loans are advanced.

**“Advance Date Certificate”** means an Advance Date Certificate substantially in the form of Exhibit E.

**“Adjusted Excess Cash Flow”** means, for any period with respect to the Borrower, an amount determined in Dollars equal to Consolidated EBITDA, less

- (a) the aggregate of:
  - (i) interest expense (calculated on the basis of amounts that are actually paid) for such period;
  - (ii) permanent debt repayments of the Borrower actually paid during such period other than as a result of payments from Adjusted Excess Cash Flow in the current or any prior period;
  - (iii) the amount of all capital expenditures of the Borrower not financed by debt actually incurred and paid by the Borrower during such period; and
  - (iv) all rental payments made by the Borrower in such period in respect of Capital Leases;
  - (v) any Transaction Costs actually paid by the Borrower in such period; and
  - (vi) any extraordinary, unusual and non-recurring expenses and charges that are included in the calculation of Consolidated EBITDA but were paid by the Borrower in such period; and
- (b) Taxes actually paid by the Borrower in such period.

**“Adverse Proceeding”** means any action, suit, proceeding (whether administrative, judicial or otherwise), governmental investigation or arbitration (whether or not purportedly on behalf of the Borrower or any of its Subsidiaries) at law or in equity, or before or by any Governmental Authority, domestic or foreign (including any Environmental Claims) or other regulatory body or any arbitrator whether pending or threatened against or affecting the Borrower or any of its Subsidiaries or any material property of the Borrower or any of its Subsidiaries.

**“AER”** means the Alberta Energy Regulator or any successor thereto.

**“Affiliate”** means, as applied to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, that Person, and, with respect to the Borrower, shall include any Person beneficially owning or holding, directly or indirectly, 20% or more of the voting

securities of the Borrower or any Subsidiary or any Person of which the Borrower and its Subsidiaries beneficially own or hold, in the aggregate, directly or indirectly, 20% or more of the voting securities. For the purposes of this definition, “**control**” (including, with correlative meanings, the terms “**controlling**”, “**controlled by**” and “**under common control with**”), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities or by contract or otherwise. Notwithstanding anything to the contrary herein, in no event shall the Agent, any Lender, or any of their respective Affiliates be considered an “**Affiliate**” of any Loan Party.

“**Agency Fee Letter**” means the fee letter between the Agent and the Borrower dated as of June 7, 2021, as amended, supplemented, restated or otherwise modified from time to time.

“**Agent**” means Wilmington Trust, N.A. in its capacity as administrative agent and collateral agent for the Lenders or any successor Agent appointed under Section 9.7.

“**Agent’s Account**” means an account at a bank in Delaware designated by the Agent from time to time as the account into which Loan Parties shall make all payments to the Agent for the benefit of the Agent and the Lenders under this Agreement and the other Loan Documents.

“**Agent’s Office**” means, the “**Agent’s Office**” as set forth on Appendix B, or such other office as it may from time to time designate in writing to the Borrower and each Lender.

“**Aggregate Amounts Due**” as defined in Section 2.12.

“**Aggregate Commitment Amount**” at any time shall equal the sum of the Commitment Amounts, as the same may be reduced or terminated pursuant to Sections 2.7, 2.8, 2.9 or 10.6. The amount of the Aggregate Commitment Amount as of the Closing Date and the Advance Date is \$294,622,982.83.

“**Agreement**” means this term loan agreement as the same from time to time may be amended, supplemented, restated or otherwise modified in accordance with the provisions hereof.

“**AML Laws**” as defined in Section 5.34.

“**Anti-Corruption Laws**” as defined in Section 5.34.

“**Applicable Law**” means (a) any domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, rule, regulation, restriction or by law (zoning or otherwise); (b) any judgment, order, writ, injunction, decision, ruling, decree or award; (c) any regulatory policy, practice, guideline or directive; or (d) any franchise, licence, qualification, authorization, consent, exemption, waiver, right, permit or other approval of any Governmental Authority, binding on or affecting the Person referred to in the context in which the term is used or binding on or affecting the property of such Person, in each case whether or not having the force of law.

“**Applicable LMR Jurisdiction**” means, with respect to any Loan Party, as the context requires, any jurisdiction in Canada in which, (a) any Loan Party directly owns Oil & Gas Properties or other facilities or assets relevant to the determination of the LMR in such jurisdiction and (b) the aggregate ARO of the Loan Parties in such jurisdiction exceeds \$500,000.

“**Applicable Prepayment Premium**” as defined in Section 2.11(g).

**“Applicable Office”** means the office through which a Lender’s investment in any Loan is made.

**“Approval Letter”** means a letter given by Agent on behalf of, at the direction, and with the prior consent of the Majority Lenders in the form of Exhibit B.

**“Approved Petroleum Engineers”** means any independent petroleum engineers reasonably acceptable to the Majority Lenders, including Ryder Scott Company, LP.

**“ARO”** means, at any time, the present and future, direct or indirect, absolute or contingent obligations of any Loan Party to abandon, restore, reclaim or otherwise remediate the wells, facilities, pipelines, storage sites and other property on which any Loan Party has carried on business (expressed using undiscounted and uninflated values in nominal dollars).

**“ARO Directive”** means any order, directive, declaration, decree or other notice to any Loan Party from any Energy Regulator requiring any Loan Party to abandon, restore, reclaim or otherwise remediate any wells, facilities, pipelines, storage sites or other property on which it has carried on business or requiring it to provide letters of credit, cash deposits or other additional security to such Energy Regulator for its ARO.

**“Asset Sale”** means a sale, lease or sublease (as lessor or sublessor), sale and leaseback, assignment, conveyance, license, transfer or other disposition to, or any exchange of property with, any Person, in one transaction or a series of transactions, of all or any part of any Person’s businesses, assets or properties of any kind, whether real, personal, or mixed and whether tangible or intangible (including the early cancellation or termination of Swap Agreements (unless replaced by one or more other Swap Agreements; provided that (i) 100% of any proceeds obtained from such cancellation or termination shall be used either in accordance with Section 2.9(a) or towards costs and expenses related to such replacement Swap Agreements and (ii) any replacement Swap Agreement shall be satisfactory to the Agent in its sole discretion)), whether now owned or hereafter acquired, other than (a) dispositions of surplus, obsolete or worn out property or property no longer used or useful in the business of any Loan Party or any of its Subsidiaries, whether now owned or hereafter acquired, in the ordinary course of business; (b) dispositions of inventory sold, and intellectual property licensed, in the ordinary course of business; (c) dispositions of accounts or intangibles (each as defined in the PPSA) resulting from the compromise or settlement thereof in the ordinary course of business for less than the full amount thereof; (d) dispositions of cash or Cash Equivalents in the ordinary course of business; (e) licenses, sublicenses, leases or subleases granted to any third parties in arm’s-length commercial transactions in the ordinary course of business that do not interfere in any material respect with the business of any Loan Party or any of its Subsidiaries; (f) any theft, loss, physical destruction or damage, condemnation, taking or similar event with respect to any property of any Loan Party or its Subsidiaries; and (g) dispositions of property to a Loan Party or any Subsidiary provided that if the transferor of such property is a Loan Party then the transferee thereof is a Loan Party.

**“Assignment Agreement”** means an assignment and assumption agreement substantially in form of Exhibit G or any other form approved by the Agent.

**“Attributable Debt”** means as of the date of determination thereof, without duplication, (a) in connection with a sale and leaseback transaction, the net present value (discounted according to GAAP at the cost of debt implied in the lease) of the obligations of the lessee for rental payments during the then-remaining term of any applicable lease, and (b) the principal balance outstanding under any synthetic lease, tax retention operating lease, off-balance sheet Loans or similar

off-balance sheet financing product to which such Person is a party, where such transaction is considered borrowed money indebtedness for tax purposes but is classified as an operating lease in accordance with GAAP.

**“Authorized Officer”** means, as applied to any Person, any individual holding the position of chairman of the board (if an officer), chief executive officer, chief operating officer, president, chief financial officer, executive vice president or treasurer, in each case, whose signatures and incumbency have been certified in a certificate delivered to Agent.

**“Available Tenor”** means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to Section 2.6(a)(iv).

**“Benchmark”** means, initially, CDOR; provided that if a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred with respect to CDOR or the then-current Benchmark, then “Benchmark” means the Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause 2.6(a)(i).

**“Benchmark Replacement”** means, for any Available Tenor, the sum of: (a) the alternate benchmark rate that has been selected by the Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for syndicated credit facilities denominated in Canadian dollars at such time, and (b) the related Benchmark Replacement Adjustment; provided that if the Benchmark Replacement as determined pursuant to the forgoing would be less than the 1.0% per annum, the Benchmark Replacement will be deemed to be 1.0% per annum for the purposes of this Agreement and the other Loan Documents.

**“Benchmark Replacement Adjustment”** means, with respect to any replacement of the then current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Agent and the Borrower for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Canadian dollar denominated syndicated credit facilities.

**“Benchmark Replacement Conforming Changes”** means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Business Day”, the definition of “Canadian Prime Rate”, the definition of “Interest

Period”, the timing and frequency of determining rates and making payments of interest, the timing of borrowing requests or prepayment, conversion or continuation notices, the length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Agent in a manner substantially consistent with market practice (or, if the Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

**“Benchmark Replacement Date”** means the earliest to occur of the following events with respect to the then-current Benchmark:

- (a) in the case of a Benchmark Transition Event, the date of the public statement or publication of information referenced therein;
- (b) in the case of an Early Opt-in Election, the 6<sup>th</sup> Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Agent has not received, by 5:00 p.m. (Calgary time) on the 5<sup>th</sup> Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Majority Lenders.

For the avoidance of doubt, if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination.

**“Benchmark Transition Event”** means the occurrence of one or more of the following events with respect to the then-current Benchmark:

- (a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);
- (b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no

successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

- (c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“**Benchmark Unavailability Period**” means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clause (a) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.6(a) and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.6(a).

“**Borrower**” means Saturn Oil & Gas Inc.

“**Borrowing Notice**” means a written notice by the Borrower that it wishes to request Additional Loans from the Lenders, which Borrowing Notice sets forth the principal amount of Additional Loans to be made, certifies that the use of the proceeds of such Loans is in accordance with Section 2.4, contains the information required by Section 2.3 and is substantially in the form of Exhibit A.

“**Business Day**” means any day excluding (i) Saturday and Sunday, (ii) any day which is a legal holiday under the laws of the State of New York or the Province of Alberta or is a day on which banking institutions located in either of such jurisdictions are authorized or required by law or other governmental action to close, or (iii) any day on which commercial banks are not open for dealings in foreign exchanges and foreign currency deposits in London, England.

“**Canadian Prime Rate**” means a fluctuating rate of interest per annum, expressed on the basis of a year of 365 or 366 days, as applicable, which is equal at all times to the greater of (a) the base rate of interest (however designated) of National Bank of Canada for determining interest chargeable by it on Canadian dollar commercial loans made in Canada; and (b) 1.00% above CDOR from time to time for one month Canadian Dollar bankers’ acceptances having a face amount comparable to the face amount in respect of which the applicable Canadian Prime Rate calculation is being made; provided that if any of the above rates shall be less than 2.50%, such rate shall be deemed to be 2.50% for purposes of this Agreement

“**Canadian Prime Rate Loan**” means a loan in US dollars made by the Lenders to the Borrower with respect to which interest is to be calculated at the Canadian Prime Rate plus 10% per annum.

“**Canadian Securities Law**” means, collectively, the securities laws of each of the provinces and territories of Canada and the respective regulations, rulings and orders made thereunder and the applicable policy statements, rules and national instruments issued or adopted thereunder.

**“Capital Lease”** means (a) as applied to any Person, any lease of (or other arrangement conveying the right to use) any property (whether real, personal or mixed) by that Person as lessee (or the equivalent).

**“Capital Lease Obligation”** means, at the time any determination is to be made, the amount of the liability in respect of a Capital Lease that would at that time be required to be classified and accounted for as a capitalized lease obligation on a balance sheet in accordance with GAAP; provided that the Borrower may elect to deem any lease (whether entered into before or after December 31, 2018) that would have been classified as an operating lease pursuant to GAAP in effect on December 31, 2018 to not be a capital lease or a financing lease for the purposes of this Agreement.

**“Capital Stock”** means any stock, shares, partnership interests, membership interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, or in general any instruments commonly known as “equity securities” or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

**“Cash”** means money, currency or a credit balance in any demand or deposit account.

**“Cash Equivalents”** means:

- (a) marketable direct obligations issued by, or unconditionally guaranteed by, the Government of Canada or the Government of the United States or any agency or instrumentality of either of them, and backed by the full faith and credit of Canada or the United States, as the case may be, in each case maturing within one year from the date of acquisition;
- (b) term deposits, certificates of deposit or overnight bank deposits having maturities of six months or less from the date of acquisition issued by any commercial bank organized under the laws of Canada or the United States or any state thereof having combined capital and surplus of not less than \$300,000,000; and
- (c) commercial paper of an issuer rated at least A-1+ or the equivalent thereof by Standard & Poor’s Ratings Services or at least P-1 or the equivalent thereof by Moody’s Investors Service Inc. or at least R-1 (High) or the equivalent thereof by DBRS Limited, and in each case maturing within six months from the date of acquisition.

**“Cash Rate”** as defined in Section 2.6(a).

**“Cash Receipts”** means all Cash or Cash Equivalents received by or on behalf of any Loan Party with respect to the following: (a) sales of Hydrocarbons from Oil and Gas Properties, (b) Cash representing operating revenue earned or to be earned, (c) any proceeds from Swap Agreements, (d) royalty payments, and (e) any other Cash or Cash Equivalents received by or on behalf of the Borrower or its Subsidiaries in connection with its ownership of Oil and Gas Properties; *provided* that (i) Loans or the proceeds of Loans, (ii) Cash or Cash Equivalents belonging to or received for the credit of third parties, such as royalty, working interest or other interest owners, that are received for transfer or payment to such third parties and (iii) Cash or Cash Equivalents received from other working interest owners of the Oil and Gas Properties operated by the Borrower or its

Subsidiaries that represent reimbursements or advance payments of joint interest billings to such other working interest owners, in each case, shall not constitute “**Cash Receipts**”.

“**CDOR**” means on any day for the relevant Interest Period, the annual rate of interest equal to the average rate applicable to Canadian Dollar bankers’ acceptances for the applicable period that appears on the display referred to as the “CDOR Page” (or any substitute therefor) of Refinitiv Benchmark Services (UK) Limited (or, in the event such rate does not appear on such page or screen, on any successor or substitute page or screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time, as selected by the Agent in its reasonable discretion), rounded to the nearest 1/100<sup>th</sup> of 1% (with 0.005% being rounded up), as of 10:15 a.m. Toronto local time on the first day of such Interest Period and, if such day is not a Business Day, then on the immediately preceding Business Day. If CDOR shall be less than 1.0%, CDOR Screen Rate shall be deemed to be 1.0% for purposes of this Agreement.

“**Change of Control**” means, at any time, (a) the occurrence of any Person or Persons acting jointly or in concert (within the meaning of the *Securities Act* (Alberta)) beneficially, directly or indirectly, holding or exercising control or direction over and/or having the right to acquire or control or exercise direction over (whether such right is exercisable immediately or only after the passage of time) Capital Stock representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Capital Stock of the Borrower, or (b) a business combination involving the Borrower and any other Person (whether by amalgamation, merger, arrangement or otherwise) shall be consummated, and upon completion thereof shareholders of the Borrower hold, in the aggregate, less than 65% of the outstanding Capital Stock of the combined enterprise resulting from such business combination, (c) (i) the Chief Executive Officer of the Borrower shall cease to devote an adequate amount of their time to management of the Borrower, (ii) John Jeffrey is no longer the Chief Executive Officer of the Borrower, with the responsibilities such title carries as of the Closing Date (provided that if the reason for the occurrence of the events in clauses (i), (ii) or (iii) is personal incapacity, such incapacity continues for a period of 120 days with no replacement being appointed within such period by a person having substantially comparable experience in the executive management and operation of an oil and gas exploration and production company); or (d) the Borrower transfers all or substantially all of its assets to any other Person if that transfer is not otherwise permitted by the other provisions of this Agreement.

“**Closing Date**” means the date on which all of the conditions precedent set forth in Sections 4.1 and 4.2 have been satisfied or waived.

“**Collateral**” means, collectively, all of the real, personal and mixed property (including Capital Stock) in which Liens are purported to be granted pursuant to the Security Documents as security for the Obligations.

“**Commitment**” means as to any Lender, the commitment of such Lender to make Loans in the manner set forth in Section 2.1. “**Commitments**” means such commitments of all Lenders in the aggregate. The amount representing each Lender’s Commitment shall at any time be such Lender’s “**Commitment Amount**”.

“**Commitment Letter**” means the letter dated June 1, 2022 from *[Redacted - commercially sensitive information]* and accepted and agreed to by the Borrower, pursuant to which the Lenders confirmed their commitment to provide the Additional Loans under this Agreement, upon and subject to the terms

and conditions set forth therein, as such letter may be amended, modified, supplemented, restated or replaced from time to time.

**“Communications”** as defined in Section 9.9(a).

**“Compliance Certificate”** means a written Compliance Certificate substantially in the form of Exhibit D.

**“Confidential Information”** as defined in Section 10.16.

**“Consolidated EBITDA”** means, for any period, an amount determined for the Borrower and its Subsidiaries equal to the sum of Consolidated Net Income for such period plus the following expenses or charges to the extent deducted from Consolidated Net Income in such period: (a) interest expense, (b) income taxes, (c) depreciation, (d) depletion, (e) amortization, (f) all other non-cash charges, (g) Transaction Costs, and (h) the amount of extraordinary, unusual and non-recurring expenses and charges that are properly classified as such in accordance with GAAP in an amount not to exceed ten percent (10%) of Consolidated EBITDA (prior to giving effect to such addbacks) for such period in the aggregate during such time, minus all non-Cash income (including cancellation of indebtedness income) to the extent included in Consolidated Net Income.

**“Consolidated Net Debt”** means, as at any date of determination: (a) Consolidated Total Debt minus (i) the aggregate amount of Unrestricted Cash and Cash Equivalents as of such date of determination.

**“Consolidated Net Income”** means, with respect to the Borrower and its Subsidiaries for any period, the aggregate of the net income (or loss) of the Borrower and its Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; provided that there shall be excluded therefrom:

- (a) the net income of any Subsidiary to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that net income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument or Governmental Requirement applicable to that Subsidiary or its stockholders;
- (b) any gains or losses attributable to any write-ups or write-downs of assets, including ceiling test write-downs;
- (c) any unrealized non-Cash gains or losses or charges in respect of hedge or non-hedge derivatives resulting from the application of ASC 815;
- (d) any gain (or loss), together with any related provision for Taxes on such gain (or loss), realized in connection with: (i) any Asset Sale which is not made in the ordinary course of business, or (ii) the disposition of any securities by the Borrower or any of its Subsidiaries or the extinguishment of any Indebtedness of the Borrower or any of its Subsidiaries;

- (e) any extraordinary, unusual and non-recurring gain (or loss) that are properly classified as such in accordance with GAAP, together with any related provision for Taxes on such extraordinary or nonrecurring gain (or loss);
- (f) any income attributable to cancellation or early extinguishment of any Indebtedness of the Borrower or any Subsidiaries; and
- (g) any non-Cash compensation charge arising from any grant of stock, stock options or other equity-based awards.

**“Consolidated Total Debt”** means, as at any date of determination: (a) the aggregate amount of all Indebtedness of the Borrower and its Subsidiaries determined on a consolidated basis in accordance with GAAP and (b) the aggregate outstanding amount, without duplication, of Attributable Debt of the Borrower and its Subsidiaries determined on a consolidated basis.

**“Contractual Obligation”** means, as applied to any Person, any provision of any Capital Stock issued by that Person or of any indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which that Person is a party or by which it or any of its properties is bound or to which it or any of its Property is subject.

**“Control Agreement”** means a control agreement, in form and substance satisfactory to the Agent, entered into with the bank or securities intermediary at which any Deposit Account or Securities Account is maintained by any Loan Party in accordance with Section 7.14.

**“Corresponding Tenor”** with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

**“Covered Person”** means any Affiliate of any Loan Party (other than any other Loan Party) or any of their respective officers, members, managers, directors, partners, parents, or any family members of any of the foregoing.

**“Current Assets”** means, as at any date of determination, the current assets of the Borrower on a consolidated basis for such date as determined in accordance with GAAP but excluding the impact of any unrealized non-Cash gains in respect of hedge or non-hedge derivatives resulting from the application of ASC 815.

**“Current Liabilities”** means, as at any date of determination, the current liabilities of the Borrower on a consolidated basis for such date as determined in accordance with GAAP but excluding (i) the impact of any unrealized non-Cash losses or charges in respect of hedge or non-hedge derivatives resulting from the application of ASC 815 and (ii) any current portion of Consolidated Total Debt.

**“Current Ratio”** means, with respect to the Borrower and its Subsidiaries, as of any date of determination, the ratio of (a) Current Assets as of such date to (b) Current Liabilities as of such date.

**“Debenture”** means a fixed and floating charge debenture granted or to be granted by a Loan Party to the Agent pursuant to this Agreement acceptable in form and substance to the Agent and its legal counsel, as amended, modified, supplemented, restated or replaced from time to time.

**“Default”** means a condition or event that, after notice or lapse of time or both, would constitute an Event of Default.

**“Default Rate”** means any interest payable pursuant to Section 2.6(c).

**“Defaulting Lender”** means any Lender that (i) has failed, within two Business Days of the date required to be funded or paid, to (1) fund any portion of its Loans or (2) pay over to any Loan Party any other amount required to be paid by it hereunder; (ii) has notified the Borrower or any Loan Party in writing, or has made a public statement, to the effect that it does not intend or expect to comply with any of its funding obligations under this Agreement or generally under other agreements in which it commits to extend credit; or (iii) has failed, within three Business Days after request by the Agent or a Loan Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations to fund prospective Loans under this Agreement; *provided* that such Lender shall cease to be a Defaulting Lender pursuant to this clause (iii) upon such Loan Party’s receipt of such certification in form and substance satisfactory to it and the Agent; *provided* that a Lender shall not become a Defaulting Lender solely as a result of the acquisition or maintenance of an ownership interest in such Lender or Person controlling such Lender or the exercise of control over a Lender or Person controlling such Lender by a Governmental Authority or an instrumentality thereof, so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within Canada or the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

**“Deposit Account”** means a demand, time, savings, passbook or like account with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit.

**“Designated Jurisdiction”** means any country, region or territory that is, or whose Governmental Authorities are, the subject of any Sanction (as of the Closing Date, Crimea, Cuba, Iran, North Korea, Russia, Sudan and Syria).

**“Digistore”** means Digistore 24 GMBH, together with its successors and permitted assigns.

**“Digistore Documents”** means, collectively, each agreement, instrument and other document which at any time evidences, creates or relates to the Digistore Obligations, as such documents may be amended, modified or supplemented in accordance with the terms of the Digistore Subordination Agreement and this Agreement, and **“Digistore Document”** means any one of them.

**“Digistore Obligations”** means and includes all indebtedness, liabilities, obligations, covenants, agreements and undertakings of the Loan Parties (or any of them), present or future, direct or indirect, absolute or contingent, matured or not, owing to or in favour of Digistore, which Digistore Obligations are equal to \$2,500,000 in the aggregate as of the date hereof.

**“Digistore Subordination Agreement”** means the subordination agreement dated as of June 7, 2021, among the Borrower, the Agent, Digistore and the others from time to time party thereto, as such agreement may be amended, modified or supplemented in accordance with the terms thereof and hereof.

**“Disqualified Capital Stock”** means any Capital Stock that, by its terms (or by the terms of any security or other Capital Stock into which it is convertible or for which it is exchangeable) or upon the happening of any event or condition (a) matures or is mandatorily redeemable including as a result of any breach of any covenant (other than solely for Capital Stock that is not Disqualified Capital Stock), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or significant asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or significant asset sale event shall be subject to (i) the prior repayment in full of all Loans and all other Obligations (other than contingent obligations for which no claim has been made) and (ii) the prior termination of the Commitments), (b) is redeemable at the option of the holder thereof (other than solely for Capital Stock that is not Disqualified Capital Stock) (except as a result of a change of control or significant asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or significant asset sale event shall be subject to (i) the prior repayment in full of all Loans and all other Obligations (other than contingent obligations for which no claim has been made), and (ii) the prior termination of the Commitments), (c) is or becomes convertible into or exchangeable for Indebtedness or any other Capital Stock that would constitute Disqualified Capital Stock, or (d) has (i) any amortization, any scheduled prepayments or any other prepayment terms, or (ii) any financial covenants.

**“Dollars”** and the sign **“\$”** mean the lawful money of Canada, unless otherwise expressly stated.

**“Early Opt-in Election”** means the occurrence of:

- (a) a notification by the Agent to (or the request by the Borrower to the Agent to notify) each of the other parties hereto that syndicated credit facilities denominated in Canadian dollars at such time contain (as a result of amendment or as originally executed) a new benchmark interest rate to replace CDOR, and
- (b) the joint election by the Agent and the Borrower to trigger a fallback from CDOR and the provision by the Agent of written notice of such election to the Lenders.

**“Eligible Assignee”** means (a) any Lender, (b) any Subsidiary or Affiliate of a Lender, (c) any commercial bank, investment fund, sovereign wealth fund and (d) any other Person approved by the Majority Lenders in their sole discretion; *provided* that the term **“Eligible Assignee”** shall exclude any of the parties listed on Schedule 10.7.

**“Energy Regulator”** means (a) with respect to the Province of Alberta, the AER, (b) with respect to the Province of British Columbia, the BC Oil and Gas Commission, (c) with respect to the Province of Saskatchewan, the Saskatchewan Ministry of Energy and Resources, and (d) with respect to any other Applicable LMR Jurisdiction, the regulatory body with responsibility for regulating the development of, including the oversight of environmental matters in, the oil and gas industry in such jurisdiction; and in each case, together with any successor or replacement agency, department, ministry or commission thereto.

**“Environmental Claim”** means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (a) pursuant to or in connection with any actual or alleged violation of any Environmental Law; (b) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity; or (c) in connection with any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment.

**“Environmental Law”** means any Applicable Law relating to the environment including those pertaining to:

- (a) reporting, licensing, permitting, investigating, remediating and cleaning up in connection with any presence or Release, or the threat of the same, of Hazardous Materials; and
- (b) the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling and the like of Hazardous Materials, including those pertaining to occupational health and safety.

**“Environmental Permit”** means any permit, registration, license, approval, consent, exemption, variance, or other authorization required under or issued pursuant to applicable Environmental Law.

**“ERISA”** means the *Employee Retirement Income Security Act of 1974*, as amended from time to time, and any successor thereto, in each case together with the regulations thereunder.

**“Erroneous Payment”** as defined in Section 10.29(a).

**“Erroneous Payment Notice”** as defined in Section 10.29(b).

**“ESG”** has the meaning assigned to such term in Section 6.1(s).

**“Event of Default”** means each of the conditions or events set forth in Section 8.1.

**“Excluded Accounts”** means (a) any Deposit Account or Securities Account that has an aggregate average daily balance of less than \$100,000; provided that the aggregate daily balance for all such Excluded Accounts shall not exceed \$200,000 in the aggregate, (b) any Deposit Account the funds in which are used solely for the payment of salaries and wages, payroll taxes, employee benefits, workers’ compensation and similar expenses, (c) any Deposit Account that is a zero balance account or a Deposit Account for which the balance of such Deposit Account is transferred at the end of each date to a Deposit Account that is not an Excluded Account, and (d) any Deposit Account that is used exclusively as an escrow or trust account, provided that if at any time such cash collateral is no longer required to support such Indebtedness, such cash will be transferred within three Business Days to a Deposit Account which is subject to a Control Agreement.

**“Excluded Taxes”** means, with respect to the Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of a Loan Party hereunder, (a) taxes imposed on or measured by its net income, and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its Applicable Office is located, (b) any branch profits taxes or any similar tax imposed by any jurisdiction in which the Lender is located, (c) taxes incurred wholly because a Lender has ceased to be a resident of Canada within the meaning of the Income Tax Act (Canada), and (d) in the case of a Foreign Lender (other than (i) an assignee pursuant to an Assignment and Assumption made when an Event of Default has occurred and is continuing, or (ii) any other assignee to the extent that the Borrower has expressly agreed that any withholding tax will be an Indemnified Tax), any withholding tax that (A) is not imposed or assessed in respect of a Loan that was made on the premise that an exemption from such withholding tax would be available

where the exemption is subsequently determined, or alleged by a taxing authority, not to be available, and (B) is required by Applicable Law (which exists at the time such Foreign Lender becomes a party hereto or designates a new Applicable Office) to be withheld or paid in respect of any amount payable hereunder or under any Loan Document to such Foreign Lender or is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with Section 2.14(e), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Applicable Office (or assignment), to receive additional amounts from a Loan Party with respect to such withholding tax pursuant to Section 2.14(a), or (iii) any withholding taxes imposed under FATCA. For greater certainty, for purposes of item (c) above, a withholding tax includes any Tax that a Foreign Lender is required to pay pursuant to Part XIII of the *Income Tax Act* (Canada) or any successor provision thereto.

**"Existing Credit Agreement"** has the meaning assigned to such term in the Recitals.

**"Existing Lenders"** has the meaning assigned to such term in the Recitals.

**"Existing Loans"** has the meaning assigned to such term in Section 2.1.

**"Exit Fee"** as defined in Section 2.11(h).

**"Exposure"** means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Loans of such Lender; *provided* that the Commitment Amount and the principal amount of the Loans of the Defaulting Lenders (if any) shall be excluded from the determination of Exposure.

**"Extraordinary Receipts"** means any Cash received by or paid to or for the account of any Loan Party for any pension plan reversions, judgments, proceeds of settlements or other consideration in connection with any cause of action, indemnity payments and any purchase price adjustment received in connection with any purchase agreement provided, however, Extraordinary Receipts shall not include payments or proceeds of any insurance policies or received in connection with condemnation or eminent domain.

**"Facility"** means any real property (including all buildings, fixtures or other improvements located thereon but excluding the Oil and Gas Properties) now, hereafter or heretofore owned, leased, operated or used by the Borrower or any of its Subsidiaries.

**"FATCA"** means Section 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended, as of the Closing Date (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 and any agreement entered into pursuant to Section 1471(b) of the Internal Revenue Code.

**"Financial Officer"** means, for any Person, the President or Chief Financial Officer. Unless otherwise specified, all references herein to a Financial Officer means a Financial Officer of the Borrower.

**"Financial Officer Certification"** means, with respect to the financial statements for which such certification is required, the certification of a Financial Officer of the Borrower that such financial statements fairly present, in all material respects, the financial condition of the Borrower and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated (i) in the case of financial statements, in conformity with cash or tax basis

accounting principles as required by the Majority Lenders and (ii) in the case of annual financial statements in conformity with GAAP applied on a consistent basis, subject, in the case of interim financial statements, to changes resulting from normal audit and year-end adjustments.

**“Financial Plan”** as defined in Section 6.1(f).

**“First Lien Net Leverage Ratio”** shall mean, at any date of determination, the ratio of (a) Consolidated Net Debt of the Borrower and its Subsidiaries on such date that is secured by a First Priority Lien on the assets of the Borrower and its Subsidiaries (which, for certainty shall not include Indebtedness in connection with Swap Agreements), to (b) Consolidated EBITDA for the Test Period then most recently ended.

**“First Priority”** means, with respect to any Lien purported to be created in any Collateral pursuant to any Security, that such Lien is the first priority Lien with respect to such Collateral, subject only to Permitted Liens.

**“Fiscal Quarter”** means a fiscal quarter of any Fiscal Year.

**“Fiscal Year”** means the fiscal year of the Borrower and its Subsidiaries ending on December 31 of each calendar year.

**“Five-Year Strip Price”** means, as of the date that is five days prior to delivery of a Reserve Report or other information and materials required to be delivered pursuant to the terms of this Agreement, (a) for the 60 month period commencing with the month in which such date occurs, as quoted on the New York Mercantile Exchange (the **“NYMEX”**) and published in a nationally recognized publication for such pricing as selected by the Agent (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, and in each instance of (a) and (b) shall reflect the price of the monthly future contract prices for each appropriate Hydrocarbon category included in the Reserve Report for the volumes of each type of Hydrocarbon produced and delivered at a particular location, adjusted for the basis differential between the actual delivery location and the reference price delivery location, and adjusted for any price differentials between the actual product delivered and the reference product, in each case using methodology consistent with past practices and in good faith based on observable differentials (which utilized differentials shall be, volume weighted on the basis of current and expected future arrangements for the sale of production, the least of (i) the average actual differentials for the last quarter, (ii) the average actual differentials for the last twelve months and (iii) those future differentials which may be hedged by contract); provided, however, that (A) 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 60 months shall be used and (B) if the NYMEX no longer provides such futures contract quotes or has ceased to operate, the Majority Lenders shall designate another nationally recognized commodities exchange to replace the NYMEX for purposes of the references to the NYMEX in this definition; provided further that in the event such average contract prices are not reasonably satisfactory to the Majority Lenders, the **“Five-Year Strip Price”** as of any date of determination shall be such price as the Majority Lenders shall reasonably determine.

**“Foreign Lender”** means any Lender that is not organized under the laws of the jurisdiction in which the Borrower is resident for tax purposes and that is not otherwise considered or deemed in respect of any amount payable to it hereunder or under any Loan Document to be resident for

income tax or withholding tax purposes in the jurisdiction in which the Borrower is resident for tax purposes by application of the laws of that jurisdiction. For purposes of this definition, Canada and each Province and Territory thereof will be deemed to constitute a single jurisdiction and the United States of America, each State thereof and the District of Columbia will be deemed to constitute a single jurisdiction.

**“GAAP”** means, subject to the limitations on the application thereof set forth in Section 1.2, generally accepted accounting principles in Canada in effect as of the date of determination thereof (and which encompass International Financial Reporting Standards adopted by the Canadian Accounting Standards Board).

**“General and Administrative Costs”** means normal and customary expenses and costs incurred in connection with the Oil and Gas Properties of the Borrower and each other Loan Party that are classified as general and administrative costs, including consulting fees, salary, rent, supplies, travel, insurance, accounting, legal, engineering and broker related fees required to manage the affairs of the Loan Parties but excluding Transaction Costs.

**“General and Administrative Costs Cap”** means \$8,000,000 per calendar year.

**“Governmental Authority”** means the Government of Canada or the United States of America or any other nation, or of any political subdivision thereof, whether provincial, state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including any supra-national bodies such as the European Union or the European Central Bank and including a Minister of the Crown, the Superintendent of Financial Institutions or other comparable authority or agency.

**“Governmental Authorization”** means any permit, license, authorization, plan, directive, consent order or consent decree of or from any Governmental Authority.

**“Governmental Requirement”** means, at any time, any law, treaty, statute, code, ordinance, order, determination, rule, regulation, judgment, decree, injunction, franchise, permit, certificate, license, authorization or other directive or requirement (whether or not having the force of law), whether now or hereafter in effect, including, without limitation, Environmental Law, energy regulations and occupational, safety and health standards or controls, of any Governmental Authority.

**“Guarantee”** means, with respect to any Person, any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, that is (a) an obligation of such Person the primary purpose or intent of which is to provide assurance to an obligee that the obligation of the obligor thereof will be paid or discharged, or any agreement relating thereto will be complied with, or the Lenders thereof will be protected (in whole or in part) against loss in respect thereof; or (b) a liability of such Person for an obligation of another through any agreement (contingent or otherwise) (i) to purchase, repurchase or otherwise acquire such obligation or any security therefor, or to provide funds for the payment or discharge of such obligation (whether in the form of loans, advances, stock purchases, capital contributions or otherwise) or (ii) to maintain the solvency or any balance sheet item, level of income or financial condition of another if, in the case of any agreement described under subclauses (i) or (ii) of this clause (b), the primary purpose or intent thereof is as described in clause (a) above.

**“Guarantor”** means each Subsidiary of the Borrower (other than Carnduff Gas Limited) and any other Person that is required to guarantee the Obligations pursuant to Section 6.10.

**“Hazardous Material”** means any substance regulated by or as to which liability might arise under any applicable Environmental Law and including, without limitation: (a) any chemical, compound, material, product, by-product, effluent, emission, substance or waste defined as or included in the definition or meaning of “hazardous substance,” “hazardous material,” “hazardous waste,” “solid waste,” “toxic waste,” “extremely hazardous substance,” “toxic substance,” “contaminant,” “pollutant,” or words of similar meaning or import found in any applicable Environmental Law; (b) petroleum hydrocarbons, petroleum products, petroleum substances, natural gas, oil, oil and gas waste, crude oil, and any components, fractions, or derivatives thereof; (c) explosives, radioactive materials, asbestos containing materials, polychlorinated biphenyls, radon, mold, silica or any silicates, and (d) any material which shall be removed from any Property pursuant to any Environmental Law or Environmental Permit or in order to place any Property in a condition that is suitable for ordinary use.

**“Hazardous Materials Activity”** means any past, current, proposed or threatened activity, event or occurrence involving any Hazardous Materials, including the use, manufacture, possession, storage, holding, presence, existence, location, Release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Materials, and any corrective action or response action with respect to any of the foregoing.

**“Highest Lawful Rate”** means the maximum lawful interest rate, if any, that at any time or from time to time may be contracted for, charged, or received under the laws applicable to any Lender which are presently in effect or, to the extent allowed by law, under such applicable laws which may hereafter be in effect and which allow a higher maximum non-usurious interest rate than applicable laws now allow.

**“Hydrocarbon Interests”** means all rights, options, titles, interests and estates now or hereafter acquired in and to oil and gas leases, oil, gas and mineral leases, or other liquid or gaseous hydrocarbon leases, mineral fee interests, overriding royalty and royalty interests, net profit interests and production payment interests, including any reserved or residual interests of whatever nature.

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

**“Indebtedness”** as applied to any Person, means, without duplication, (a) all indebtedness for borrowed money; (b) all Capital Lease Obligations; (c) all obligations of such Person evidenced by Loans, bonds or similar obligations representing extensions of credit whether or not representing obligations for borrowed money; (d) any obligation owed for all or any part of the deferred purchase price of property or services (excluding trade payables incurred in the ordinary course of business that are not past the date of invoice by more than 90 days or that are being contested in good faith and for which adequate reserves have been maintained in accordance with GAAP) which is required to be recorded as a liability on a balance sheet in accordance with GAAP; (e) all obligations created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person; (f) all Indebtedness (as defined in other clauses of this definition) secured by any Lien on any property or asset owned or held by that Person regardless of whether the Indebtedness secured thereby shall have been assumed

by that Person or is nonrecourse to the credit of that Person; (g) obligations in respect of any letter of credit or letter of guaranty issued, bankers' acceptances facilities, surety bond and similar credit transactions for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings or drafts; (h) any earn-out obligations or purchase price adjustments under purchase agreements; (i) all Guarantees by such Person of Indebtedness (as otherwise defined herein) of any other Person; (j) all obligations of such Person in respect of any Swap Agreement, whether entered into for hedging or speculative purposes; (k) all obligations of such Person, contingent or otherwise, to purchase, redeem, retire or otherwise acquire for value any Capital Stock of such Person, (l) all Attributable Debt of such Person, and (m) obligations, including minimum volume commitments, to deliver commodities, goods, services, including, without limitation, Hydrocarbons, in consideration of one or more advance payments, other than gas balancing arrangements in the ordinary course of business (but only to the extent of such advance payments), (n) obligations under "take or pay" or similar agreements and obligations under agreements to pay for goods or services even if such goods or services are not actually received or utilized by such Person, including pursuant to minimum volume contracts or commitments or firm transportation agreements, (o) the undischarged balance of any production payment created by such Person or for the creation of which such Person directly or indirectly received payments, (p) all Disqualified Capital Stock, and (q) Indebtedness of any partnership or Joint Venture in which such Person is a general partner or joint venturer, unless such Indebtedness is expressly non-recourse to such Person. The amount of Indebtedness under any Swap Agreements outstanding at any time, if any, shall be the Net Mark-to-Market Exposure of such Person under such Swap Agreements at such time (and after giving effect to any Net Mark-to-Market Gains of such Person under such Swap Agreements); provided that at no time shall the amount of the Net Mark-to-Market Exposure under such Swap Agreements, after giving effect to any Net Mark-to-Market Gains, be less than zero. The Indebtedness of any Person shall include all obligations of such Person of the character described above to the extent such Person remains legally liable in respect thereof notwithstanding that any such obligation is not included as a liability of such Person under GAAP.

**"Indemnified Liabilities"** means, collectively, any and all liabilities, obligations, losses, damages (including natural resource damages), penalties, claims (including Environmental Claims), costs (including the costs of any investigation, study, sampling, testing, abatement, cleanup, removal, remediation or other response action necessary to remove, remediate, clean up or abate any Hazardous Materials Activity), Tax, expenses and disbursements of any kind or nature whatsoever (including the fees and disbursements of counsel for Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened by any Person, whether or not any such Indemnatee shall be designated as a party or a potential party thereto, and any fees or expenses incurred by Indemnitees in enforcing this indemnity), whether direct, indirect or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations and Environmental Law), on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnatee, in any manner relating to or arising out of (a) this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby (including the Lenders' agreement to make Loans or the use or intended use of the proceeds thereof, or any enforcement of any of the Loan Documents (including any sale of, collection from, or other realization upon any of the Collateral or the enforcement of any guarantee)); (b) the statements contained in the proposal letter delivered by any Lender, Agent or any Affiliate thereof to the Borrower or any holder of Capital Stock in the Borrower with respect to the transactions contemplated by this Agreement; or (c) any Environmental Claim against or any Hazardous Materials Activity relating to or arising from, directly or indirectly, any past or

present activity, operation, land ownership, or practice of the Borrower or any of its Subsidiaries and any of their respective Property.

**“Indemnified Taxes”** means Taxes other than Excluded Taxes.

**“Indemnitee”** as defined in Section 10.3(a).

**“Indemnitee Agent Party”** as defined in Section 9.6.

**“Intellectual Property”** means all intellectual property rights, both statutory and common, throughout the world, including but not limited to the following: (a) patents, together with any foreign counterpart patents, as well as any reissued and re-examined patents and extensions corresponding to the patents, and patent applications, as well as any related continuation, continuation in part, and divisional applications and patents issuing therefrom and any respective foreign counterpart foreign patent applications or foreign patents issuing therefrom; (b) works of authorship and copyrightable works, copyrights and registrations and applications for registrations thereof; (c) any trademark, service mark, trade name, trade dress, brand names, slogans, domain names, registrations and any trademarks or service marks issuing from applications for registrations for the foregoing, and all goodwill associated therewith; (d) all trade secrets, know-how or proprietary property or technology and (e) all other intellectual property rights material to the operation of the Borrower’s or any of its Subsidiaries’ business.

**“Interest”** as defined in Section 2.6(a).

**“Interest Payment Date”** means (a) the last day of each Interest Period, and (b) the Maturity Date.

**“Interest Period”** means (i) for the first Interest Period, (A) for the Existing Loans, the period commencing on the last Business Day of the last Interest Period under the Existing Credit Agreement and ending on the next Quarterly Date, and (B) for the Additional Loans, the period commencing on the Advance Date and ending on the next Quarterly Date, and (ii) for all Interest Periods for all Loans thereafter, the period commencing on the last Business Day of the previous Interest Period and ending on the numerically corresponding day in the calendar month that is three months thereafter, as the Borrower may elect; *provided, that* (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period pertaining to a Loan that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Loan initially shall be the date on which such Loan is made.

**“Investment”** means (a) any direct or indirect redemption, retirement purchase or other acquisition by any Person of, or of a beneficial interest in, any of the Capital Stock of any other Person or of Property of any other Person that constitutes a business unit of such Person; (b) any direct or indirect loan, advance, acquisition, capital contribution or other transfer of funds or Property by any Person to any other Person, including all Indebtedness and accounts receivable from that other Person that are not current assets or did not arise from sales to that other Person in the ordinary course of business; and (c) any direct or indirect Guarantee of any obligations of

any other Person. The amount of any Investment shall be the original cost of such Investment *plus* the cost of all additions (whether in Cash or Property) thereto.

**“Joint Venture”** means a joint venture, partnership or other similar arrangement, whether in corporate, partnership or other legal form.

**“Lenders”** means each Person listed on the signature pages hereto as a Lender (including without limitation the Existing Lenders and the New Lenders), and any other Person that becomes a party hereto pursuant to an Assignment Agreement, other than any such Person that ceases to be a party hereto pursuant to an Assignment Agreement.

**“Lien”** means (a) any lien, mortgage, pledge, assignment, security interest, charge, hypothec or encumbrance of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, and any lease in the nature thereof) and any option, trust or other preferential arrangement having the practical effect of any of the foregoing, and (b) in the case of Capital Stock, any purchase option, call or similar right of a third party with respect to such Capital Stock.

**“Liquidity”** means, on any date of determination, an amount equal to the sum of Unrestricted Cash and Cash Equivalents as of such date.

**“LMR”** means, with respect to any Loan Party, for any Applicable LMR Jurisdiction, the liability management rating (or equivalent) established by the applicable Energy Regulator with respect to the abandonment and reclamation policies, regulations and directives of such Energy Regulator in such jurisdiction, in each case, as determined in accordance with Applicable Law (including the rules and regulations of such Energy Regulator in respect thereof for the then-relevant period) as calculated and published publicly by such Energy Regulator, and as adjusted to remove any security, cash, letters of credit or other security deposits or credit support that has or may have resulted in an increase to such liability management rating.

**“Loans”** means the loans in the Aggregate Commitment Amount extended pursuant to Section 2.1 (or deemed to be converted pursuant to 2.6(a)(v)) and includes Existing Loans and Additional Loans. Loans may be evidenced by a promissory note or notes in the form of Exhibit C.

**“Loan Document”** means any of this Agreement, the Loans, the Security, the Agency Fee Letter and all other certificates, documents, instruments or agreements executed and delivered by a Loan Party for the benefit of Agent or any Lender in connection herewith or pursuant to any of the foregoing.

**“Loan Party”** means the Borrower and each Guarantor.

**“Majority Lenders”** means Lenders having or holding Exposure representing more than 50% of the sum of the aggregate Exposure of all Lenders.

**“Margin Stock”** as defined in Regulation U of the Board of Governors of the Federal Reserve System as in effect from time to time.

**“Material Adverse Effect”** means any effect, event, condition, action, omission, change or state of facts that, individually or in the aggregate, has resulted in, or could reasonably be expected to result in, a material adverse effect with respect to (a) the business operations, properties, assets, or condition (financial or otherwise) of the Loan Parties taken as a whole; (b) the ability of the

Loan Parties, taken as a whole, to perform the Obligations; (c) the legality, validity, binding effect, or enforceability against a Loan Party of a Loan Document to which it is a party; or (d) the Agent's Liens (on behalf of itself and the Secured Parties) on the Collateral or the priority of such Liens; or (e) the rights, remedies and benefits available to, or conferred upon, Agent and any Lender under any Loan Document.

**"Material Contract"** means, collectively, any contract or agreement listed in Schedule 5.16, any contract or agreement requiring payments to be made or providing for payments to be received, in each case in excess of \$1,000,000 individually or, if involving a series of related contracts or agreements, in the aggregate, any other contract or other arrangement to which any Loan Party is a party (other than the Loan Documents) for which breach, non-performance, cancellation or failure to renew could reasonably be expected to have a Material Adverse Effect.

**"Maturity Date"** means the earliest of (a) the Stated Maturity Date, and (b) the date that all Loans shall become due and payable in full hereunder, whether by acceleration or otherwise.

**"Moody's"** means Moody's Investor Services, Inc.

**"MNPI"** means any material non-public information (within the meaning of Canadian Securities Laws assuming that Borrower is a reporting as such term is utilized under applicable Canadian Securities Laws (regardless of whether Borrower is actually a reporting issuer under Canadian Securities Laws)) regarding the Borrower and its Subsidiaries.

**"Net Asset Sale Proceeds"** means, with respect to any Asset Sale, an amount equal to: (a) the sum of Cash payments and Cash Equivalents received by any Loan Party from such Asset Sale (including any Cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received), *minus* (b) any *bona fide* direct costs incurred in connection with such Asset Sale, including income or gains taxes paid or payable by the seller as a result of any gain recognized in connection with such Asset Sale during the tax period the sale occurs (after taking into account any available tax credits or deductions and any tax-sharing arrangements), (c) a reasonable reserve for any indemnification payments (fixed or contingent) attributable to seller's indemnities and representations and warranties to purchaser in respect of such Asset Sale undertaken by the applicable Loan Party in connection with such Asset Sale; *provided* that upon release of any such reserve, the amount released shall be considered Net Asset Sale Proceeds), and (d) the amount required to retire any Indebtedness secured by a Permitted Lien on the related property.

**"Net Insurance/Condemnation Proceeds"** means an amount equal to: (a) any Cash payments or proceeds received by any Loan Party (i) under any casualty or business interruption insurance policies in respect of any covered loss thereunder, or (ii) as a result of the taking of any assets of any Loan Party by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking, *minus* (b) any actual and reasonable costs incurred by any Loan Party in connection with the adjustment or settlement of any claims of any Loan Party in respect thereof, and (c) any *bona fide* direct costs incurred in connection with any sale of such assets as referred to in clause (a)(ii) of this definition, including income taxes paid or payable by the applicable Loan Party as a result of any gain recognized in connection therewith during (after taking into account any available tax credits or deductions and any tax-sharing arrangements).

**"Net Mark-to-Market Exposure"** of a Person means, as determined by the applicable swap provider with respect to any Swap Agreement, as of any date of determination, the excess (if any)

of all unrealized losses over all unrealized profits of such Person arising from Swap Agreements. As used in this definition, “unrealized losses” means the fair market value of the cost to such Person of replacing such Swap Agreement as of the date of determination (assuming such Swap Agreement were to be terminated as of that date), and “unrealized profits” means the fair market value of the gain to such Person of replacing such Swap Agreement as of the date of determination (assuming such Swap Agreement were to be terminated as of that date).

“**Net Mark-to-Market Gain**” of a Person means, as determined by the applicable swap provider with respect to any Swap Agreement, as of any date of determination, the excess (if any) of all unrealized profits over all unrealized losses of such Person arising from Swap Agreements. As used in this definition, “unrealized losses” means the fair market value of the cost to such Person of replacing such Swap Agreement as of the date of determination (assuming such Swap Agreement were to be terminated as of that date), and “unrealized profits” means the fair market value of the gain to such Person of replacing such Swap Agreement as of the date of determination (assuming such Swap Agreement were to be terminated as of that date).

“**New Lenders**” has the meaning assigned to such term in the Recitals.

“**Note**” as defined in Section 2.2.

“**Obligations**” means all liabilities and obligations of every nature of each Loan Party and its Subsidiaries from time to time owed to Agent (including any former Agent) the Lenders, any Indemnitee or any of them under any Loan Document, whether for principal, interest (including interest which, but for the filing of a petition in bankruptcy with respect to such Loan Party, would have accrued on any Obligation, whether or not a claim is allowed against such Loan Party for such interest in the related bankruptcy proceeding), fees, expenses, penalties, premiums, reimbursements, indemnification or otherwise and whether primary, secondary, direct, indirect, contingent, fixed or otherwise (including obligations of performance).

“**Oil and Gas Properties**” means (a) Hydrocarbon Interests; (b) the Property 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 without limitation 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 Property in any manner appertaining, belonging, affixed or incidental to the Hydrocarbon Interests, and (g) all Property, 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, buildings, structures, fuel separators, liquid extraction plants, plant compressors, pumps, pumping units, field gathering systems, pipelines, any other associated midstream assets, 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. Unless the context otherwise requires, the term Oil and Gas Properties refers to Oil and Gas Properties of the Loan Parties.

**“Operated Oil and Gas Properties”** means those Oil and Gas Properties of the Loan Parties that are operated by the Borrower or any other Loan Party.

**“Organizational Documents”** means (a) with respect to any corporation, its certificate or articles of incorporation, amalgamation, formation or organization, as amended, and its by-laws, as amended, (b) with respect to any limited partnership, its certificate of limited partnership or certificate of formation, as amended, and its partnership agreement, as amended, (c) with respect to any general partnership, its partnership agreement, as amended, and (d) with respect to any limited liability company, its articles of organization or certificate of formation, as amended, and its operating agreement, as amended. In the event any term or condition of this Agreement or any other Loan Document requires any Organizational Document to be certified by a secretary of state or similar governmental official, the reference to any such **“Organizational Document”** shall only be to a document of a type customarily certified by such governmental official.

**“Original Closing Date”** means June 7, 2021.

**“Other Sources”** as defined in Section 10.3(c).

**“Other Taxes”** means any and all present or future stamp, court, intangible, registration, recording, filing, transfer, documentary, excise, property or similar Tax arising from any payment made hereunder or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to or in connection with, any Loan Document, except any such Tax that is imposed with respect to an assignment as a result of a present or former connection between such recipient and the jurisdiction imposing such Tax.

**“Participant”** as defined in Section 10.6(f).

**“Participant Register”** as defined in Section 10.7.

**“PATRIOT Act”** means the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism* (USA PATRIOT Act of 2001).

**“PDP Asset Coverage Ratio”** means the ratio as of any date of (a) the PV10 of the Loan Parties' Proved Developed Producing Reserves located on Oil and Gas Properties as set forth in the most recently delivered Reserve Report to (b) the Consolidated Net Debt of the Borrower and its Subsidiaries on such date that is secured by a First Priority Lien (which, for certainty, shall not include Indebtedness in connection with the Swap Agreements) on the assets of the Borrower and its Subsidiaries as of such date.

**“Pension Plan”** means (i) a “pension plan” or “plan” which is a “registered pension plan” as defined in the *Income Tax Act* (Canada) or is subject to the funding requirements of applicable pension benefits legislation in any Canadian jurisdiction and is applicable to employees resident in Canada of a Loan Party, (ii) a “pension plan”, as such term is defined in Section 3(2) of ERISA, which is subject to Title IV of ERISA (other than a multi-employer plan as defined in Section 4001(a)(3) of ERISA), and to which a Loan Party may reasonably be expected to have liability, including any liability by reason of having been a substantial employer within the meaning

of Section 4063 of ERISA at any time during the preceding five years, or by reason of being deemed to be a contributing sponsor under Section 4069 of ERISA, or (iii) any other pension benefit plan or similar arrangement applicable to employees of a Loan Party.

**“Permitted Contest”** means action taken by the Borrower or any other Loan Party in good faith by appropriate proceedings diligently pursued to contest any Tax, claims or Liens, provided that:

- (a) the Borrower or the other Loan Party has established reasonable reserves therefor in accordance with GAAP;
- (b) proceeding with such contest does not have, and would not reasonably be expected to have a Material Adverse Effect; and
- (c) proceeding with such contest will not create a material risk of sale, forfeiture or loss of, or interference with the use or operation of, a material part of the property or assets of the Borrower or another Loan Party.

**“Permitted Liens”** means:

- (a) undetermined or inchoate Liens arising in the ordinary course of and incidental to construction or current operations which have not been filed pursuant to Applicable Law against the Borrower or any other Loan Party, as applicable, in respect of which no steps or proceedings to enforce such Lien have been initiated or which relate to obligations which are not due or delinquent, or if due or delinquent, is then the subject of a Permitted Contest;
- (b) to the extent a Lien is created thereby, easements, rights-of-way, servitudes, zoning or other similar rights or restrictions in respect of land held by the Borrower or any other Loan Party (including rights-of-way and servitudes for railways, sewers, drains, pipe lines, gas and water mains, electric lights and power and telephone or telegraph or cable television conduits, poles, wires and cables) which, either alone or in the aggregate, do not materially detract from the value of such land or materially impair its use in the operation of the business of the Borrower or any other Loan Party, as applicable;
- (c) any Lien arising in connection with worker’s compensation, unemployment insurance, pension and employment Laws, provided that no amounts are due or delinquent under such laws, or if due or delinquent, is then the subject of a Permitted Contest;
- (d) to the extent a Lien is created thereby, the right reserved to or vested in any municipality or governmental or other public authority or any other lessor or grantor by the terms of any lease, license, franchise, grant or permit acquired by the Borrower or any other Loan Party, as applicable, or by any statutory provision to terminate any such lease, license, franchise, grant or permit or to require annual or other periodic payments as a condition of the continuance thereof;
- (e) to the extent a Lien is created thereby, all reservations in the original grant from the Crown of any lands and premises or any interests therein and all statutory exceptions, qualifications and reservations in respect of title;

- (f) public and statutory Liens not yet due and similar Liens arising by operation of law;
- (g) Liens for Tax, assessments or governmental charges which are not due or delinquent or, if due and delinquent, the validity of which are being contested by a Permitted Contest;
- (h) Liens under or pursuant to any judgment rendered or claim filed against the Borrower or any other Loan Party, which the Borrower or such other Loan Party is contesting by Permitted Contest;
- (i) Liens in favour of a public utility or any municipality or other Governmental Authority, provided that any such Lien is required by such utility or municipality or other Governmental Authority in connection with the operations of the Borrower or any other Loan Party in the ordinary course of its business, and such Liens in the aggregate to do materially detract from the value of the asset concerned or materially impair its use in the operation of the business of the Borrower or a Loan Party;
- (j) Liens incurred or created in the ordinary course of business and in accordance with sound industry practice in respect of the exploration, development or operation of petroleum or natural gas interests, related production or processing facilities in which such Person has an interest or the transmission of petroleum or natural gas as security in favour of any other Person conducting the exploration, development, operation or transmission of the property to which such liens relate, for any Loan Party's portion of the costs and expenses of such exploration, development, operation or transmission, provided that such costs or expenses are not due or delinquent or, if due or delinquent, the validity of which is being contested at the time by a Permitted Contest;
- (k) Liens for penalties arising under non-participation or independent operations provisions of operating or similar agreements in respect of any Loan Party's petroleum or natural gas interests, provided that such liens do not materially detract from the value of any material part of the property of any Loan Party;
- (l) any right of first refusal in favour of any Person granted in the ordinary course of business with respect to all or any of the petroleum or natural gas interests of any Loan Party;
- (m) any encumbrance or agreement entered into in the ordinary course of business relating to pooling or a plan of unitization affecting the property of any Loan Party, or any part thereof, provided that the value to such Loan Party of its interests in the Oil and Gas Properties which are subject to the pooling or unitization immediately after the pooling or unitization (taking into account obligations associated therewith) is not less than the value of its interest in such Oil and Gas Properties immediately before the pooling or unitization;
- (n) the right reserved or vested in any municipality or governmental or other public authority by the terms of any petroleum or natural gas leases or similar agreements in which any Loan Party has any interest or by any statutory provision to terminate petroleum or natural gas leases or similar agreements in which any Loan Party

has any interest, or to require annual or other periodic payments as a condition of the continuance thereof;

- (o) obligations of any Loan Party to deliver petroleum, natural gas, chemicals, minerals or other products to buyers thereof in the ordinary course of business;
- (p) the Security;
- (q) Liens in favour of the Swap Provider, provided such Liens are subject to the Swap Intercreditor Agreement;
- (r) Liens securing Indebtedness permitted by Section 7.1(d), and Section 7.1(h) (to the extent the applicable Approval Letter permits such Indebtedness to be secured); and
- (s) any Lien from time to time disclosed by the Borrower to the Agent and which is consented in writing to by the Lenders.

**“Permitted Recipients”** as defined in Section 10.16.

**“Person”** means and includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability partnerships, joint stock companies, Joint Ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and Governmental Authorities.

**“PPSA”** means the *Personal Property Security Act* (Alberta), the *Personal Property Security Act* (Saskatchewan) or equivalent legislation in other jurisdictions.

**“Private Side Communications”** as defined in Section 9.9(c).

**“Pro Rata Share”** means with respect to all payments, computations and other matters relating to the Loans of any Lender, the percentage obtained by dividing (a) the Exposure of that Lender, by (b) the aggregate Exposure of all Lenders; *provided* that in the case of Section 2.16 when a Defaulting Lender shall exist, **“Pro Rata Share”** as used in such Section 2.16 shall mean the percentage of the Aggregate Commitment Amount (disregarding any Defaulting Lender’s Commitment Amount) represented by such Lender’s Commitment Amount.

**“Projections”** as defined in Section 5.8.

**“Property”** means any present and after-acquired interest or right in any kind of property, asset or undertaking, whether real, personal or mixed, or tangible or intangible, moveable or immoveable, rights or privileges, including, without limitation, Cash, securities, accounts and contract rights.

**“Proved Developed Non-Producing Reserves”** has the meaning assigned such term in the SPE Definitions.

**“Proved Developed Producing Reserves”** has the meaning assigned such term in the SPE Definitions.

**“Proved Reserves”** has the meaning assigned such term in the SPE Definitions.

**“Proved Undeveloped Reserves”** has the meaning assigned such term in the SPE Definitions.

**“Prudential Notes”** means the senior secured notes issued by the Borrower and purchased by Prudential Capital Energy Partners, L.P. and Prudential Capital Energy Partners Management Fund, L.P. pursuant to an amended and restated note purchase agreement dated June 7, 2021, as further amended, modified or supplemented.

**“Public Side Communications”** as defined in Section 9.9(c).

**“PV10”** means, in respect of either of the Proved Developed Producing Reserves or the Proved Reserves, respectively, of any Loan Party’s Oil and Gas Properties, the present value of future cash flows (discounted at 10% per annum) calculated: (a) by the Majority Lenders in their sole judgment (including using the Five-Year Strip Price) after having reviewed the information from the most recent Reserve Report delivered by the Borrower pursuant to Section 6.1(n), (b) as adjusted to give effect to Swap Agreements permitted by this Agreement as in effect on the date of such determination, (c) as adjusted to include any restricted cash held in a deposit account of the Borrower for the benefit of reclamation obligations in connection with such Oil and Gas Properties, and (d) taking into account all other factors which the Majority Lenders deem material.

**“Quarterly Date”** means the last Business Day of each Fiscal Quarter.

**“Recipient”** as defined in Section 2.16.

**“Reference Time”** with respect to any setting of the then-current Benchmark means the time determined by the Agent in its reasonable discretion.

**“Register”** as defined in Section 2.5(b).

**“Related Fund”** means, with respect to any Lender that is an investment fund, any other investment fund that invests in debt or equity investments and that is managed or advised by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

**“Release”** means any release or discharge of any Hazardous Materials including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leach, migration, dispersal, dispensing or disposal.

**“Relevant Governmental Body”** means, with respect to a Benchmark Replacement in respect of Loans denominated in Canadian dollars, (a) the central bank for the currency in which such Benchmark Replacement is denominated or any central bank or other supervisor which is responsible for supervising either (1) such Benchmark Replacement or (2) the administrator of such Benchmark Replacement or (b) any working group or committee officially endorsed or convened by (1) the central bank for the currency in which such Benchmark Replacement is denominated, (2) any central bank or other supervisor that is responsible for supervising either (A) such Benchmark Replacement or (B) the administrator of such Benchmark Replacement, (3) a group of those central banks or other supervisors or (4) the Financial Stability Board or any part thereof.

**“Replacement Rate”** has the meaning set forth in Section 2.6(a).

**“Reserve Report”** means a Reserve Report (Annual) and a Reserve Report (Interim), as the case may be.

**“Reserve Report (Annual)”** means each annual report prepared by one or more Approved Petroleum Engineers, in form and substance satisfactory to the Majority Lenders in their sole discretion (including, without limitation, the use of satisfactory methodologies and risk analyses), setting forth the updated estimates of Proved Developed Producing Reserves, Proved Developed Non-Producing Reserves, Proved Undeveloped Reserves and projected production profiles and overall economics of the Loan Parties’ Oil and Gas Properties, together with a projection of the rate of production and future cash flows as of such date, based on the following pricing assumptions:

- (a) oil and gas prices will conform to the Five-Year Strip Price;
- (b) taking into account the Borrower’s or the applicable operator’s actual experiences with leasehold operating expenses and other costs in determining projected leasehold operating expenses and other costs; and
- (c) identifying and taking into account any “over-produced” or “under-produced” status under gas balancing arrangements.

**“Reserve Report (Interim)”** means each quarterly report internally prepared by the Borrower and delivered to the Agent pursuant to Section 6.1(n), in form and substance satisfactory to the Majority Lenders in their sole discretion (including, without limitation, the use of satisfactory methodologies and risk analyses), pursuant to which the Borrower updates the most recently delivered Reserve Report (Annual) to reflect the Five-Year Strip Price in effect as of the date of delivery of such Reserve Report (Interim).

**“Restricted Junior Payment”** means (a) any dividend or other distribution, direct or indirect, on account of any Capital Stock of any Loan Party or any of its Subsidiaries now or hereafter outstanding, except a dividend payable solely in additional shares of that class of Capital Stock (other than Disqualified Capital Stock) to the holders of that class; (b) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any Capital Stock of any Loan Party now or hereafter outstanding; (c) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any Capital Stock of any Loan Party now or hereafter outstanding; and (d) any payment of management or similar fees to any parent of a Loan Party, any other holders of Capital Stock in a Loan Party (whether direct or indirect) or any Affiliate of any Loan Party.

**“S&P”** means Standard & Poor’s Ratings Group, a division of The McGraw Hill Corporation.

**“Sanctions”** as defined in Section 5.34.

**“Secured Parties”** has the meaning assigned to that term in each Security Document.

**“Security Documents”** and **“Security”** means the documents described in Section 3.1 and any other documents which may be given to or held by the Agent or the Lenders from time to time to secure repayment of any or all of the Obligations, including, without limitation, the security documents provided to the Agent pursuant to Section 3.6, as such documents may be amended, modified, supplemented, replaced or restated from time to time.

**“Securities Account”** means any “securities account” as defined in the *Securities Transfer Act* (Alberta).

**“Securities Act of 1933”** means the *Securities Act of 1933*, as amended from time to time, and any successor statute.

**“Solvency Certificate”** means a Solvency Certificate of a Financial Officer substantially in the form of Exhibit F.

**“Solvent”** means, with respect to any Person, that as of the date of determination, both (a)(i) the sum of such Person’s and its consolidated Subsidiaries’ Indebtedness does not exceed the fair value of such Person’s and its consolidated Subsidiaries’ present assets (determined on a going-concern basis); (ii) if applicable, such Person’s capital is not unreasonably small in relation to its business as contemplated on the Closing Date or Advance Date, as applicable; and (iii) such Person does not intend to, and does not believe that it will, incur debts beyond its ability to pay as such debts mature in the ordinary course; and (b) such Person is **“solvent”** within the meaning given that term and similar terms under Applicable Law relating to fraudulent transfers and conveyances. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that could reasonably be expected to become an actual or matured liability.

**“SPE Definitions”** means, with respect to any term, the definition thereof adopted by the Board of Directors, Society for Petroleum Engineers (SPE) Inc., March 1997.

**“Stated Maturity Date”** means July 6, 2025.

**“Subsidiary”** means, with respect to any Person, any corporation, partnership, limited liability company, association, Joint Venture or other business entity the accounts of which would be consolidated with those of such Person in such Person’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, partnership, limited liability company, association, Joint Venture or other business entity of which more than 50% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof; *provided*, in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interest in the nature of a **“qualifying share”** of the former Person shall be deemed to be outstanding.

**“Swap Agreement”** means any transaction (including an agreement with respect thereto) now existing or hereafter entered by any Person which is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or

pricing indices or measures of economic, financial or pricing risk or value or other financial measures and whether exchange traded, “over-the-counter” or otherwise.

“**Swap Provider**” means (a) BP Energy Company, and (b) each other swap counterparty approved in writing from time to time by the Majority Lenders; *provided* the Majority Lenders may, by giving written notice to the Borrower, elect to revoke such swap counterparty’s status as a Swap Provider for purposes of any Swap Agreements entered into following such notice.

“**Swap Intercreditor Agreement**” means an intercreditor and collateral agency agreement, in form and substance satisfactory to the Majority Lenders in their sole discretion, to be entered into among the Borrower, the Lenders, the Agent and the Swap Provider, providing for, among other things, the sharing, on a *pari passu* basis, of the Security as between the Lenders and the Swap Provider.

“**Taxes**” means any present or future tax, levy, impost, duty, assessment, charge, fee, deduction or withholding of any nature and whatever called, which are imposed, levied, collected, charged, deducted, withheld or assessed by any Governmental Authority, including any interest, penalties, additional amounts or similar amounts thereon.

“**Test Period**” shall mean, at any time, the four consecutive Fiscal Quarters of the Borrower then last ended (in each case taken as one accounting period) for which financial statements have been or were required to be delivered pursuant to Sections 6.1(a) or 6.1(b); *provided* that for the purposes of determining EBITDA for any Test Period, EBITDA shall be deemed to be:

- (a) for the Fiscal Quarter ending on September 30, 2022, the amount thereof determined for the one Fiscal Quarter then ended, multiplied by 4;
- (b) for the Fiscal Quarter ending on December 31, 2022, the amount thereof determined for the two Fiscal Quarters then ended, multiplied by 2;
- (c) for the Fiscal Quarter ending on March 31, 2023, the amount thereof determined for the three Fiscal Quarters then ended, multiplied by 4/3; and
- (d) for the Fiscal Quarter ending on June 30, 2023 and each subsequent Fiscal Quarter end, the amount thereof determined for the four Fiscal Quarters then ended.

“**Transaction Costs**” means (a) the fees, costs and expenses payable by the Loan Parties on or before the Closing Date in connection with the Transactions, and (b) the fees, costs or expenses payable by the Loan Parties on or after the Closing Date pursuant to the Acquisition.

“**Transactions**” has the meaning given to such term in the Commitment Letter.

“**Unadjusted Benchmark Replacement**” means the Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“**Unrestricted Cash**” means readily and immediately available unrestricted Cash held in deposit accounts of the Borrower or any Subsidiary; *provided that* such deposit accounts and the funds therein shall be unencumbered and free and clear of all Liens and other third party rights other than (a) Liens in favour of the Agent pursuant to a Control Agreement, and (b) a Lien in favour of the depository institution holding such deposit accounts arising solely by virtue of such depository

institution's standard account documentation or any statutory or common law provision relating to banker's liens, rights of set-off or similar rights and remedies and burdening only such deposit accounts.

**"Welfare Plan"** means (i) a **"welfare plan"**, as such term is defined in Section 3(1) of ERISA, and (ii) any other medical, health, hospitalization, insurance or other employee benefit or welfare plan, agreement or arrangement applicable to employees of a Loan Party.

## **1.2 Accounting Terms**

Except as otherwise expressly provided herein, all accounting terms not otherwise defined herein shall have the meanings assigned to them in conformity with GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and the Borrower or the Agent (acting at the written direction of the Majority Lenders) shall so request, the Agent (acting at the written direction of the Majority Lenders) and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP; *provided that*, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and the Borrower shall provide to Agent and Lenders reconciliation statements requested by Agent (acting at the written direction of the Majority Lenders) (reconciling the computations of such financial ratios and requirements from then-current GAAP computations to the computations under GAAP prior to such change) in connection therewith. Financial statements and other information required to be delivered by the Borrower to Lenders pursuant to Section 6.1(b) shall be prepared in accordance with GAAP as in effect at the time of such preparation. Financial statements pursuant Sections 6.1(a) and 6.1(b) shall be prepared in conformity with cash or tax basis accounting principles in accordance with GAAP and that are acceptable to the Majority Lenders. Subject to the foregoing, calculations in connection with the definitions, covenants and other provisions hereof shall utilize accounting principles and policies in conformity with those used to prepare the historical financial statements of the Borrower.

**1.3 Interpretation, etc.** Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. References herein to any Section, Appendix, Schedule or Exhibit shall be to a Section, an Appendix, a Schedule or an Exhibit, as the case may be, hereof unless otherwise specifically provided. References herein to a Schedule shall be considered a reference to such Schedule as of the Closing Date. The use herein of the word "include" or "including", when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not any limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. Unless otherwise indicated, any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein). The use herein of the phrase "to the

knowledge of” with respect to a Loan Party shall be a reference to the knowledge of the Authorized Officers of the applicable Loan Party.

#### 1.4 Interest Act (Canada)

- (a) For the purposes of this Agreement, whenever interest to be paid hereunder is to be calculated on the basis of 360 days or any other period of time that is less than a calendar year, the yearly rate of interest to which the rate determined pursuant to such calculation is equivalent is the rate so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 360 or such other number of days in such period, as the case may be.
- (b) Each of the Loan Parties confirms that it fully understands, and is able to calculate, the rate of interest applicable to the Loans and irrevocably agrees not to plead or assert, whether by way of defence or otherwise, in any proceeding relating to any of the Loan Documents, that the interest payable under any of the Loan Documents and the calculation thereof has not been adequately disclosed to the Loan Parties, whether pursuant to Article 4 of the *Interest Act* (Canada) or any other applicable law or legal principle.

## ARTICLE 2 THE LOANS

### 2.1 Loans

Subject to the terms and conditions hereof, each Lender agrees to make Loans to the Borrower, so long as (i) with respect to any Lender, the aggregate Loans to be made by such Lender do not exceed such Lender’s Pro Rata Share, as applicable, of the aggregate amount of all Loans requested from the Lenders, and (ii) the aggregate principal amount of all Loans by all Lenders hereunder equals the Aggregate Commitment Amount. The Loans shall be advanced as follows:

- (a) on the Closing Date:
  - (i) the Loan outstanding under the Existing Credit Agreement in the amount of \$52,107,077.54 from [Redacted] shall be deemed to be outstanding under this Agreement as a Loan in such amount from [Redacted] ; and
  - (ii) the Loan outstanding under the Existing Credit Agreement in the amount of \$42,515,905.29 from [Redacted] shall be deemed to be outstanding under this Agreement as a Loan in such amount from [Redacted] ,(together, the “**Existing Loans**”); and
- (b) on the Advance Date, Loans in the aggregate amount of \$200,000,000 shall be advanced by the Lenders to the Borrower in one draw (collectively, the “**Additional Loans**”) as follows:

<b>Lender</b>	<b>Principal Amount of Additional Loan</b>
[Redacted]	\$80,578,810
[Redacted]	\$21,984,095
[Redacted]	
[Redacted]	\$33,707,661
<b>Total</b>	<b>\$200,000,000</b>

Once borrowed, the Borrower may not reborrow any Loans that have been repaid or prepaid, whether in whole or in part. If the Borrower does not draw the full amount of Additional Loans for any reason, any remaining Commitments shall be cancelled.

## **2.2 Notes**

Upon the request of any Lender, the Borrower shall execute and deliver to such Lender one or more promissory notes in the amount of such Lender's Commitment Amount made by the Borrower payable to such Lender or its registered assignees substantially in the form of Exhibit C (herein called such Lender's "**Note**" and collectively, the "**Notes**"). Borrower may not borrow, repay, and reborrow hereunder or under the Notes.

## **2.3 Request for Additional Loans**

The Additional Loans shall be available in one draw on the Advance Date. In order to draw the Additional Loans, the Borrower must provide the Agent with a signed Borrowing Notice requesting that the Additional Loans be made by the Lenders. The Borrowing Notice must:

- (a) specify the aggregate amount of the Additional Loans; and
- (b) be received by the Agent by 10:00 a.m. (New York time) five (5) Business Days prior to the proposed Advance Date.

Each such written request must be made in the form and substance of the Borrowing Notice, duly completed. Upon receipt of any such Borrowing Notice, Agent shall give each Lender prompt notice of the terms thereof. If all conditions precedent to the Additional Loans have been met, each Lender will on the date requested promptly remit to Agent, at Agent's Account, the amount of such Lender's Additional Loans in immediately available funds not later than 2:00 p.m. (New York time) on the date specified on the Borrowing Notice, and upon receipt of all requested funds, such funds will then be made available to the Borrower by the Agent by wire transfer in accordance with written instructions provided to the Agent by the Borrower of like funds as received by the Agent. If (i) the written request for the Additional Loans has not been received within five (5) Business Days after the Closing Date in accordance with this Section 2.3, or (ii) the written request for the Additional Loans has been received in accordance with this Section 2.3, but the conditions precedent in Section 4.2 have not been satisfied or waived by the Lenders by

the proposed Advance Date, Additional Loans shall no longer be available under this Agreement and all Commitments in respect of Additional Loans shall be cancelled.

## **2.4 Use of Proceeds**

- (a) Existing Loans. The proceeds of the Existing Loans shall have been used only for the purposes set out in Section 2.4 of the Existing Credit Agreement.
- (b) Additional Loans. The proceeds of the Additional Loans shall be used only (i) fund the Acquisition, (ii) make the security deposit required by the Saskatchewan Ministry of Energy and Resources with respect to abandonment and/or reclamation liabilities in accordance with the Acquisition Agreement, and (iii) pay Transaction Costs.

## **2.5 Evidence of Debt; Register; Lenders' Books and Records; Loans**

- (a) Lenders' Evidence of Debt. Each Lender shall maintain in its internal records an account or accounts evidencing the Obligations of the Borrower to such Lender, including the amounts of the Loans made by such Lender and each repayment and prepayment in respect thereof. The failure to make any such recordation, or any error in such recordation, shall not affect any Obligations in respect of any applicable Loans; and provided, in the event of any inconsistency between the Register and any Lender's records, the recordations in the Register shall govern.
- (b) Register. Agent shall maintain at Agent's Office a register for the recordation of the names and addresses of Lenders and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The Register shall be available for inspection by the Borrower and the Lenders, at any reasonable time and from time to time upon reasonable prior written notice. The entries in the Register shall be conclusive and binding on the Loan Parties, the Agent and each Lender, absent manifest error; *provided*, failure to make any such recordation, or any error in such recordation, shall not affect the Loan Parties' Obligations in respect of any Loan. The Borrower, the Agent and the Lenders shall treat each Person in whose name any Loan shall be registered as the owner and the Lender thereof for all purposes hereof. The Borrower hereby designates the entity serving as Agent to serve as the Borrower's non-fiduciary agent solely for purposes of maintaining the Register as provided in this Section 2.5, and the Borrower hereby agrees that, to the extent such entity serves in such capacity, the entity serving as Agent and its officers, directors, employees, agents and affiliates shall constitute "**Indemnitees**".

## **2.6 Interest; Agent Fee**

- (a) Interest. Each Loan shall at all times bear interest at a rate equal to the sum of CDOR *plus* 11.50% per annum (as such amount may be increased pursuant to Section 2.6(c)) paid in cash (the "**Interest**").
  - (i) Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current

Benchmark, then a Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (Calgary time) on the 5th Business Day after the date notice of a Benchmark Replacement is provided by the Lenders or any one of them to the Agent, and the Agent has notified the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Agent has not received, by such time, written notice of objection a the Benchmark Replacement from Lenders comprising the Majority Lenders.

- (ii) In connection with the implementation of a Benchmark Replacement, the Agent, at the direction of the Majority Lenders, will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.
- (iii) The Lenders or any one of them may notify the Agent, and the Agent will promptly notify the Borrower and the Lenders of (A) any occurrence of a Benchmark Transition Event or Early Opt-in Election, as applicable, and its related Benchmark Replacement Date, (B) the implementation of any Benchmark Replacement, (C) the effectiveness of any Benchmark Replacement Conforming Changes, (D) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (E) below and (F) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 2.6(a), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.6(a).
- (iv) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including CDOR) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Agent may modify the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including the Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer

be representative for a Benchmark (including a Benchmark Replacement), then the Agent may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

- (v) Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any request for a borrowing of, conversion to or continuation of CDOR Loans to be made, converted or continued during any such Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to a Canadian Prime Rate Loan. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark for Canadian Dollars is not an Available Tenor, the component of Canadian Prime Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of Canadian Prime Rate.
- (b) Interest Payment Dates. Interest on each Loan shall be due and payable on each Interest Payment Date. All interest payable hereunder shall be computed on the basis of a 360-day year for the actual amount of days elapsed.
- (c) Default Interest. Upon the occurrence and during the continuance of a Default or Event of Default, the principal amount of all Loans outstanding and, to the extent permitted by Applicable Law, any interest payments on the Loans or any fees or other amounts owed hereunder, shall thereafter bear interest (including post-petition interest in any bankruptcy, insolvency or similar proceeding, whether or not allowed in such a proceeding) payable in Cash on demand at a rate that is 3.0% per annum in excess of the interest rate otherwise payable hereunder with respect to the Loans. Payment or acceptance of the increased rates of interest provided for in this Section 2.6(c) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Agent or any Lender.
- (d) Agent Fee. On the Original Closing Date and on each anniversary thereof occurring prior to the repayment in full of the Obligations (other than contingent obligations for which no claim has been made), the Borrower will pay to the Agent, for its own account, a fee as required by the Agency Fee Letter.

## 2.7 Repayment of Loans

- (a) The Borrower shall repay to the Agent for the account of each Lender monthly installments of principal on the last day of each calendar month (commencing with the last day of the second full calendar month ending after the Closing Date (or the next succeeding Business Day if such day is not a Business Day)) in an amount equal to the percentage set forth below of the aggregate principal amount of the outstanding Loans on the Advance Date:

**Loan Period**

**Percent per Month**

During the period beginning August 31, 2022 and ending July 31, 2023	4.17%
During the period beginning August 31, 2023 and ending July 31, 2024	2.50%
During the period beginning August, 2024 and ending on the Stated Maturity Date	1.67%

- (b) To the extent not previously paid, all principal and interest remaining outstanding on the Stated Maturity Date shall be paid by the Borrower in full in immediately available funds on such date.

**2.8 Voluntary Prepayments** The Borrower may prepay the Loans on any Business Day in whole or in part (together with any amounts due pursuant to Section 2.6, Section 2.11(g) and Section 2.11(h)) in an aggregate minimum amount equal to if being paid in whole, the Obligations, and if being paid in part, \$2,500,000 and integral multiples of \$500,000 in excess of that amount. All such prepayments shall be made upon not less than three Business Days' prior written notice, in each case given to the Agent by 12:00 p.m. (New York time) on the date required. Upon the giving of any such notice, the principal amount of the Loans specified in such notice shall become due and payable on the prepayment date specified therein. Any such voluntary prepayment shall be applied as specified in Section 2.10.

**2.9 Mandatory Prepayments.**

- (a) Excess Cash Flow. On each Quarterly Date (commencing with the last day of the first full Fiscal Quarter ending after the Closing Date), the Borrower will determine Adjusted Excess Cash Flow for the Fiscal Quarter then most recently ended. Once Adjusted Excess Cash Flow has been determined in accordance with this Section 2.9(a), on the date specified therein, in addition to the repayments required under Section 2.7, the Borrower shall send a written offer to prepay the Loans to each Lender, in an aggregate amount equal to the lesser of the outstanding balance of the Loans and 95% of the amount of Adjusted Excess Cash Flow (together with the applicable Exit Fee and any accrued and unpaid interest to but not including the prepayment date).
- (b) Asset Sales. Subject to Section 7.8(b), within three (3) Business Days of the date of receipt by any Loan Party (or any Affiliate on behalf of such Loan Party) of any Net Asset Sale Proceeds other than as a result of any sales of Hydrocarbons in the ordinary course of business, the Borrower shall send a written offer to prepay the Loans to each Lender, in an aggregate amount equal to the lesser of the outstanding balance of the Loans and 100% of the amount of such Net Asset Sale Proceeds (together with the applicable Exit Fee, the Applicable Prepayment Premium and any accrued and unpaid interest to but not including the prepayment date); *provided* that any Net Asset Sale Proceeds received by a Loan Party as a result of a disposition permitted pursuant to Section 7.8(b)(iii) may, in the Borrower's discretion, be reinvested within 180 days of receipt.

- (c) Insurance/Condemnation Proceeds. Within three (3) Business Days of the date of receipt by any Loan Party (or any Affiliate on behalf of such Loan Party), or Agent as sole loss payee, of any Net Insurance/Condemnation Proceeds, the Borrower shall send a written offer to prepay the Loans to each Lender in an aggregate amount equal to such Net Insurance/Condemnation Proceeds (together with the Applicable Exit Fee, the Applicable Prepayment Premium and any accrued and unpaid interest to but not including the prepayment date); *provided* that if there shall occur any damage or destruction with respect to which Net Insurance/Condemnation Proceeds for any single loss not in excess of \$2,500,000 or series of losses not in excess of \$5,000,000 in the aggregate at any time are payable, such Net Insurance/Condemnation Proceeds shall, in the Borrower's discretion, be paid to the Borrower and applied to the payment of the cost of the repair or restoration of such damage or destruction not later than 30 days after receipt of such Net Insurance/Condemnation Proceeds.
- (d) Issuance of Indebtedness. Within three (3) Business Days of the date of receipt by any Loan Party (or any Affiliate on behalf of such Loan Party) of any Cash proceeds from the incurrence of any Indebtedness (other than Indebtedness that is permitted hereunder), the Borrower shall send a written offer to prepay the Loans to each Lender in an aggregate amount equal to the lesser of the outstanding balance of the Loans and 100% of such proceeds, net of underwriting discounts and commissions and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses (together with the applicable Exit Fee, the Applicable Prepayment Premium and any accrued and unpaid interest to but not including the prepayment date).
- (e) Extraordinary Receipts. Within three (3) Business Days following the date of receipt by any Loan Party (or any Affiliate on behalf of such Loan Party) of any Extraordinary Receipts in excess of \$1,000,000, the Borrower shall send a written offer to prepay the Loans to each Lender in an aggregate amount equal to such Extraordinary Receipts in excess of \$1,000,000 (together with the applicable Exit Fee, the Applicable Prepayment Premium and any accrued and unpaid interest to but not including the prepayment date).
- (f) Tax Refunds. Within three (3) Business Days of receipt by any Loan Party for its account (or any Affiliate on behalf of such Loan Party) or promptly thereafter of any tax refunds in excess of \$1,000,000 in the aggregate in any Fiscal Year, the Borrower shall send a written offer to prepay the Loans to each Lender in an aggregate amount equal to the amount of such tax refunds, net of any incremental income Taxes that are imposed a result of receiving such refund (together with the applicable Exit Fee, the Applicable Prepayment Premium and any accrued and unpaid interest to but not including the prepayment date).
- (g) Change of Control. Thirty (30) days prior to any Change of Control, the Borrower shall send a written offer to prepay to each Lender, and each Lender will have the right to require the Borrower to prepay all or any part of the outstanding principal amount of the Loans owing to such Lender (together with the applicable Exit Fee, the Applicable Prepayment Premium and any accrued and unpaid interest to but not including the prepayment date).

- (h) Prepayment Certificate. Not later than 12:00 p.m. (New York time), one Business Day prior to any prepayment of the Loans pursuant to Sections 2.9(a) to (f), the Borrower shall deliver to Agent a certificate of a Financial Officer demonstrating the calculation of the amount of the applicable proceeds giving rise to the prepayment. In the event that the Borrower shall subsequently determine that the actual amount received exceeded the amount set forth in such certificate, the Borrower shall promptly make an additional prepayment of the Loans in an amount equal to such excess, and the Borrower shall concurrently therewith deliver to Agent a certificate of a Financial Officer demonstrating the calculation of such excess.
- (i) Offer to Prepay. Notwithstanding anything in this Agreement to the contrary, each Lender, in its sole discretion, may, but is not obligated to, decline the Borrower's offer to make any prepayments pursuant to Sections 2.9(a) through (g). Promptly after the date of receipt of (i) with respect to any prepayment pursuant to Sections 2.9(a) through (f), the certificate specified in Section 2.9(h), or (ii) with respect to an offer to prepay pursuant to Section 2.9(g), a written offer to prepay, the Agent shall provide written notice (the "**First Offer**") to the Lenders of the amount available to prepay the Loans. Any Lender declining such prepayment (a "**Declining Lender**") shall give written notice thereof to the Agent by 12:00 p.m. (New York time) no later than three (3) Business Days prior to the prepayment date. Promptly after receipt thereof, the Agent shall then provide written notice (the "**Second Offer**") to the Lenders other than the Declining Lenders (such Lenders being the "**Accepting Lenders**") of the additional amount available (due to such Declining Lenders' declining such prepayment) to prepay Loans owing to such Accepting Lenders, such available amount to be allocated on a pro rata basis among the Accepting Lenders that accept the Second Offer. Any Lenders declining prepayment pursuant to such Second Offer shall give written notice thereof to the Agent by 12:00 p.m. (New York time) no later than one (1) Business Day prior to the prepayment date. The Borrower shall prepay the Loans within one (1) Business Day after its receipt of notice from the Agent of the aggregate amount of such prepayment. Amounts remaining after the allocation of accepted amounts with respect to the First Offer and the Second Offer to Accepting Lenders shall be retained by the Borrower.

**2.10 Application of Payments** Any payment of any Loan made pursuant to Sections 2.7, 2.8, or 2.9 shall be applied as follows:

- (a) first, to pay all unpaid expenses, fees and actual, incurred indemnities of the Agent due hereunder to the full extent thereof;
- (b) second, ratably to pay all unpaid expenses, fees and actual, incurred indemnities due hereunder to the full extent thereof so long as the Agent has been provided verified invoices or other evidence with respect thereof;
- (c) third, ratably to pay any accrued unpaid Interest (including interest at the Default Rate, if any) on Loans until paid in full;
- (d) fourth, ratably to pay the Applicable Prepayment Premium and Exit Fee, if any, on the Loans until paid in full;

- (e) fifth, to prepay the principal amount of all Loans then outstanding until paid in full;
- (f) sixth, ratably to pay any other Obligations then due and payable; and
- (g) seventh, to the Borrower.

## 2.11 General Provisions Regarding Payments

- (a) All payments by the Borrower of principal, interest, fees and other Obligations shall be made in Dollars in same day funds, without, recoupment, setoff, counterclaim or other defense, free of any restriction or condition, and delivered to Agent not later than 2:00 p.m. (New York time) on the date due to Agent's Account for the account of Lenders; funds received by Agent after that time on such due date may be deemed to have been paid by the Borrower on the next Business Day.
- (b) All prepayments in respect of the principal amount of any Loan shall be accompanied by payment of accrued interest on the principal amount being repaid or prepaid.
- (c) Agent shall promptly distribute to each Lender at such address as such Lender shall indicate in writing, such Lender's applicable Pro Rata Share of all payments and prepayments of principal and interest due hereunder, together with all other amounts due thereto, including all fees payable with respect thereto, to the extent received by Agent.
- (d) Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of the payment of interest hereunder.
- (e) Agent may deem any payment by or on behalf of the Borrower hereunder that is not made in same day funds prior to 2:00 p.m. (New York time) to be a non-conforming payment. Any such payment may not be deemed to have been received by Agent until the later of the time such funds become available funds, and the applicable next Business Day. Interest and fees shall continue to accrue on any principal as to which a non-conforming payment is made until such funds become available funds (but in no event less than the period from the date of such payment to the next succeeding applicable Business Day) at the applicable rate determined pursuant to Section 2.6(a) from the date such amount was due and payable until the date such amount is paid in full.
- (f) If an Event of Default shall have occurred, is continuing and not otherwise been waived, all payments or proceeds received by Agent hereunder in respect of any of the Obligations shall be applied first, to pay any costs and expenses then due Agent in connection with the foreclosure or realization upon, the disposal, storage, maintenance or otherwise dealing with any of, the Collateral or otherwise, and indemnities and other amounts then due to Agent under the Loan Documents until paid in full, second, to pay any costs, expenses, indemnities or fees then due to Agent under the Loan Documents until paid in full, third, ratably to pay any expenses, fees or indemnities then due to any of the Lenders under the Loan Documents, until paid in full, fourth, ratably to the payment of any accrued interest

(including interest at the Default Rate, if any) until paid in full, fifth, ratably to pay any Applicable Prepayment Premium or Exit Fee or other make-whole amounts until paid in full, sixth, ratably to pay the principal amount of all Loans then outstanding until paid in full, seventh, ratably to pay any other Obligations then due and payable, and eighth, to the Borrower.

- (g) Except for prepayments pursuant to Section 2.9(a), upon any prepayment of the Loans under this Agreement (including optional prepayments pursuant to Section 2.8, mandatory prepayments pursuant to Section 2.9(b) to 2.9(g) inclusive, and upon acceleration of the Loans pursuant to Section 8.2 (whether automatic or optional acceleration) following an Event of Default or otherwise) the Borrower shall make a payment to the Agent in an aggregate amount equal to 100% of the principal amount so prepaid or accelerated *plus* (x) to the extent occurring on or prior to the date that is 12 months following the Closing Date, an amount equal to the principal amount of such Loans multiplied by 5.00%, or (y) to the extent occurring after the date that is after 12 months following the Closing Date, but on or before the date which is 24 months following the Closing Date, an amount equal to the principal amount of such Loans multiplied by 3.00% (the “**Applicable Prepayment Premium**”).
- (h) Upon any repayment or prepayment of the principal amount of the Loans, including pursuant to Sections 2.7, 2.8, or 2.9 or as a result of an acceleration of the Loans pursuant to Section 8.2 (whether automatic or optional acceleration) following an Event of Default or otherwise, the Borrower shall pay to each Lender entitled to a portion of such repayment or prepayment, an exit fee (the “**Exit Fee**”) equal to 2.50% of the aggregate principal amount of such repayment or prepayment.

## 2.12 Ratable Sharing

Lenders hereby agree among themselves that, if any of them shall, whether by voluntary payment (other than a voluntary prepayment of Loans made and applied in accordance with the terms hereof), through the exercise of any right of set off or banker’s lien, by counterclaim or cross action or by the enforcement of any right under the Loan Documents or otherwise, receive payment or reduction of a proportion of the aggregate amount of principal, interest, fees and other amounts then due and owing to such Lender hereunder or under the other Loan Documents (collectively, the “**Aggregate Amounts Due**” to such Lender) which is greater than the proportion received by any other Lender in respect of the Aggregate Amounts Due to such other Lender, then the Lender receiving such proportionately greater payment (the “**Receiving Lender**”) shall (a) notify the Agent and each other Lender of the receipt of such payment and (b) apply a portion of such payment to make loans (the “**Lender Loans**”) (which it shall be deemed to have made simultaneously upon the receipt by each such other Lender of its portion of such payment) in the ratable Aggregate Amounts Due to the other Lenders so that all such recoveries of Aggregate Amounts Due shall be shared by all Lenders in proportion to the Aggregate Amounts Due to them; *provided*, if all or part of such proportionately greater payment received by such Receiving Lender is thereafter recovered from such Lender upon the bankruptcy or reorganization of the Borrower or otherwise, those Lender Loans made to the other Lenders shall be rescinded and the principal amounts of such Lender Loans shall be returned to the Receiving Lender ratably to the extent of such recovery, but without interest. The Borrower expressly consents to the foregoing arrangement and agrees that any Lender may exercise any and all rights of banker’s lien, set off or counterclaim with respect to any and all monies owing by the Borrower to that Lender with respect thereto as fully as if that Lender were owed the amount of the Loans made by that Lender.

### **2.13 Increased Costs**

Subject to the provisions of Section 2.14 (which shall be controlling with respect to the matters covered thereby), in the event that any Lender shall determine (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto) that any Governmental Requirement, or any change therein or in the interpretation, administration or application thereof (including the introduction of any new law, treaty or governmental rule, regulation or order), or any determination of a court or Governmental Authority, in each case that becomes effective after the date hereof, or compliance by such Lender with any guideline, request or directive issued or made after the date hereof by any central bank or other Governmental Authority or quasi-Governmental Authority (whether or not having the force of law): subjects such Lender (or its Applicable Office) to any additional Taxes (other than any Indemnified Taxes) with respect to this Agreement or any of the other Loan Documents or any of its obligations hereunder or thereunder or any payments to such Lender (or its Applicable Office) of principal, interest, fees or any other amount payable hereunder or its deposits, reserves, other liabilities, or capital attributable thereto; imposes, modifies or holds applicable any reserve (including any marginal, emergency, supplemental, special or other reserve), special deposit, compulsory loan, insurance or similar requirement against assets held by, or deposits or other liabilities in or for the account of, or advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of such Lender; or imposes any other condition, cost or expense (other than with respect to a tax matter) on or affecting such Lender (or its Applicable Office) or its obligations hereunder; and the result of any of the foregoing is to increase the cost to such Lender of agreeing to make, making or maintaining Loans hereunder or to reduce any amount received or receivable by such Lender (or its Applicable Office) with respect thereto; then, in any such case, Borrower shall promptly pay to such Lender, upon receipt of the statement referred to in the next sentence, such additional amount or amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its sole discretion shall determine) as may be necessary to compensate such Lender for any such increased cost or reduction in amounts received or receivable hereunder. Such Lender shall deliver to Borrower (with a copy to Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to such Lender under this Section 2.13, which statement shall be conclusive and binding upon all parties hereto absent manifest error.

### **2.14 Taxes; Withholding, etc.**

- (a) If any Loan Party, the Agent or any Lender is required by Applicable Law to deduct or pay any Indemnified Taxes (including any Other Taxes) in respect of any payment by or on account of any obligation of a Loan Party hereunder or under any other Loan Document, then (i) the sum payable will be increased by that Loan Party when payable as necessary so that after making or allowing for all required deductions and payments (including deductions and payments applicable to additional sums payable under this Section) the Agent or such Lender receives an amount equal to the sum it would have received had no such deductions or payments been required, (ii) the Loan Party will make any such deductions required to be made by it under Applicable Law, and (iii) the Loan Party will pay when due the full amount required to be deducted to the relevant Governmental Authority in accordance with Applicable Law.
- (b) Without limiting the provisions of Section 2.14(a), the Borrower will timely pay any Other Taxes to the relevant Governmental Authority in accordance with Applicable Law.

- (c) The Borrower will indemnify the Agent or such Lender, within 10 days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Agent or such Lender and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other 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 Borrower by a Lender (with a copy to the Agent), or by the Agent on its own behalf or on behalf of a Lender, will be conclusive absent manifest error.
- (d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by a Loan Party to a Governmental Authority, the Loan Party will deliver to the Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Agent.
- (e) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Loan Document will, at the request of the Borrower, deliver to the Borrower (with a copy to the Agent), at the time or times prescribed by Applicable Law or reasonably requested by the Borrower or the Agent, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, (a) any Lender, if requested by the Borrower or the Agent, will deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent to determine whether or not such Lender is subject to withholding or information reporting requirements, and (b) any Lender that ceases to be, or to be deemed to be, resident in Canada for purposes of Part XIII of the *Income Tax Act* (Canada) or any successor provision thereto will within five days thereof notify the Borrower and the Agent in writing.
- (f) If the Agent or a Lender determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes in respect of which it has been indemnified by the Borrower or with respect to which a Loan Party has paid additional amounts pursuant to this Section 2.14 or that, because of the payment of such Taxes or Other Taxes, it has benefited from a reduction in Excluded Taxes otherwise payable by it, it will pay to the Borrower or other Loan Party, as applicable, an amount equal to such refund or reduction (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower or Loan Party under this Section with respect to the Taxes or Other Taxes giving rise to such refund or reduction), net of all out-of-pocket expenses of the Agent or such Lender, as the case may be, and without interest (other than any net after-Tax interest paid by the relevant Governmental Authority with respect to such refund). The Borrower or other Loan Party as applicable, upon the request of the Agent or such Lender, agrees to repay the amount paid over to the Borrower or other Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Agent or such Lender if the Agent or such Lender is required to repay such refund or reduction to such Governmental Authority. This paragraph

will not be construed to require the Agent or any Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person, to arrange its affairs in any particular manner or to claim any available refund or reduction.

**2.15 Original Issue Discounts** Notwithstanding anything else herein, including Section 2.1, the Borrower acknowledges and agrees that:

- (a) proceeds of the Existing Loans were received from the Lenders net of 3.375% of the principal amount of such Existing Loans made by such Lenders; and
- (b) it will receive proceeds of the Additional Loans on the Advance Date from the Lenders net of 3.375% of the principal amount of such Additional Loans made by such Lenders.

Such discounts will be treated as original issue discounts on the Loans for income tax purposes and will reduce the net issue price of the Loans.

**2.16 Defaulting Lenders**

- (a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:
  - (i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 10.6.
  - (ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article 9 or otherwise) shall be applied at such time or times as may be determined by the Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Agent hereunder; *second*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Agent; *third*, if so determined by the Agent and the Borrower, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement; *fourth*, to the payment of any amounts owing to the Agent or Lenders as a result of any judgment of a court of competent jurisdiction obtained by the Agent or any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *fifth*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *sixth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if

such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, such payment shall be applied solely to pay the Loans of all Lenders that are not Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans are held by the Lenders pro rata in accordance with the Commitments. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

- (b) Defaulting Lender Cure. If the Borrower and the Agent agree in writing that a Lender is no longer a Defaulting Lender, the Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any cash collateral), that Lender will, to the extent applicable, purchase, at par, that portion of outstanding Loans of the other Lenders or take such other actions as the Agent may determine to be necessary to cause the Loans to be held pro rata by the Lenders in accordance with the Commitments, whereupon such Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and *provided, further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

**2.17 Mitigation Obligations** If any Lender requests compensation under Section 2.13, or requires the Borrower to pay any Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, then such Lender shall (at the request of the Borrower) use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.13 or Section 2.14, as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

## **ARTICLE 3 SECURITY**

### **3.1 Security**

As continuing collateral security for the Obligations, the Borrower shall and shall cause the other Loan Parties to execute and deliver, to the Agent, on behalf of itself and the Lenders, the following:

- (a) an amended and restated Debenture from the Borrower in the principal amount of \$1,000,000,000 granting a First Priority Lien (and a floating charge over all real property) in and to all of its present and after acquired real and personal assets,

property and undertaking, including the Acquisition Properties (the “**A&R Debenture**”);

- (b) an amended and restated assignment of Material Contracts from the Borrower, including for certainty a specific assignment of the Acquisition Agreement;
- (c) a deposit account control agreement covering each Deposit Account or Securities Account of each Loan Party (other than Excluded Accounts), in form and substance satisfactory to the Majority Lenders;
- (d) evidence of insurance coverage maintained by the Borrower in accordance with Section 6.6 designating the Agent as first loss payee in respect of the proceeds of the insurance;
- (e) if and when any other entity (other than the Borrower) becomes a Loan Party, within ten (10) Business Days thereafter, the documents referred to below:
  - (i) a pledge agreement or amendment thereto (as applicable) from the Borrower pursuant to which the Borrower pledges its interest in the Capital Stock of such Loan Party;
  - (ii) the original certificates evidencing the Capital Stock of such Loan Party and stock powers of attorney executed in blank in respect thereof;
  - (iii) an unlimited guarantee from such Loan Party of the Obligations;
  - (iv) a Debenture from such Loan Party in the principal amount of \$1,000,000,000 granting a First Priority Lien (and a floating charge over all real property) in and to all of its present and after acquired real and personal assets;
  - (v) registrations of the security from such Loan Party pursuant to Section 3.7; and
  - (vi) legal opinions of counsel for the Borrower covering such matters as may be reasonably requested by the Agent or counsel to the Lenders;
- (f) if and when requested by the Agent, such documents and instruments providing a fixed Lien in accordance with Section 3.6; and
- (g) such other assignments, mortgages, charges, pledges and other security agreements, consents and acknowledgements (including negative pledges) as the Agent may reasonably require from time to time.

### **3.2 Continuing Security**

The Security shall for all purposes be treated as separate and continuing guarantees and security and shall be deemed to have been given in addition to and not in place of any other guarantee or any security now held or hereafter acquired by the Agent or any Lender. No item or part of any guarantee or any other Security shall be merged or be deemed to have been merged in or by any simple contract debt or any judgment, and any realization of or steps taken or

pursuant to any guarantee or any other Security shall be independent of and not create a merger with any other right available to the Agent or any Lender under this Agreement, any Security or any other Loan Document held by it or them or at law or in equity.

If requested by any of the Agent or the Lenders, the Agent, the Borrower and the Lenders will enter into such further agreements and assurances as may be reasonably requested to further evidence the provisions of this Section 3.2.

### **3.3 Exclusivity of Remedies**

Nothing herein contained or in the Security now held or hereafter acquired by the Agent or the Lenders, nor any act or omission of the Agent or the Lenders with respect to any Security, will in any way prejudice or affect the rights, remedies or powers of the Agent and the Lenders with respect to any other security at any time held by the Agent or the Lenders.

### **3.4 Form of Security**

The Security and all other agreements, documents and instruments referred to in Section 3.1 will be in such form or forms as will be required by the Agent, acting on the direction of the Majority Lenders. Should the Agent, acting on the direction of the Majority Lenders, determine at any time and from time to time that the form and nature of the then-existing Security is deficient in any way or does not fully provide the Agent and the Lenders with the Liens and priority to which each is entitled hereunder, the Borrower will forthwith execute and deliver or cause to be executed and delivered to the Agent, acting on the direction of the Majority Lenders, at the Borrower's expense, such amendments to the Security or provide such new security as the Agent may reasonably request.

### **3.5 After-Acquired Property**

All property acquired by or on behalf of the Borrower or any other Loan Party after the date of execution of the Security which forms part of the property of the Borrower or any other Loan Party (hereinafter collectively referred to as "**After-Acquired Property**"), will be subject to the charges and security interests of the Debentures and the other Security, without any further conveyance, mortgage, pledge, charge, assignment or other act on the part of such parties. Without limiting the effect of the preceding sentence, the Borrower will from time to time execute and deliver, or cause to be executed and delivered, and the Agent will register, all at the Borrower's expense, such instruments supplemental to the Security, in form and substance satisfactory to the Agent, acting on the direction of the Majority Lenders, as may be necessary or desirable to ensure that the Security, as amended and supplemented, constitutes in favour of the Agent and the Lenders an effective fixed and floating charge or security interest over such After-Acquired Property as required hereunder, subject only to Permitted Liens which under Applicable Law rank in priority thereto.

### **3.6 Undertaking to Grant Additional Fixed Charge Security**

If the Lenders, on reasonable grounds and in good faith, determine that a Material Adverse Effect has occurred, or if an Event of Default has occurred and is continuing, the Borrower, at the request of the Agent, at the direction of the Majority Lenders, shall forthwith (and in any event not more than five Business Days after the receipt of such request) grant, or cause to be granted, to the Agent for the benefit of the Agent and the Lenders additional fixed charges to any charges already contained in a Debenture (subject only to Permitted Liens which under Applicable Law

rank in priority thereto) over such of the Borrower's and each other Loan Party's property as the Agent, at the direction of the Majority Lenders, determines as security for all then present and future Obligations. In this connection, the Borrower will, or will cause the other Loan Parties to:

- (a) provide the Agent with such information as is reasonably required by the Agent or any Lender to identify the additional property to be charged pursuant to this Section 3.6;
- (b) do all such things as are reasonably required to grant in favour of the Agent, on behalf of itself and the Lenders, a fixed Lien (subject only to Permitted Liens which under Applicable Law rank in priority thereto) in respect of such additional property to be so charged pursuant to this Section 3.6;
- (c) provide the Agent with all corporate or partnership, as applicable, resolutions and other action, as reasonably required, for the Borrower or any other Loan Party to grant to the Agent, on behalf of itself and the Lenders, a fixed Lien (subject only to Permitted Liens which under Applicable Law rank in priority thereto) in the property identified by the Agent to be so charged;
- (d) provide the Agent with such security instruments, legal opinions and other documents which the Agent, acting on the direction of the Majority Lenders, deems are necessary to give full force and effect to this Section 3.6;
- (e) assist the Agent in the registration or recording of such agreements and instruments in such public registry offices in Canada or any province thereof as the Agent, acting reasonably, deems necessary to give full force and effect to this Section 3.6; and
- (f) pay all costs and expenses incurred by the Agent in connection with the preparation, execution and registration of all agreements, documents and instruments, including any amendments to the Security, made in connection with this Section 3.6.

### **3.7 Registration of Security**

The Security will be registered in such offices in Canada or any province thereof or in any other jurisdiction as the Agent may from time to time, acting on the direction of the Majority Lenders, require to protect the Liens created thereby, provided that the Agent will not specifically register against real property unless an Event of Default has occurred and is continuing or the Majority Lenders, acting reasonably, determine in their sole discretion that a Material Adverse Effect has occurred, whereupon in either case the Majority Lenders may direct the Agent to effect such fixed charge registrations against all or any real property titles as they may direct, at the sole cost of the Borrower. The Borrower will assist the Agent in the registration or recording of such agreements and instruments in such public registry offices in Canada or any province thereof as the Agent, acting on the direction of the Majority Lenders, deems necessary to give full force and effect to this Section 3.7.

### **3.8 Discharge of Security**

The Liens granted pursuant to the Security over assets that are disposed of to a party that is not a Loan Party in accordance with this Agreement or any other Loan Document shall terminate

automatically upon consummation of such sale with no further action by the Agent, and the Agent will, at the Borrower's request and expense, provide a release and discharge in respect of such disposed assets, provided that an officer of the Borrower shall have certified to the Agent in writing that the disposal of such assets is permitted hereunder. The Agent and the Lenders will discharge forthwith, at the Borrower's expense, the Liens granted pursuant to the Security after all of the Obligations have been unconditionally and irrevocably paid or satisfied in full and the Commitments have been cancelled.

### **3.9 PPSA Waiver**

The Borrower hereby waives any requirement for the Agent or any Lender to provide copies of registrations, verification statements, financing statements, financing change statements or similar documents undertaken by the Agent or any Lender pursuant to the PPSA.

## **ARTICLE 4 CONDITIONS PRECEDENT**

### **4.1 Conditions Precedent to Effectiveness**

- (a) As conditions precedent to this Agreement becoming effective on the Closing Date, the Borrower shall have delivered or caused to be delivered to the Agent fully-executed copies of the following:
  - (i) this Agreement;
  - (ii) a certificate of status in respect of the Borrower issued under the laws of its jurisdiction of incorporation;
  - (iii) a certified copy of (i) the resolutions of the board of directors of the Borrower authorizing the execution, delivery and performance of this Agreement and the Loan Documents, (ii) an incumbency certificate for the Borrower, (iii) all relevant Constating Documents of the Borrower;
  - (iv) favourable opinion(s) of counsel for the Borrower addressed to the Agent and the Lenders covering such matters as may be reasonably requested by the Agent or counsel to the Lenders;
  - (v) copies of all Material Contracts not previously delivered;
  - (vi) an officer's certificate re: title dated as of the Closing Date; and
  - (vii) a compliance certificate dated as of the Closing Date showing compliance with Section 7.7 pro forma the Additional Loans.
- (b) In addition, the following additional conditions precedent must also be satisfied or waived by the Lenders in writing:
  - (i) no Default or Event of Default exists;
  - (ii) the representations and warranties contained in Article 5 and in any other Loan Document shall be true and correct; and

- (iii) no Material Adverse Effect shall have occurred since December 31, 2021.

#### **4.2 Conditions Precedent to Additional Loans**

- (a) The Lenders shall have no obligation to make an advance in respect of the Additional Loans unless at the time of such advance the conditions precedent set forth in Section 4.1 above have been satisfied or waived by the Lenders in writing and each of the following has been received by the Lenders or waived by the Lenders in writing:
  - (i) a third amended and restated deposit account control agreement with The Bank of Nova Scotia;
  - (ii) a funds flow memorandum and direction re: payment;
  - (iii) evidence satisfactory to the Agent of the concurrent investment in the Borrower of at least \$60,000,000 in new equity;
  - (iv) evidence satisfactory to the Agent that arrangements have been made for the discharge by the Borrower of all land registry and Ministry of Energy and Resources registrations in Saskatchewan with respect to the Prudential Notes;
  - (v) evidence satisfactory to the Agent that arrangements have been made for the A&R Debenture to be registered in the Saskatchewan land registry and with the Saskatchewan Ministry of Energy and Resources against all existing properties of the Borrower in Saskatchewan;
  - (vi) an agreement and undertaking satisfactory to the Agent from the Borrower and its counsel regarding registration of the A&R Debenture against all Acquisition Properties after Closing;
  - (vii) evidence satisfactory to the Agent that additional title insurance has been put in place to cover the Additional Loans;
  - (viii) evidence satisfactory to the Agent that the Borrower has put in place any additional Swap Agreements required pursuant to Section 6.14;
  - (ix) an Advance Date Certificate dated as of the Advance Date;
  - (x) a Solvency Certificate dated as of the Advance Date;
  - (xi) the Agent and the Lenders shall have completed and be satisfied with their due diligence review of the Acquisition, the Acquisition Agreement and the Acquisition Properties;
  - (xii) evidence satisfactory to the Agent that the Acquisition is being completed concurrently pursuant to the Acquisition Agreement and that the Acquisition Properties are free of any Liens (other than Permitted Liens);

- (xiii) evidence satisfactory to the Agent that all insurance required to be in place under this Agreement is in effect, with the Agent noted as first loss payee on property damage insurance, and as an additional insured on all liability insurance;
  - (xiv) evidence satisfactory to the Agent that arrangements have been made for concurrent payment of all fees payable pursuant to the Agency Fee Letter and all fees and expenses due in respect of this Agreement or any other Loan Document and all reasonable fees and expenses of counsel to the Agent and the Lenders; and
  - (xv) such other documents, consents, acknowledgements and agreements as may be reasonably requested by the Agent or its counsel.
- (b) In addition, prior to any advance of the Additional Loans, the following additional conditions precedent must also be satisfied or waived by the Lenders in writing:
- (i) no Default or Event of Default exists;
  - (ii) the representations and warranties contained in Article 5 and in any other Loan Document shall be true and correct as at the Advance Date *mutatis mutandis*;
  - (iii) no Material Adverse Effect shall have occurred since March 31, 2022; and
  - (iv) all Governmental Authorizations required in connection with the transactions contemplated by this Agreement and the Acquisition shall have been obtained by the Borrower on a basis acceptable to the Agent and the Lenders.

#### **4.3 Waiver of Conditions Precedent**

The conditions precedent set out in Sections 4.1 and 4.2 are inserted for the sole benefit of the Lenders. The conditions precedent set out in Section 4.1 and 4.2 may be waived only by unanimous consent of the Lenders, in whole or in part and with or without terms or conditions, without affecting the right of the Lenders to assert such terms and conditions in respect of any other matter contemplated by this Agreement.

#### **4.4 Form and Substance of Documents**

All Loan Documents, certificates, reports, opinions and other documentation which the Agent and the Lenders are entitled to receive hereunder from time to time shall be in form and substance satisfactory to the Agent and the Lenders and counsel to the Lenders, acting reasonably, and shall be provided with sufficient numbers to enable the Agent to distribute at least one original thereof to each Lender.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES**

In order to induce Lenders to enter into this Agreement and to make their respective Loans, each Loan Party represents and warrants to the Agent and each Lender on the Closing Date and the Advance Date that the following statements are true and correct:

### **5.1 Organization; Requisite Power and Authority; Qualification**

Each Loan Party (a) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization as identified in Schedule 5.1, (b) has all requisite power and authority, and has all material governmental licenses, authorizations, consents and approvals necessary, to own and operate its Property, to carry on its business as now conducted and as proposed to be conducted, to enter into the Loan Documents to which it is a party and to carry out the transactions contemplated thereby and, in the case of the Borrower, to incur borrowings hereunder, and (c) is qualified to do business and in good standing in every jurisdiction where its material assets are located and wherever necessary to carry out its business and operations as now conducted, except where the failure to be so qualified or in good standing could not reasonably be expected to have a Material Adverse Effect.

### **5.2 Capital Stock and Ownership**

The Capital Stock of each Loan Party has been duly authorized and validly issued. Except as set forth on Schedule 5.2, as of the Closing Date, there is no existing option, warrant, call, right, commitment or other agreement to which any Loan Party is a party requiring, and there is no other Capital Stock of any Loan Party outstanding which upon conversion or exchange would require, the issuance by any Loan Party of any additional membership interests or other Capital Stock of any Loan Party or other securities convertible into, exchangeable for or evidencing the right to subscribe for or purchase, a membership interest or other Capital Stock of any Loan Party. Schedule 5.2 sets forth a true, complete and correct list as of the Closing Date, both before and after giving effect to the Transactions, of the name of each Loan Party and indicates for each such Person its ownership (by holder and percentage interest) and the type of entity of each of them, and the number and class of authorized and issued Capital Stock of such Person. Except as set forth on Schedule 5.2, as of the Closing Date, no Loan Party has any equity investments in any other corporation or entity.

### **5.3 Due Authorization**

The execution, delivery and performance of the Loan Documents have been duly authorized by all necessary corporate, limited liability company or partnership (as applicable) action and, if required, shareholder, member and/or partner action, on the part of each Loan Party that is a party thereto.

### **5.4 No Conflict**

The execution, delivery and performance by each of the Loan Parties of the Loan Documents to which such Loan Party is a party do not and will not (a) violate in any material respect any provision of any Governmental Requirement applicable to, or any of the Organizational Documents of, any Loan Party; (b) conflict with, result in a material breach of or constitute (with due notice or lapse of time or both) a material default under any Contractual Obligation of any Loan Party, other than with respect to agreements evidencing Indebtedness

that is being repaid in full on the Closing Date; (c) result in or require the creation or imposition of any Lien upon any of the properties or assets of any Secured Party (other than any Liens created under any of the Loan Documents in favour of Agent, on behalf of the Lenders and other Permitted Liens); (d) result in any material default, noncompliance, suspension, revocation, impairment, forfeiture or nonrenewal of any permit, license, authorization or approval applicable to any Loan Party's operations or any of its properties, or (e) require any approval of stockholders, members or partners or any approval or consent of any Person under any Contractual Obligation of any Loan Party, except for such approvals or consents which will be obtained on or before the Closing Date and disclosed in writing to Agent and the Lenders.

## **5.5 Governmental Consents**

The execution, delivery and performance by each of the Loan Parties of the Loan Documents to which they are parties and the consummation of the Transactions do not and will not require any registration with, consent or approval of, or notice to, or other action to, with or by, any Governmental Authority with respect to a Loan Party, except for filings and recordings with respect to the Security to be made or otherwise delivered to Agent for filing and/or recordation as of the Closing Date, and routine filings related to such Loan Party and the operating of its business.

## **5.6 Binding Obligation**

Each Loan Document has been duly executed and delivered by each Loan Party (or Affiliate of such Person) that is a party thereto and is the legally valid and binding obligation of such Person, enforceable against such Person in accordance with its respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability (whether enforcement is sought in equity or at law).

## **5.7 Financial Information**

Except as set forth on Schedule 5.7, as of the Closing Date, the Borrower has no contingent liability or liability for taxes, long term lease or unusual forward or long term commitment including under any farm-in, exploration or other development agreement that has not been disclosed in writing to Agent or Lenders and which in any such case is material in relation to the business, operations, properties, assets, condition (financial or otherwise) or prospects of the Borrower taken as a whole. All material obligations of the Borrower to make capital expenditures to drill or otherwise develop any Oil and Gas Properties have been disclosed to the Lenders.

## **5.8 Projections**

On and as of the Closing Date, the Projections of the Borrower and its consolidated Subsidiaries for the period from the Closing Date through and including the date that is no less than three years after the Closing Date, including a projection for each month during such period in which the Closing Date takes place, and including the consolidated balance sheet of the Borrower and its consolidated Subsidiaries for such period and the related consolidated statements of income, stockholders' equity and cash flows of the Borrower and its consolidated Subsidiaries for such period, (the "**Projections**") are based on good faith estimates and assumptions made by the management of the Borrower and, as of the Closing Date, the Borrower believed that the Projections were reasonable and attainable.

### **5.9 No Material Adverse Effect**

Since the date of the Borrower's pro forma financial statements delivered to Agent or Lenders prior to the Closing Date, no event, circumstance or change has occurred that has caused or could reasonably be expected to result in, either individually or in the aggregate, a Material Adverse Effect.

### **5.10 No Restricted Junior Payments**

Neither the Borrower nor any of its Subsidiaries has directly or indirectly declared, ordered, paid or made, or set apart any sum or property for, any Restricted Junior Payment or agreed to do so.

### **5.11 Adverse Proceedings, etc.**

There are no Adverse Proceedings which individually or in the aggregate could reasonably be expected to have a Material Adverse Effect. No Loan Party is in violation of any Governmental Requirement of any Governmental Authority (including Environmental Law) that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, or is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any Governmental Authority, domestic or foreign, that relate to any Loan Document or any of the Transactions.

### **5.12 Payment of Taxes**

All material tax returns and reports of each Loan Party required to be filed by any of them have been timely filed, and all material Taxes shown on such tax returns to be due and payable and all other material Taxes, assessments, fees and other governmental charges upon any Loan Party and upon their respective properties, assets, income, businesses and franchises which are due and payable have been paid when due, except those which are being actively contested by such Person in good faith and by appropriate proceedings; *provided*, such reserves or other appropriate provisions, if any, as shall be required in conformity with GAAP shall have been made or provided therefor. The charges, accruals and reserves on the books of the Borrower and its Subsidiaries in respect of Taxes and other governmental charges are, in the reasonable opinion of the Borrower, adequate in all material respects. No Liens for Taxes have been filed and, to the knowledge of the Borrower, no claim is being asserted with respect to any Taxes or other such governmental charge.

### **5.13 Property**

#### **(a) Title**

- (i) Each Loan Party has good and defensible title to its material Oil and Gas Properties and good title to all its material personal Property (or a valid leasehold interest with respect to all material leasehold interests in other real or personal Property), in each case, free and clear of all Liens other than Permitted Liens and except for such defects as could not, individually or in the aggregate, reasonably be expected to materially detract from the value thereof to, or the use thereof in, the business of the applicable Loan Party. After giving full effect to the Permitted Liens, each such Loan Party owns at least the net interests in production attributable to its Hydrocarbon

Interests as reflected in the most recently delivered Reserve Report (or internally generated engineering data), and the ownership of such Property shall not in any material respect obligate such Loan Party to bear the costs and expenses relating to the maintenance, development and operations of each such Property in an amount in excess of its working interest in each Property set forth in the most recently delivered Reserve Report (or internally generated engineering data) that is not offset by a corresponding proportionate increase in such Loan Party's net revenue interest in such Property;

- (ii) All leases and agreements necessary for the conduct of the business of such Loan Party are valid and subsisting, in full force and effect, and there exists no default or event or circumstance which with the giving of notice or the passage of time or both would give rise to a default under any such lease or leases which could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and
  - (iii) To the knowledge of each Loan Party, the rights and Property presently owned, leased or licensed by such Loan Party including, without limitation, all easements and rights of way, include all rights and Property reasonably necessary to permit such Loan Party to conduct its business.
- (b) Oil and Gas Properties. Each Loan Party's Oil and Gas Properties (and related Facilities) and, and, in respect of the Acquisition Properties, to the Borrower's knowledge, have been maintained, operated and developed in a good and workmanlike manner and in conformity with all Governmental Requirements and in conformity in all material respects with the provisions of all material leases, subleases or other contracts comprising a part of such Loan Party's Hydrocarbon Interests and other material contracts and agreements forming a part of such Loan Party's Oil and Gas Properties. Specifically in connection with the foregoing, except for those as, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, (i) no Oil and Gas Property of such Loan Party is subject to having allowable production reduced below the full and regular allowable (including the maximum permissible tolerance) because of any overproduction (whether or not the same was permissible at the time), and (ii) none of the wells comprising a part of such Loan Party's Oil and Gas Properties is deviated from the vertical more than the maximum permitted by Governmental Requirements, and such wells are, in fact, bottomed under and are producing from, and the well bores are wholly within, or otherwise are legally located within, such Loan Party's Oil and Gas Properties (or in the case of wells located on Facilities unitized therewith, such unitized Property).
- (c) Intellectual Property. Each Loan Party owns, or is licensed to use, all trademarks, trade names, copyrights, patents and other Intellectual Property material to its business, and the use thereof by such Person does not infringe upon the rights of any other Person unless such infringement could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each Loan Party either owns or has valid licenses or other rights to use all databases, geological data, geophysical data, engineering data, seismic data, maps, interpretations and other technical information used or usable in the conduct of its business, subject to the limitations contained in the agreements governing the use

of the same, which limitations are customary for companies engaged in the business of the exploration and production of Hydrocarbons.

#### **5.14 Environmental Matters**

- (a) The assets of each Loan Party and its operations are in full compliance in all respects with all Environmental Law; the Borrower is not aware of, nor has it received notice of, any past, present or future condition, event, activity, practice or incident that may interfere with or prevent the compliance or continued compliance of it or any other Loan Party in all respects with all Environmental Law; and each Loan Party has obtained all licences, permits and approvals that are currently required under all Environmental Law and is in full compliance with the provisions of such licences, permits and approvals, in each case except to the extent that the non-compliance would not or could not reasonably be expected to cause a Material Adverse Effect.
- (b) The Borrower is not aware that any Hazardous Materials exist on, about or within or have been used, generated, stored, transported, disposed of on, or released from any of its Property or the Property of any other Loan Party other than in material accordance and compliance with all Environmental Law, except to the extent that the non-compliance would not or could not reasonably be expected to cause a Material Adverse Effect.
- (c) The use which each Loan Party has made and intends to make of its Property will not result in the use, generation, storage, transportation, accumulation, disposal, or release of any Hazardous Materials on, in or from any such property except in accordance and compliance with all Environmental Law, except to the extent that the non-compliance would not or could not reasonably be expected to cause a Material Adverse Effect.
- (d) There is no action, suit or proceeding, or, to its knowledge, any investigation or inquiry, before any Governmental Authority pending or, to its knowledge, threatened against any Loan Party relating in any way to any Environmental Law that would or could reasonably be expected to cause a Material Adverse Effect.
- (e) No Loan Party has (i) incurred any current and outstanding liability for any clean-up or remedial action under any Environmental Law with respect to current or past operations, events, activities, practices, incidents or the condition or use of any Property owned currently or in the past, (ii) received any outstanding written request for information (other than information to be provided in the normal course in connection with applications for licences, permits or approvals) by any Person under any Environmental Law with respect to the condition, use or operation of its Property, or (iii) received any outstanding written notice or claim under any Environmental Law with respect to any material violation of or liability under any Environmental Law or relating to the presence of Hazardous Materials on or originating from its Property, that, in any such case, would or could reasonably be expected to cause a Material Adverse Effect.
- (f) No portion of any Property of any Loan Party has been listed, designated or identified in the National Priorities List or the CERCLA Information System both as published by the United States Environmental Protection Agency, or any similar

list of sites published by any federal, state or local authority proposed for requiring clean up or remedial or corrective action under any Environmental Law.

#### **5.15 No Defaults**

- (a) No Loan Party is in default in the performance, observance or fulfillment of the obligations, covenants or conditions contained in its Contractual Obligations, except in each case where the consequences, direct or indirect, of such default or defaults, if any, could not reasonably be expected to have a Material Adverse Effect, and no condition exists which, with the giving of notice or the lapse of time or both, could reasonably be expected to constitute such a default.
- (b) No Default or Event of Default has occurred and is continuing.

#### **5.16 Material Contracts**

Schedule 5.16 (as the same may be updated from time to time in writing by the Borrower upon written request by the Agent acting on the direction of the Majority Lenders) contains a true, correct and complete list of all the Material Contracts of each Loan Party including agreements relating to the purchase, transportation by pipeline, gas processing, development, marketing, sale and supply of Hydrocarbons, farmout arrangements, joint operating agreements, operating agreements, or other material contracts to which any Loan Party is a party on the Closing Date. All such Material Contracts, are in full force and effect (other than any Material Contract that has expired in accordance with its terms or has been replaced) and no defaults exist thereunder (other than as described in Schedule 5.16).

#### **5.17 Governmental Regulation**

No Loan Party is subject to regulation under the *Investment Company Act of 1940* or under any other U.S. federal or state statute or regulation or Applicable Law which may limit its ability to incur Indebtedness or which may otherwise render all or any portion of the Obligations unenforceable. No Loan Party is a “registered investment company” or a company “controlled” by a “registered investment company” or a “principal underwriter” of a “registered investment company” as such terms are defined in the *Investment Company Act of 1940*.

#### **5.18 Margin Stock**

No Loan Party is engaged in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No part of the proceeds of the Loans made by such Loan Party will be used to purchase or carry any such Margin Stock or to extend credit to others for the purpose of purchasing or carrying any such Margin Stock or for any purpose that violates, or is inconsistent with, the provisions of Regulation T, U or X of the Board of Governors of the Federal Reserve System.

#### **5.19 Employee Matters**

Except as would not reasonably be expected to have a Material Adverse Effect, (i) the Loan Parties, and their respective employees, agents and representatives have not committed any material unfair labour practice, (ii) no Loan Party has been or is engaged in any unfair labour practice, and (iii) there has been and is (A) no unfair labour practice charge or complaint pending against any Loan Party, or to the knowledge of the Borrower, threatened against any of them

before any Governmental Authority, and no grievance or arbitration proceeding arising out of or under any collective bargaining agreement or similar agreement that is so pending against any Loan Party, or to the knowledge of the Borrower, threatened against any of them, (B) no labour dispute, strike, lockout, slowdown or work stoppage in existence or, to the knowledge of the Borrower, threatened against, involving or affecting any Loan Party, (C) no labour union, labour organization, trade union, works council, or group of employees of any Loan Party that has made a pending demand for recognition or certification, and no representation or certification proceedings or petitions seeking a representation proceeding that is presently pending or, to the knowledge of the Borrower, threatened to be brought or filed with any Governmental Authority, and (D) to the knowledge of the Borrower, no union representation question existing, or labour union organizing activity, with respect to any employees of any Loan Party.

#### **5.20 Pension Plans**

As of the Closing Date, no Loan Party maintains or contributes to any Welfare Plan or Pension Plan.

#### **5.21 Brokers**

No broker's or finder's fee or commission will be payable with respect hereto or any of the Transactions.

#### **5.22 Solvency**

The Borrower, individually, and the other Loan Parties and their Subsidiaries taken as a whole on a consolidated basis are and, upon the incurrence of any Loan by the Borrower on any date on which this representation and warranty is made, will be, Solvent.

#### **5.23 Disclosure**

No representation or warranty of any Loan Party contained in any Loan Document and none of the reports, financial statements, certificates furnished to the Agent and the Lenders by or on behalf of any Loan Party or in connection with the Transactions (other than projections and pro forma financial information contained in such materials), taken as a whole, contains any untrue statement of a material fact or omits to state a material fact (known to the Borrower, in the case of any document not furnished by it) necessary in order to make the statements contained herein or therein not misleading as of the time when made or delivered in light of the circumstances in which the same were made. Any projections and pro forma financial information contained in such materials are based upon good faith estimates and assumptions believed by the Borrower to be reasonable at the time made, it being recognized by the Agent and the Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results and that such differences may be material. There are no agreements, instruments and corporate or other restrictions to which any Loan Party is subject, and there are no facts known (or which should upon the reasonable exercise of diligence be known) to the Borrower (other than matters of a general economic nature) that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect and that have not been disclosed herein or in such other documents, certificates and statements furnished to Agent and the Lenders for use in connection with the transactions contemplated hereby.

#### **5.24 Insurance**

The Loan Parties maintain insurance in compliance with the requirements of Section 6.6. Schedule 5.24 sets forth a list of all insurance maintained by or on behalf of the Loan Parties as of the Closing Date and, as of the Closing Date, all premiums in respect of such insurance have been paid.

#### **5.25 Separate Entity**

The Borrower (a) has taken all necessary steps to maintain the separate status and records of the Loan Parties, on a consolidated basis, (b) does not commingle any assets or business functions with any other Person (other than any Loan Party), (c) maintains separate financial statements from all other Persons (other than the other Loan Parties), (d) holds itself out to the public and creditors as an entity separate from all other Persons (other than the other Loan Parties), (e) has not committed any fraud or misuse of the separate entity legal status, and (f) has not maintained its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of its stockholders.

#### **5.26 Security Interest in Collateral**

The provisions of the Security create legal and valid Liens against the Collateral in favour of the Agent, for the benefit of the Secured Parties, and in the case of Liens which may be perfected by filing a financing statement, when financing statements in appropriate form are filed in the appropriate office, such Liens shall constitute perfected and continuing First Priority Liens against the Collateral, securing the Obligations, enforceable against the applicable Loan Party.

#### **5.27 Covered Person Transactions**

Except as disclosed in Schedule 5.27, as of the Closing Date, there are no existing or proposed agreements, arrangements, or transactions between any Loan Party on the one hand, and any Covered Person on the other hand. Except as disclosed on Schedule 5.27, as of the Closing Date, no Covered Person is directly indebted to or has any direct ownership, partnership, or voting interest in any Loan Party. To the knowledge of the Borrower, none of the Loan Parties are party to any arrangement or understanding with a Covered Person, regardless of whether such arrangement has been formalized, unless such transaction is upon fair and reasonable terms no less favourable to it than it would obtain in a comparable arm's length transaction with a Person who is not a Covered Person.

#### **5.28 Swap Agreements**

Schedule 5.28, as of the Closing Date, and after the Closing Date, each report required to be delivered by the Borrower pursuant to Section 6.1(n), sets forth, a true and complete list of all Swap Agreements of the Loan Parties, the material terms thereof (including the type, term, effective date, termination date and notional amounts or volumes), the Net Mark-to-Market Exposure thereof and the counterparty to each such agreement.

#### **5.29 Permits, Etc.**

Each Loan Party has, and is in compliance with, all material Governmental Authorizations required for such Person lawfully to own, lease, manage or operate, or to acquire, each business currently owned, leased, managed or operated, or to be acquired, by such Person and no

condition exists or event has occurred which, in itself or with the giving of notice or lapse of time or both, would result in the suspension, revocation, impairment, forfeiture or non-renewal of any such Governmental Authorization, and there is no written claim that any thereof is not in full force and effect.

### **5.30 Names and Places of Business**

No Loan Party has, during the preceding five years, been known by, or used any other trade or fictitious name, except as disclosed in Schedule 5.30. The chief executive office and principal place of business of each Loan Party is located at the address of such Person set out in Schedule 5.30. Except as indicated in Schedule 5.30, no Loan Party has had any other office or place of business within the past five years. Each such Person's jurisdiction of organization, name as listed in the public records of its jurisdiction of organization, organizational identification number in its jurisdiction of organization, and taxpayer identification number is stated on Schedule 5.30 (or as set forth in a notice delivered pursuant to Section 6.1(l)).

### **5.31 Marketing of Production**

Except as hereafter either disclosed in writing to Agent or included in the most recently delivered Reserve Report (with respect to all of which contracts the Borrower represents that it or the applicable Loan Party is receiving a price for all production sold thereunder which is computed substantially in accordance with the terms of the relevant contract and is not having deliveries curtailed substantially below the subject Property's delivery capacity), no material agreements exist that are not cancelable by the applicable Loan Party on sixty (60) days' notice or less without penalty or detriment for the sale of production from any Loan Party's Hydrocarbons (including, without limitation, calls on or other rights to purchase, production, whether or not the same are currently being exercised) that pertain to the sale of production at a fixed price and have a maturity or expiry date of longer than six months from the Advance Date. Cash Receipts will be paid in full to the Loan Parties' Deposit Accounts on a timely basis following receipt thereof, and none of such proceeds are currently being held in suspense by such purchaser or any other Person. Except as hereafter disclosed in writing to the Agent, none of the Oil and Gas Properties of any Loan Party is subject to any contractual or other arrangement whereby payment for production therefrom is to be deferred for a substantial period of time after the month in which such production is delivered (i.e., in the case of oil, not in excess of thirty (30) days, and in the case of gas, not in excess of 60 days).

### **5.32 Right to Receive Payment for Future Production**

Except as set forth in Schedule 5.32, as of the Closing Date, no Oil and Gas Property is subject to any "take or pay", gas imbalances (in excess of one-half bcf of gas (on an mcf equivalent basis)) or other similar arrangement which can be satisfied in whole or in part by the production or transportation of gas from other properties or as a result of which production from any Oil and Gas Property may be required to be delivered to one or more third parties without payment (or without full payment) therefor as a result of payments made, or other actions taken, with respect to other properties. Since the date of this Agreement, no material changes have occurred in such overproduction or underproduction except those that have been reported as required pursuant to Section 6.1.

### 5.33 Existing Accounts Payable

Set forth on Schedule 5.33 hereto is a complete and correct list of all existing accounts payable of each Loan Party as of the Closing Date.

### 5.34 Anti-Money Laundering Laws; Sanctions and Anti-Corruption Laws

- (a) No Loan Party and, to the knowledge of each Loan Party, none of its Affiliates is in violation of, or intends to use any proceeds of the Loans in violation of, any Applicable Law relating to (i) terrorism or money laundering, including the *Criminal Code (Canada)*, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)*, *United States Executive Order No. 13224 on Terrorist Financing*, effective September 24, 2001, the PATRIOT Act and, in each case, the regulations promulgated thereunder (collectively, "**AML Laws**"), or (ii) Sanctions.
- (b) No Loan Party and, to the knowledge of each Loan Party, no Affiliate or agent of any Loan Party acting or benefiting in any capacity in connection with the making of any Loan is currently subject to any economic, trade or financial sanctions or trade embargoes imposed, administered or enforced from time to time under laws and executive orders of the Canadian government (including without limitation under the *Special Economic Measures Act (Canada)*, the *United Nations Act (Canada)*, the *Freezing Assets of Corrupt Foreign Officials Act (Canada)* and the *Criminal Code (Canada)* and, in each case, the regulations promulgated thereunder), the United States government, the United Nations Security Council, the European Union, any European Union member state, Her Majesty's Treasury of the United Kingdom or any other relevant sanctions authority (collectively, "**Sanctions**").
- (c) No Loan Party and, to the knowledge of each Loan Party, no Affiliate or agent of any Loan Party acting in any capacity in connection with the Loans (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in Subsection 5.34(b), (ii) deals in, or otherwise engages in any transaction relating to, any Property or interests in Property blocked or frozen pursuant to any AML Law or any Sanctions, or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any AML Law or any Sanctions.
- (d) No Loan Party nor any director or officer, nor to the knowledge of the Restricted Parties, any agent, employee or other Person acting, directly or indirectly, on behalf of any Loan Party, has, in the course of its actions for, or on behalf of, any Loan Party, directly or indirectly (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made any direct or indirect unlawful payment to any official or employee of any foreign or domestic government or government owned or controlled entity from corporate funds; (iii) violated or is in violation of any provision of the *U.S. Foreign Corrupt Practices Act of 1977*, the *Corruption of Foreign Public Officials Act (Canada)*, (collectively, "**Anti-Corruption Laws**"); or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any official or employee of any foreign or domestic government or government owned or controlled entity.

- (e) Each Loan Party maintains compliance policies and internal controls intended to detect and prevent any violations of AML Laws, Sanctions, Anti-Corruption Laws, and the representations and warranties set out in this Section 5.34.

### **5.35 Carnduff Gas Limited**

The Borrower is the registered owner of 95% of the issued and outstanding Capital Stock of Carnduff Gas Limited and Carnduff Gas Limited accounts for less than \$10,000 of the Borrower's consolidated EBITDA annually.

## **ARTICLE 6 AFFIRMATIVE COVENANTS**

Each Loan Party covenants and agrees that until the Obligations have been paid in full (other than contingent obligations for which no claim has been made) or otherwise satisfied, such Loan Party shall perform, and shall cause each of its Subsidiaries to perform, all covenants in this Article 6.

### **6.1 Financial Statements and Other Reports**

Unless otherwise provided below, the Borrower will deliver to Agent, for distribution to the Lenders:

- (a) Quarterly Financial Statements. As soon as available, for each of the first three (3) Fiscal Quarters of each Fiscal Year, and in any event within the earlier of (i) sixty (60) days after the end of such Fiscal Quarter and (ii) the time periods specified in the TSX Venture Exchange rules and regulations, the consolidated balance sheets of the Borrower and its consolidated Subsidiaries as at the end of such Fiscal Quarter and the related consolidated statements of income, stockholders' equity and cash flows of the Borrower and its consolidated Subsidiaries for such Fiscal Quarter and for the period from the beginning of the then-current Fiscal Year to the end of such Fiscal Quarter, setting forth in each case in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year, all in reasonable detail, together with a Financial Officer Certification with respect thereto;
- (b) Annual Financial Statements. As soon as available, and in any event within the earlier of (i) one hundred twenty (120) days after the end of each Fiscal Year, and (ii) the time periods specified in the TSX Venture Exchange rules and regulations, (A) the consolidated balance sheets of the Borrower and its consolidated Subsidiaries as at the end of such Fiscal Year and the related consolidated statements of income, stockholders' equity and cash flows of the Borrower and its consolidated Subsidiaries for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the previous Fiscal Year, in reasonable detail, together with a Financial Officer Certification with respect thereto; and (B) with respect to such financial statements a report thereon by independent certified public accountants of recognized regional standing selected by the Borrower, which shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of the Borrower and its Subsidiaries as at the dates indicated and that the results of their operations and their cash flows for the periods indicated are in conformity with GAAP applied

on a basis consistent with prior years (except as otherwise disclosed in such financial statements) and that the examination by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards, and such report shall be delivered without a “going concern” or like qualification and without any qualification or exception as to the scope of such accountant’s review;

- (c) Compliance Certificate. Together with each delivery of financial statements of the Borrower and its consolidated Subsidiaries pursuant to Sections 6.1(a) and 6.1(b), a duly executed and completed Compliance Certificate;
- (d) ARO Directives. Prompt written notice of any material ARO Directive received by it or any Loan Party, together with reasonable details thereof;
- (e) Notice of Litigation. Prompt written notice (but, in any event, within ten (10) Business Days) upon any Authorized Officer of any Loan Party obtaining knowledge of (i) the receipt by any Loan Party of the institution of any Adverse Proceeding not previously disclosed in writing by the Borrower to the Agent which could result in liabilities in excess of \$500,000, or (ii) any material development in any Adverse Proceeding previously required to be disclosed hereunder;
- (f) Financial Plan. As soon as practicable and in any event no later than each December 1<sup>st</sup>, a consolidated plan and financial forecast for the following Fiscal Year and each Fiscal Year (or portion thereof) through the final maturity date of the Loans (a “**Financial Plan**”), including a forecasted consolidated balance sheet and forecasted consolidated statements of income and cash flows of the Borrower and its consolidated Subsidiaries for each such Fiscal Year, together with an explanation of the assumptions on which such forecasts are based, forecasted consolidated statements of income and cash flows of the Borrower and its consolidated Subsidiaries for each month of each such Fiscal Year, forecasts demonstrating projected compliance with the requirements of Section 7.7 through the final maturity date of the Loans, and forecasts demonstrating adequate liquidity through the final maturity date of the Loans, together, in each case, with an explanation of the assumptions on which such forecasts are based all in form and substance reasonably satisfactory to the Majority Lenders in their sole discretion and accompanied by a Financial Officer certificate certifying that the projections contained therein are based upon good faith estimates and assumptions believed to be reasonable at the time made and at the time of delivery thereof;
- (g) Notice of Change in Board of Directors. Promptly, written notice of any change in the board of directors or managers (or similar governing body) of any Loan Party;
- (h) Board of Directors Materials. Promptly following any request therefor, such materials prepared for and distributed in connection with meetings of or actions taken by the directors or managers (or similar governing body) of the Borrower that are related to the financial condition of the Borrower or any Indebtedness of the Borrower (other than any materials or information that are privileged or are governed by a confidentiality agreement prohibiting the sharing of such information with Agent or the Lenders);

- (i) Notices in Respect of Digistore Documents. (i) promptly, and in any event within three (3) Business Days after the Borrower becoming aware of a default or event of default under any Digistore Document, a written notice describing in detail such default or event of default and specifying the steps, if any, being taken or proposed to be taken to remedy or eliminate the same, (ii) promptly, and in any event within three (3) Business Days after the giving or receipt by the Borrower of the same, a copy of any notice given or received by the Borrower in respect of any repayment, prepayment, redemption or purchase by the Borrower of any Indebtedness under the Digistore Documents, and (iii) except for amendments, supplements or modifications which do not require the consent of the Lenders pursuant to Section 7.20(a), not less than ten (10) Business Days' prior written notice of any proposed alteration, amendment, modification or supplement to, or restatement of, any Digistore Document (or any waiver or consent to like effect), which notice shall include a copy of such proposed alteration, amendment, modification, supplement, restatement, waiver or consent;
- (j) Notice Regarding Material Contracts. Promptly, and in any event within ten (10) Business Days (i) after any Material Contract of any Loan Party is terminated (other than an expiration in accordance with its terms) or amended in a manner materially adverse to the Lenders and (ii) after any new Material Contract is entered into, a written statement describing such event, delivered to Agent, and an explanation of any actions being taken with respect thereto;
- (k) TSX Venture Exchange and Other Filings; Reports to Shareholders. Promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by the Borrower or any Subsidiary under Canadian Securities Laws and with the TSX Venture Exchange, or with any national securities exchange (including any other short form eligible exchange (as defined under Canadian Securities Laws)) and distributed by the Borrower to its shareholder;
- (l) Information Regarding Collateral. The Borrower will furnish to the Agent written notice at least thirty (30) days (or such shorter period as may be agreed by the Agent in its sole discretion) prior to the occurrence of any change in any Loan Party's (i) organizational name, (ii) identity or organizational structure (iii) jurisdiction of organization, (iv) chief executive office or principal place of business, or (v) taxpayer identification number. The Borrower agrees not to effect or permit any change referred to in the preceding sentence unless arrangements have been made for all filings under the PPSA or other Applicable Law or otherwise that are required in order for the Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral and for the Collateral at all times following such change to have a valid, legal and perfected security interest as contemplated in the Security. The Borrower will furnish to the Agent prompt written notice of the Borrower's knowledge of any Lien or claims made or asserted against any Collateral or interest therein. The Borrower also agrees promptly to notify the Agent in writing if any Collateral with a value over \$500,000 is destroyed;
- (m) Swap Agreements. Together with each delivery of financial statements of the Borrower and its consolidated Subsidiaries pursuant to Section 6.1(a), a written update with respect to any Loan Party's entry into any Swap Agreements or the

termination (other than an expiration in accordance with its terms) or modification of any Swap Agreements by any party thereto during the Fiscal Quarter just ended; *provided* that this clause shall not permit any Loan Party to enter into or modify a Swap Agreement not otherwise permitted by this Agreement;

(n) Reserve Reports; Engineering Data

- (i) By March 31<sup>st</sup> of each year in respect of the Fiscal Year most recently ended, a Reserve Report (Annual), prepared effective as of December 31<sup>st</sup> of such Fiscal Year, and by May 31<sup>st</sup>, August 31<sup>st</sup> and November 30<sup>th</sup> of each year, a Reserve Report (Interim) prepared effective as of March 31<sup>st</sup>, June 30<sup>th</sup> and September 30<sup>th</sup> of such year, respectively, in each case concerning the Loan Parties' Oil and Gas Properties, including access to an electronic database matching such Reserve Report. The Agent or the Majority Lenders may (at the Lenders' expense so long as no Default or Event of Default then exists, in which case it will be at Borrower's expense) request one additional Reserve Report (Annual) from time to time. The Borrower may (at the Borrower's expense) deliver additional Reserve Reports from time to time. Each Reserve Report shall distinguish (or shall be delivered together with a certificate from a Financial Officer which distinguishes) those Oil and Gas Properties treated in the report which are a Loan Party's Oil and Gas Properties from those properties treated in the report which are not a Loan Party's Oil and Gas Properties. Notwithstanding the foregoing, if circumstances arise such that the Majority Lenders determine, in their reasonable discretion, that there has been an adverse impact on the Collateral, results of drilling and operations, the PV10 of the Loan Parties' Oil and Gas Properties or cash flows, the Majority Lenders may request and the Borrower will deliver an additional Reserve Report (Annual);
- (ii) with the delivery of each Reserve Report, the Borrower shall provide to the Agent and the Lenders a certificate from an Authorized Officer certifying that: (A) the factual information provided to the Approved Petroleum Engineers for purposes of the Reserve Report and any other factual information provided to the Approved Petroleum Engineers in connection therewith is true and correct in all material respects (or in the case of any internally generated engineering data prepared by the Borrower, the information contained in such data and any other information delivered in connection therewith is true and correct in all material respects), (B) each Loan Party owns good and defensible title to its Oil and Gas Properties evaluated in such Reserve Report (or such internally generated engineering data), and such Property is free of all Liens except for Permitted Liens and except for such defects as could not, individually or in the aggregate, reasonably be expected to materially detract from the value thereof to, or the use thereof in, the business of the applicable Loan Party, (C) except as set forth on an exhibit to the certificate, on a net basis there are no gas imbalances, take or pay or other prepayments with respect to the Oil and Gas Properties evaluated in such Reserve Report (or such internally generated engineering data) which would require any Loan Party to deliver Hydrocarbons either generally or produced from such Oil and Gas Properties at some future time without then or thereafter receiving full

payment therefor, (D) except as set forth on an exhibit to the certificate, none of any Loan Party's Oil and Gas Properties have been sold since the date of the last Reserve Report (or the most recently delivered internally generated engineering data), (E) attached to the certificate is a list of all marketing agreements entered into subsequent to the later of the Closing Date or the most recently delivered Reserve Report (or most recently delivered internally generated engineering data), (F) attached thereto is a schedule of the Oil and Gas Properties evaluated by such Reserve Report (or such internally generated engineering data) that are Property covered under the Security and specifying the percentage of the total value of the Proved Reserves included in such Reserve Report (or such internally generated engineering data), in each case, that the Property covered under the Security represents, and (G) attached thereto is a list of all persons purchasing Hydrocarbons from any Loan Party as of the date of the Reserve Report (or internally generated engineering data);

- (o) Oil and Gas Properties. Within forty-five (45) days after the end of each calendar month, drilling, production and lease operating statement reports in detail reasonably acceptable to the Majority Lenders in their sole discretion with respect to the Oil and Gas Properties of each Loan Party during such month:
- (i) setting forth as to each well being drilled, completed, reworked or other similar procedures, the actual versus estimated gross and net cost breakdown (for all activities, including dry hole and completion activities) for such well;
  - (ii) describing by field the gross and net quantities of oil, gas and natural gas liquids;
  - (iii) describing by field the gross and net quantities of oil, gas and natural gas liquids sold during such month out of production from any Loan Party's Oil and Gas Properties and calculating the average sales prices of such oil, natural gas, and natural gas liquids;
  - (iv) describing of all leases acquired during the preceding month indicating the date each lease was acquired;
  - (v) specifying in detail any leasehold operating expenses, overhead charges, gathering costs, transportation costs, and other costs with respect to any Loan Party's Oil and Gas Properties of the kind chargeable as direct charges or overhead; and
  - (vi) setting forth the amount of Taxes on each Loan Party's Oil and Gas Properties during such month and the amount of royalties paid with respect to such Oil and Gas Properties during such month;
- (p) Capital Expenditures. Together with each delivery of financial statements of the Borrower and its consolidated Subsidiaries pursuant to Section 6.1(b) and from time to time at the request of the Majority Lenders, acting reasonably, statements of capital expenditures, production profiles and results, reserve data and rates of return of the Oil and Gas Properties of the Loan Parties for such most recently

ended Fiscal Year or such other period requested by the Majority Lenders (as applicable), all in reasonable detail;

- (q) Other Information. (A) Promptly after submission to any Governmental Authority, all material documents and information furnished to such Governmental Authority in connection with any investigation of any Loan Party (other than any routine inquiry), (B) promptly upon receipt thereof, copies of all management reports submitted to any Loan Party by its auditors in connection with any audit of the books thereof and (C) such other information and data with respect to any Loan Party as from time to time may be reasonably requested by the Agent or the Majority Lenders;
- (r) Lender Calls. Following delivery of the quarterly financial statements pursuant to Section 6.1(a), the Borrower shall hold an update call (which call shall take place promptly following such delivery at a mutually acceptable time) with a Financial Officer of the Borrower and the Lenders to discuss the financial position, financial performance and cash flows of the Borrower and its Subsidiaries for the period covered by the applicable financial statements; and
- (s) Environmental, Social and Governance Matters. The Borrower shall assess, monitor, and mitigate material environmental, social, and governance (“**ESG**”) risks, to the extent possible, and shall deliver (i) an annual report concurrently with the delivery of the financial statements pursuant to Section 6.1(b) describing the scope and results of such efforts and descriptions of any planned future efforts to further assess, monitor, or mitigate such risks; and (ii) as soon as practicable after becoming aware of such matter, written notice of any controversy or issue relating to ESG risks likely to have a negative impact on the operations or the reputation of any of the Loan Parties and provide information on any corrective action that has been taken in respect thereof, following up with regular updates until the incident has been resolved. The Borrower shall make itself reasonably available to the Agent and the Lenders to discuss any ESG matters and shall respond in a prompt manner to any requests for ESG information from the Agent or any Lender.

Documents required to be delivered pursuant to Sections 6.1(a), 6.1(b) and 6.1(k) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which the Agent receives notice from the Borrower, electronically or in writing, that such documents have been posted to SEDAR and/or on its home page on the worldwide web (or such other free, publicly-accessible internet database that may be established and maintained by the TSX Venture Exchange as a substitute for, or successor to, SEDAR).

## **6.2 Notice of Material Events**

Each Loan Party will furnish to the Agent prompt written notice (but, in any event, within ten (10) Business Days) of the following: (i) any condition or event of which it is aware that constitutes a Default or an Event of Default or in respect of which notice has been given to any Loan Party, (ii) that any Person has given any notice to any Loan Party or taken any other action with respect to any event or condition set forth in Section 8.1(b), or (iii) the occurrence of any event or change that has caused or could reasonably be expected to result in, either individually or in the aggregate, a Material Adverse Effect, which notice shall be accompanied by a certificate of an Authorized Officer specifying the nature and period of existence of such condition, event or change, or specifying the notice given and action taken by any such Person and the nature of

such claimed Event of Default, Default, default, event or condition, and what action the Borrower has taken, is taking and proposes to take with respect thereto;

- (b) the filing or commencement of, or the receipt of a threat in writing of, any action, suit, proceeding, investigation or arbitration by or before any arbitrator or Governmental Authority against or affecting any Loan Party not previously disclosed in writing (including in the Schedules hereto) to the Agent that has caused or could reasonably be expected to result in, liability in excess of \$500,000 or any material adverse development in any action, suit, proceeding, investigation or arbitration previously disclosed to the Agent;
- (c) the filing or commencement of any action, suit, proceeding, or arbitration by or on behalf of any Loan Party that could reasonably be expected to result in damages in favour of such Loan Party valued in excess of \$500,000;
- (d) the occurrence of any default by a Loan Party under any Material Contract;
- (e) other than in respect of Investments permitted under Section 7.6(c), the acquisition of any asset or assets with a value in excess of \$500,000; *provided*, that in the case of leases, the value of such leases shall be netted against any leases being disposed of directly in connection with such acquisition;
- (f) receipt of any incident of non-compliance or similar notice from a Governmental Authority which would cost \$500,000 or more to remediate; and
- (g) any other development that results in, or could reasonably be expected to result in, either individually or in the aggregate, a Material Adverse Effect.

### **6.3 Separate Existence**

Borrower will (a) take all necessary steps to maintain the separate entity and records of the Loan Parties, on a consolidated basis, (b) not commingle any assets or business functions with any other Person (other than any Loan Party), (c) maintain separate financial statements from all other Persons (other than the other Loan Parties), (d) hold itself out to the public and creditors as an entity separate from all other Persons (other than the other Loan Parties), (e) not commit any fraud or misuse of the separate entity legal status, (f) not maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of its partners or Affiliates, and (g) not change (or permit to be changed) its status as a corporation for Canadian tax purposes.

### **6.4 Payment of Taxes and Claims**

Each Loan Party will file all material tax returns required to be filed by it in any jurisdiction and pay all material Taxes imposed upon it or any of its properties or assets or in respect of any of its income, businesses or franchises before any penalty or fine accrues thereon, and pay all claims (including claims for labour, services, materials and supplies) for sums that have become due and payable and/or that by law have or could reasonably be expected to become a Lien upon any of its properties or assets, prior to the time when any penalty or fine shall be incurred with respect thereto; *provided*, no such Tax or claim need be paid if it the subject of a Permitted Contest. No Loan Party will file or consent to the filing of any consolidated income tax return with

any Person (except that the Borrower may file a consolidated return with its Subsidiaries, where allowed by Applicable Law).

## **6.5 Operation and Maintenance of Property**

Each Loan Party, at its own expense, will:

- (a) operate its Oil and Gas Properties and other Property or cause such Oil and Gas Properties and other Property to be operated in accordance with the practices of the industry and in compliance with all applicable contracts and agreements and in compliance with all Governmental Requirements of all applicable Governmental Authorities, including, without limitation, applicable pro ration requirements and Environmental Law, and all Governmental Requirements of every other Governmental Authority from time to time with the authority to regulate the development and operation of its Oil and Gas Properties and the production and sale of Hydrocarbons and other minerals therefrom;
- (b) keep and maintain all Property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, and preserve, maintain and keep in good repair, working order and efficiency (ordinary wear and tear excepted) all of its Oil and Gas Properties and other Property material to the conduct of its business, including, without limitation, all equipment, machinery and facilities; and
- (c) promptly pay and discharge, or make reasonable and customary efforts to cause to be paid and discharged, all delay rentals, royalties, expenses and indebtedness accruing under the leases or other agreements affecting or pertaining to its material Oil and Gas Properties and do all other things necessary to keep unimpaired its rights with respect thereto and prevent any forfeiture thereof or default thereunder.

In the event any of the Oil and Gas Properties are not operated by any Loan Party or an Affiliate of any Loan Party, then the applicable Loan Party shall use its commercially reasonable efforts to cause any third party operator to comply with the provisions of this Section 6.5.

## **6.6 Insurance**

Each Loan Party will maintain or cause to be maintained, with financially sound and reputable insurers, casualty insurance, such public liability insurance, and third party property all risk damage insurance, in each case, with respect to liabilities, losses or damage in respect of the assets, properties and businesses of the Loan Parties as are customarily carried or maintained under similar circumstances by Persons of established reputation of similar size and engaged in similar businesses (as determined by the Majority Lenders), in such amounts, with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for such Persons, and any such insurance policies shall be satisfactory to the Agent acting on the direction of the Majority Lenders. Each such policy of insurance shall (a) in the case of casualty insurance, contain loss payable clauses or similar provisions in each such insurance policy or policies containing endorsements in favour of and made payable to the Agent as its interests may appear and (b) in the case of liability insurance, name the Agent as "additional insured" and provide that the insurer will endeavor to give no less than 30 days prior written notice of any cancellation to the Agent (10 days for non-payment).

## **6.7 Books and Records; Inspections**

Each Loan Party will (a) keep adequate books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities and (b) permit any representatives designated by the Agent on behalf of all Lenders (including employees of the Agent or any consultants, accountants, lawyers and appraisers retained by the Agent) and a representative of each Lender to visit and inspect any of the properties of any Loan Party, to inspect, copy and take extracts from its financial and accounting records (in each case, subject to compliance with confidentiality agreements and applicable copyright laws), and to discuss its affairs, finances and accounts with its officers and independent accountants, and, if the Borrower requests, in the presence of an Authorized Officer or an appointee of an Authorized Officer, at the expense of the Lenders, all upon reasonable advance notice and at such reasonable times during normal business hours (so long as no Default or Event of Default has occurred and is continuing) and as often as may reasonably be requested, and by this provision the Loan Parties authorize such accountants to discuss with the Agent and such representatives the affairs, finances and accounts of each Loan Party. The Loan Parties acknowledge that the Agent or a representative of a Lender, after exercising its rights of inspection, may prepare and distribute to the Lenders certain reports pertaining to the Loan Parties' assets for internal use by the Agent and the Lenders.

## **6.8 Compliance with Laws and Contractual Obligations**

Each Loan Party will comply, and will use commercially reasonable efforts to cause all other Persons (including any operator), if any, on or occupying any Facilities or any Oil and Gas Properties to comply, with the applicable Loan Party's contractual obligations and the requirements of all applicable Governmental Requirements of any Governmental Authority (including all Environmental Law) in all material respects. The Borrower will maintain in effect and enforce such policies and procedures, if any, as they reasonably deem appropriate, in light of their businesses and international activities (if any), to ensure compliance by the Borrower, its Subsidiaries and each of their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

## **6.9 Environmental**

- (a) Environmental Disclosure. The Borrower will deliver to the Agent and Lenders:
- (i) as soon as practicable following receipt thereof by any Loan Party, copies of all environmental audits, investigations, analyses and reports of any kind or character, whether prepared by personnel of any Loan Party or by independent consultants, Governmental Authorities or any other Persons, with respect to significant environmental matters at any Facility or any Oil and Gas Properties of any Loan Party or with respect to any Environmental Claims;
  - (ii) promptly upon the occurrence thereof, written notice describing in reasonable detail (A) any Release required to be reported to any federal, provincial, state or local Governmental Authority under any applicable Environmental Law, (B) any remedial action taken by any Loan Party or any other Person in response to (1) any Hazardous Materials Activities the existence of which has a reasonable possibility of resulting in one or more Environmental Claims, or (2) any Environmental Claims and (C) any Loan

Party's discovery of any occurrence or condition on any real property adjoining or in the vicinity of any Facility or any Oil and Gas Property that could reasonably be expected to cause such Facility or such Oil and Gas Property or any part thereof to be subject to any material restrictions on the ownership, occupancy, transferability or use thereof under any Environmental Law;

- (iii) as soon as practicable following the sending or receipt thereof by any Loan Party or any operator, a copy of any and all written communications with respect to (A) any Environmental Claims, (B) any Release required to be reported to any provincial, state, federal or local Governmental Authority, and (C) any request for information from any Governmental Authority that suggests such agency is investigating whether any Loan Party may be potentially responsible for any Hazardous Materials Activity; and
  - (iv) prompt written notice describing in reasonable detail (A) any proposed acquisition of stock, assets, or property by any Loan Party that could reasonably be expected to (1) expose any Loan Party to, or result in, Environmental Claims or (2) affect the ability of any Loan Party to maintain in full force and effect all material Governmental Authorizations required under any Environmental Law for their respective operations and (B) any proposed action to be taken by any Loan Party to modify current operations in a manner that could reasonably be expected to subject any Loan Party to any additional material obligations or requirements under any Environmental Law.
- (b) Hazardous Materials Activities, Etc. Each Loan Party shall promptly take, and shall use commercially reasonable efforts to cause each operator promptly to take, any and all actions reasonably necessary to (i) cure any violation of applicable Environmental Law by such Person, and (ii) make an appropriate response to any Environmental Claim against such Person and discharge any obligations it may have to any Person thereunder.
- (c) Right of Access and Inspection. With respect to any event described in Section 6.9(a) or if an Event of Default has occurred and is continuing:
- (i) The Agent, each Lender and their respective representatives shall have the right, but not the obligation or duty, upon reasonable notice to enter the applicable Oil and Gas Properties at reasonable times for the purposes of observing the applicable Oil and Gas Properties. Such access shall include, at the reasonable request of the Agent or such Lender, access to relevant documents and employees of each Loan Party and to their outside representatives, to the extent necessary to obtain necessary information related to the event at issue. If an Event of Default has occurred and is continuing, the Loan Parties shall conduct such tests and investigations on the Oil and Gas Properties of the affected Loan Party or relevant portion thereof, as reasonably requested by the Agent, including the preparation of a Phase I Report or such other sampling or analysis as determined to be necessary under the circumstances by a qualified environmental engineer or consultant. If an Event of Default has occurred and is continuing, and if a Loan Party does not undertake such tests and investigations in a

reasonably timely manner following the request of the Agent, the Agent may hire an independent engineer, at the Loan Parties' expense, to conduct such tests and investigations. The Agent will make all reasonable efforts to conduct any such tests and investigations so as to avoid interfering with the operation of the Oil and Gas Properties; and

- (ii) Any observations, tests or investigations of the Oil and Gas Properties by or on behalf of the Agent shall be solely for the purpose of protecting the Lenders' interests and rights under the Loan Documents. The exercise or non-exercise of the Agent's rights under this subsection (c) shall not constitute a waiver of any Default or Event of Default of any Loan Party or impose any liability on the Agent or any of the Lenders. In no event will any observation, test or investigation by or on behalf of the Agent be a representation that Hazardous Materials are or are not present in, on or under any of the Oil and Gas Properties, or that there has been or will be compliance with any Environmental Law, and the Agent shall not be deemed to have made any representation or warranty to any party regarding the truth, accuracy or completeness of any report or findings with regard thereto. Neither any Loan Party nor any other Person is entitled to rely on any observation, test or investigation by or on behalf of the Agent. The Agent and the Lenders owe no duty of care to protect any Loan Party or any other Person against, or to inform any Loan Party or any other Person of, any Hazardous Materials or any other adverse condition affecting any of the Facilities or any other Oil and Gas Properties. The Agent may, in its sole discretion, disclose to the applicable Loan Party, or to any other Person if so required by law, any report or findings made as a result of, or in connection with, its observations, tests or investigations. If a request is made of the Agent to disclose any such report or finding to any third party, then the Agent shall endeavor to give the applicable Loan Party prior notice of such disclosure and afford such Loan Party the opportunity to object or defend against such disclosure at its own and sole cost; *provided*, that the failure of the Agent to give any such notice or afford such Loan Party the opportunity to object or defend against such disclosure shall not result in any liability to the Agent. Each Loan Party acknowledges that it may be obligated to notify relevant Governmental Authorities regarding the results of any observation, test or investigation disclosed to such Loan Party, and that such reporting requirements are site and fact-specific and are to be evaluated by such Loan Party without advice or assistance from the Agent.

## **6.10 Subsidiaries**

- (a) In the event that any Person becomes a Subsidiary of any Loan Party, whether directly or indirectly, such Loan Party shall, within thirty (30) days after such Person becoming a Subsidiary, pledge to the Agent all of the Capital Stock of such Subsidiary (including, without limitation, delivering original stock certificates, if any, evidencing the Capital Stock of such Subsidiary, together with an appropriate undated stock power for each certificate duly executed in blank by the registered owner thereof), cause such Subsidiary to deliver the security required by Section 3.1 within the time period provided for therein and take all such actions and execute and deliver, or cause to be executed and delivered, all such documents,

instruments, agreements, and certificates as the Majority Lenders may reasonably require.

- (b) Any Subsidiary of the Borrower must be a wholly-owned Subsidiary.

#### **6.11 Further Assurances**

- (a) At any time or from time to time upon the request of the Agent, acting on the direction of the Majority Lenders, each Loan Party will, at its expense, promptly execute, acknowledge and deliver (or cause the applicable Subsidiary becoming a Loan Party pursuant to Section 6.10 to execute, acknowledge and deliver) such further documents and do such other acts and things as the Agent may reasonably request in order to carry out more effectively the purposes of the Loan Documents, including providing Lenders with any information requested pursuant to Section 10.18.
- (b) Each Loan Party hereby authorizes the Agent to file one or more PPSA financing statements, and amendments thereto, relative to all or part of the Collateral of any Loan Party without the signature of such Loan Party where permitted by law, including any financing or continuation statement, or amendment thereto, with “all property and assets” in the collateral description.

#### **6.12 Use of Proceeds**

The proceeds of the Loans will be used only in the manner and for the purposes set forth in Section 2.4. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any Governmental Requirement of any Governmental Authority, including Regulations T, U and X of the Board of Governors of the Federal Reserve System.

#### **6.13 Marketing of Production**

All Hydrocarbons produced from the Oil and Gas Properties of any Loan Party shall be marketed on an arms-length basis to one or more Persons that are not Affiliates of a Loan Party or, if to one or more Persons that are Affiliates of a Loan Party, in accordance with the terms and conditions set forth in Section 5.27. Each agreement for the purchase and sale of Hydrocarbons from any Loan Party's Oil and Gas Properties will be in the name of such Loan Party.

#### **6.14 Swap Agreements** The Borrower will at all times maintain in full force and effect:

- (a) as of the Closing Date, commodity Swap Agreements in form and substance satisfactory to the Majority Lenders (which, for the avoidance of doubt, shall be in the form of swaps or costless collars but may not include any sold puts and the exercise price of any purchased puts may not fall more than 5% below the then-applicable swap rate) pursuant to which not less than 85% of the forecasted production from the Loan Parties' Proved Developed Producing Reserves (as set forth on the Reserve Report delivered to the Lenders on or prior to the Closing Date) is hedged (in Canadian dollars where applicable) through the date that is four years following the Closing Date;

- (b) as of the Closing Date, basis risk Swap Agreements in form and substance satisfactory to the Majority Lenders (which, for the avoidance of doubt, shall be in the form of swaps or costless collars but may not include any sold puts) pursuant to which not less than 85% of the forecasted production from Loan Parties' Proved Developed Producing Reserves (as set forth on the Reserve Report most recently delivered pursuant to Section 6.1(n)) is hedged forward through December 31, 2022; and
- (c) at all times during the term of this Agreement, such additional basis risk Swap Agreements in form and substance satisfactory to the Majority Lenders (which, for the avoidance of doubt, shall be in the form of swaps or costless collars but may not include any sold puts) such that on a rolling monthly basis, not less than 85% of the forecasted production from Loan Parties' Proved Developed Producing Reserves (as set forth on the Reserve Report most recently delivered pursuant to Section 6.1(n)) is hedged forward no less than twelve (12) months.

### **6.15 Pension Plans**

The Borrower will promptly notify the Agent on becoming aware of (a) the institution of any steps by any Person to terminate or effect a partial wind-up of any Pension Plan, (b) the failure to make a required contribution to any Pension Plan if such failure is sufficient to give rise to a Lien under Section 302(f) of ERISA or under any other Applicable Law, (c) the taking of any action with respect to a Pension Plan that is reasonably likely to result in the requirement that any Loan Party furnish a bond or other security to such Pension Plan or the Pension Benefit Guaranty Corporation under ERISA or any other applicable Governmental Authority, or (d) the occurrence of any event with respect to any Pension Plan that is reasonably likely to result in the incurrence by any Lan Party of any material liability, fine or penalty, and in the notice to the Agent thereof, provide copies of all documentation relating thereto.

### **6.16 Title Assurances**

Without limiting any other requirements contained in this Agreement and the other Loan Documents, the Borrower shall promptly, and in any event within thirty (30) days after notice by the Majority Lenders or the Agent of any defect, material in the opinion of the Majority Lenders, in the title of the Borrower to any Oil and Gas Property covered by the Security, clear such title defect, and in the event of any such title defects are not cured in a timely manner, pay all related costs and fees incurred by the Lenders and the Agent in attempting to do so.

## **ARTICLE 7 NEGATIVE COVENANTS**

Each Loan Party covenants and agrees that, until indefeasible payment in full of all Obligations (other than contingent obligations for which no claim has been made), such Person shall perform all covenants in this Article 7.

### **7.1 Indebtedness**

No Loan Party shall directly or indirectly, create, incur, assume or guarantee, or otherwise become or remain directly or indirectly liable with respect to any Indebtedness, except:

- (a) the Obligations;

- (b) Swap Agreements permitted by Section 7.18;
- (c) Indebtedness existing on the Closing Date and described in Schedule 7.1 and repayment, refinancing, refunding, replacement, renewal or extension of such Indebtedness, in whole or in part, so long as such repayment, refinancing, refunding, replacement, renewal or extension does not increase the principal amount of such Indebtedness;
- (d) Indebtedness in an amount not to exceed \$1,000,000 at any time outstanding with respect to (x) Capital Leases and (y) purchase money Indebtedness; *provided*, in the case of clause (x), that any such Indebtedness shall be secured only by the asset subject to such Capital Lease, and, in the case of clause (y), that any such Indebtedness shall be secured only by the asset acquired in connection with the incurrence of such Indebtedness, that such asset is acquired in the ordinary course of business and that such Indebtedness is incurred within 20 days following such purchase and does not exceed 100% of the purchase price of the subject assets;
- (e) Guarantees with respect to Indebtedness permitted under this Section 7.1;
- (f) Indebtedness representing deferred compensation to officers, directors, employees of the Borrower and its Subsidiaries;
- (g) Indebtedness among the Loan Parties;
- (h) other Indebtedness approved pursuant to an Approval Letter;
- (i) the Digistore Obligations; and
- (j) subject to the Swap Intercreditor Agreement, Indebtedness of the Loan Parties to the Swap Provider.

## **7.2 Liens**

No Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of any kind (including any document or instrument in respect of goods or accounts receivable and any Capital Stock) of any Loan Party, whether now owned or hereafter acquired, or any income or profits therefrom, or file or permit the filing of, or permit to remain in effect, any financing statement or other similar notice of any Lien with respect to any such property, asset, income or profits under the PPSA or under any similar recording or notice statute, except Permitted Liens.

## **7.3 No Further Negative Pledges**

Except with respect to restrictions by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, licenses and similar agreements entered into in the ordinary course of business (*provided* that such restrictions are limited to the property or assets secured by such Permitted Liens or the property or assets subject to such leases, licenses or similar agreements, as the case may be), no Loan Party shall permit to exist or enter into any agreement prohibiting the creation or assumption of any Lien in favour of Agent for the benefit of the Secured Parties upon any of its properties or assets, whether now owned or hereafter acquired.

#### **7.4 Restricted Junior Payments**

The Borrower shall not, nor shall it permit any of its Subsidiaries through any manner or means or through any other Person to, directly or indirectly, declare, order, pay, make or set apart, or agree to declare, order, pay, make or set apart, any sum for any Restricted Junior Payment except:

- (a) each Subsidiary of a Loan Party may make Restricted Junior Payments to such Loan Party;
- (b) subject to the terms of the Swap Intercreditor Agreement, the Borrower may make payments in respect of Swap Agreements to the Swap Provider; and
- (c) each Loan Party may declare and make dividend payments or other distributions payable solely in the equity interests of such Person.

#### **7.5 Restrictions on Subsidiary Distributions**

No Loan Party shall create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Subsidiary to (a) pay dividends or make any other distributions on any of such Subsidiary's Capital Stock owned by any Loan Party, (b) repay or prepay any Indebtedness owed by such Subsidiary to any Loan Party or any other Subsidiary of any Loan Party, (c) make loans or advances to any Loan Party or (d) transfer any of its property or assets to any Loan Party, except as required by law.

#### **7.6 Investments**

No Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, make or own any Investment in any Person, except:

- (a) Investments in Cash and Cash Equivalents;
- (b) equity Investments owned as of the Closing Date in any other Loan Party;
- (c) capital expenditures in an aggregate amount for all Loan Parties not to exceed \$8,000,000 per Fiscal Year or otherwise approved by the Majority Lenders in their sole discretion; *provided* that:
  - (i) the amount set forth above for any Fiscal Year shall be increased by the aggregate amount of net cash proceeds received by the Loan Parties in such Fiscal Year from the issuance of Capital Stock of a Loan Party;
  - (ii) if, for any Fiscal Year, the amount set forth above for such Fiscal Year exceeds the aggregate amount of capital expenditures made by the Loan Parties during such Fiscal Year (the amount of such excess being the "**Unspent Capex Amount**"), the Loan Parties shall be entitled to make additional capital expenditures in the immediately succeeding Fiscal Year in an amount equal to such Unspent Capex Amount, and
  - (iii) during the period commencing on February 17, 2022 and ending on July 31, 2022, the Loan Parties shall be entitled to make additional capital

expenditures in the aggregate amount of up to \$15,000,000 (less any such additional capital expenditures already made) by the use of excess cash flow or Existing Loans, or a combination thereof;

- (d) payments on trade and customer accounts receivable which are for goods furnished or services rendered in the ordinary course of business and are payable in accordance with customary trade terms;
- (e) creation of any additional Subsidiaries of any Loan Party in compliance with Section 6.10;
- (f) intercompany loans to the extent permitted under Section 7.1(g) and guarantees to the extent permitted under Section 7.1(e); and
- (g) Investments existing on the Closing Date.

## **7.7 Financial and Performance Covenants**

The Borrower shall not permit at any time:

- (a) Liquidity. The Liquidity of the Loan Parties to be in an amount less than \$1,000,000;
- (b) PDP Asset Coverage Ratio. The PDP Asset Coverage Ratio, as of the last day of any Fiscal Quarter for which financial statements are available, to be less than 1.75 to 1.00;
- (c) General and Administrative Costs. The General and Administrative Costs for any calendar year to exceed the General and Administrative Costs Cap;
- (d) First Lien Net Leverage Ratio. As of the last day of any Test Period, the First Lien Net Leverage Ratio to be greater than 1.75 to 1.00; and
- (e) Current Ratio. As of the last day of any Fiscal Quarter, the Current Ratio to be less than 1.00 to 1.00.

## **7.8 Fundamental Changes; Disposition of Assets; Acquisitions**

No Loan Party shall:

- (a) enter into any transaction of merger or consolidation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), other than (i) the merger of any Loan Party or any Subsidiary of a Loan Party with and into any Loan Party or another Subsidiary of any Loan Party (except that, with respect to any such merger or consolidation involving the Borrower, the Borrower must be the surviving entity), (ii) the merger of any other Person with any Loan Party; *provided* that such Loan Party shall be the continuing or surviving entity, and (iii) the liquidation or dissolution of any Loan Party (other than the Borrower); *provided* that such liquidation or dissolution, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect;

- (b) convey, sell, assign, abandon, surrender, farm-out, lease or sublease (as lessor or sublessor), exchange, transfer or otherwise dispose of (including any royalty, overriding royalty, net profits interest, production payment, carried interest or reversionary working interest), in one transaction or a series of transactions, all or any part of its business, assets or property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, whether now owned or hereafter acquired, except (i) sales of Hydrocarbons in the ordinary course of business, (ii) disposals of obsolete, worn out, depleted or uneconomic property, (iii) in respect of a disposition not exceeding \$2,500,000 per transaction and \$5,000,000 in the aggregate at any time, *provided* that a Financial Officer of the Borrower has certified to the Agent that, after giving effect to such disposition, the Borrower's PDP Asset Coverage Ratio is not less than 2.00 to 1.00 and the Borrower's First Lien Net Leverage Ratio is not greater than 1.45 to 1.00; or
- (c) other than the Acquisition or with the prior written consent of the Lenders, acquire by purchase or otherwise (other than purchases or other acquisitions of inventory, materials and equipment and capital expenditures permitted hereunder in the ordinary course of business) the business, property (including Oil and Gas Properties) or fixed assets of, or Capital Stock or other evidence of beneficial ownership of, any Person or any division or line of business or other business unit of any Person, or make any commitment or incur any obligation to enter into any such transaction, except Investments made in accordance with Section 7.6.

#### **7.9 Limitation on Leases**

No Loan Party will create, incur, assume or suffer to exist any obligation for the payment or rent or hire of Property of any kind whatsoever (real or personal but excluding Capital Leases and leases of Hydrocarbon Interests), under leases or lease agreements which would cause the aggregate amount of all payments made by all Loan Parties pursuant to such leases or lease agreements, including, without limitation, any residual payments at the end of any lease, to exceed \$1,000,000 in any period of twelve (12) consecutive calendar months during the life of such leases without the approval of Agent acting on the direction of the Majority Lenders.

#### **7.10 Sales and Lease Backs**

No Loan Party shall directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any lease of any property (whether real, personal or mixed), whether now owned or hereafter acquired, which such Loan Party (a) has sold or transferred or is to sell or to transfer to any other Person (other than the Borrower or any of its Subsidiaries) or (b) intends to use for substantially the same purpose as any other property which has been or is to be sold or transferred by such Loan Party to any Person (other than the Borrower or any of its Subsidiaries) in connection with such lease.

#### **7.11 Transactions with Covered Persons**

No Loan Party shall, either directly or indirectly, enter into or permit to exist any arrangement or understanding with a Covered Person, regardless of whether such arrangement has been formalized, unless such transaction is upon fair and reasonable terms no less favourable to it than it would obtain in a comparable arm's length transaction with a Person who is not a Covered Person; *provided* that the foregoing restriction shall not apply to (x) any transaction among Loan Parties and (y) normal and reasonable compensation and

reimbursement of expenses of officers and directors in the ordinary course of business; *provided, further,* that the Loan Parties may perform any obligations under any agreement in existence on the Closing Date and set forth on Schedule 7.11, as the same may be amended, supplemented or otherwise modified from time to time with the consent of the Agent (provided that the Agent's consent shall not be required to the extent such amendment, supplement or other modification is not adverse to Agent or the Lenders).

#### **7.12 Amendments or Waivers of Material Contracts**

No Loan Party shall agree to any material amendment, restatement, supplement or other modification to, or waiver of, any Material Contract after the Closing Date, in each case in a manner which could reasonably be expected to be materially adverse to the Lenders, without obtaining the prior written consent of Agent, acting on the direction of the Majority Lenders, to such amendment, restatement, supplement or other modification or waiver, which consent shall not be unreasonably withheld, delayed or conditioned.

#### **7.13 Fiscal Year**

No Loan Party shall, nor shall it permit any of its Subsidiaries to, change its Fiscal Year end from December 31.

#### **7.14 Deposit Accounts**

No Loan Party shall establish or maintain a Deposit Account or Securities Account, other than (a) the Deposit Accounts or Securities Accounts covered by a Control Agreement listed in Schedule 7.14, and (b) Excluded Accounts, without executing and delivering to Agent a Control Agreement covering the applicable Deposit Account or Securities Account. No Loan Party will deposit Collateral (including the proceeds thereof), Cash Receipts or the proceeds of Loans in a Deposit Account or Securities Account (other than any Excluded Account) that is not subject to a Control Agreement. With respect to any Deposit Account that is used as a suspense account and that is subject to a Control Agreement, the Agent hereby agrees, notwithstanding its rights hereunder, (a) not to exercise control over such Deposit Account unless an Event of Default has occurred and is continuing, or (b) not to sweep the funds in such Deposit Account or prevent distributions to third parties with *bona fide* claims to proceeds from such Deposit Account unless (i) the Agent has actual knowledge that the portion of the proceeds being swept or prevented from distribution is not owed to such third parties, and (ii) the Agent notifies the Borrower of, and provides the Borrower evidence reasonably supporting, such knowledge.

#### **7.15 Amendments to Organizational Agreements**

No Loan Party shall materially amend or permit any material amendments to any Loan Party's Organizational Documents in each case in a manner which could reasonably be expected to be materially adverse to the Lenders without the prior written consent of Agent, acting on the direction of the Majority Lenders, which consent shall not be unreasonably withheld, delayed or conditioned.

#### **7.16 Sale or Discount of Receivables**

Except for receivables obtained by any Loan Party out of the ordinary course of business or the settlement of joint interest billing accounts in the ordinary course of business or discounts granted to settle collection of accounts receivable or the sale of defaulted accounts arising in the

ordinary course of business in connection with the compromise or collection thereof and not in connection with any financing transaction, no Loan Party will discount or sell (with or without recourse) any of its Loans receivable or accounts receivable.

#### **7.17 Gas Imbalances, Take-or-Pay or Other Prepayments**

No Loan Party will allow (a) material prepayments (including payments for gas not taken pursuant to “take or pay” or other similar arrangements) for any Hydrocarbons produced or to be produced from any Oil and Gas Property after the Closing Date, or (b) any “take or pay”, gas imbalances (in excess of 10,000 mcf of gas (on an mcf equivalent basis) in the aggregate) or other similar arrangement that would require the Loan Parties to deliver Hydrocarbons at some future time without receiving full payment therefor at the time of delivery.

#### **7.18 Swap Agreements**

The Borrower will not, and will not permit any Subsidiary to, enter into any Swap Agreements with any Person other than Swap Agreements (which, for the avoidance of doubt, shall be in the forms of swaps) in respect of commodities (a) subject to the Swap Intercreditor Agreement (unless otherwise approved in writing by Agent acting on the direction of the Majority Lenders) and (b) the notional volumes for which (when aggregated with other commodity Swap Agreements then in effect other than basis differential swaps on volumes already hedged pursuant to other Swap Agreements) do not exceed, as of the date such Swap Agreement is executed, 95% of the reasonably anticipated projected production (as set forth on the most recently delivered Reserve Report (or internally generated engineering data)) from Proved Developed Producing Oil and Gas Properties for each month during the period during which such Swap Agreement is in effect for each of crude oil, natural gas liquids and natural gas, calculated separately. In no event shall any Swap Agreement contain any requirement, agreement or covenant for the Borrower or any Subsidiary to post collateral or margin to secure their obligations under such Swap Agreement, other than a requirement that such Swap Agreement be subject to any Swap Intercreditor Agreement.

#### **7.19 Sanctions**

The Borrower shall not, and shall not permit any other Loan Party, to directly or indirectly, use the proceeds of any Loan, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, (a) to fund any activities of or business with any individual or entity, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, (b) in any manner that will result in a violation by any individual or entity (including any individual or entity participating in the transaction, whether as Lender, Agent or otherwise) of Sanctions, or (c) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws.

#### **7.20 Digistore Obligations**

The Borrower will not:

- (a) modify, amend, refinance, supplement, increase, restate or waive any right or obligation of the Borrower under, the Digistore Documents except in accordance with the terms of the Digistore Subordination Agreement;

- (b) make any payment of principal, interest, fees or any other amounts on the Digistore Documents at any time without the prior written consent of the Agent acting on the instructions of the Majority Lenders; or
- (c) grant any Liens to secure the Digistore Obligations.

#### **7.21 Limitation on Lease Expiration**

The Borrower agrees that it will not, and will not permit any Subsidiary to, permit any leases of Hydrocarbon Interests to expire or otherwise terminate without being held by production if (i) such lease has a value in excess of \$500,000 for any individual lease, or (ii) the value of such lease, when aggregated with the aggregate value of all leases that have expired in the twelve month period prior to the date of determination, is in excess of \$1,000,000, except in each case to the extent that the Majority Lenders consent in writing to the expiration of such lease.

#### **7.22 Line of Business**

The Borrower will not, and will not permit any of its Subsidiaries to, engage in any business if, as a result, the general nature of the business in which the Borrower and its Subsidiaries, taken as a whole, would then be engaged would be substantially changed from the general nature of the business in which the Company and its Subsidiaries, taken as a whole, are engaged on the date of this Agreement.

### **ARTICLE 8 EVENTS OF DEFAULT**

#### **8.1 Events of Default**

If any one or more of the following conditions or events shall occur:

- (a) Failure to Make Payments When Due. Failure by the Borrower to pay (i) when due the principal or premium, if any, with respect to any Loan whether at stated maturity, by acceleration or otherwise; (ii) when due any installment of principal of any Loan, by mandatory prepayment or otherwise; or (iii) when due any interest on any Loan or any fee or any other amount due under any Loan Document if such failure under this clause (iii) shall continue unremedied for a period of three (3) Business Days;
- (b) Default in Other Agreements. Failure of any Loan Party to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Indebtedness in an amount individually or in the aggregate of \$1,000,000 or more (any agreement with respect thereto, a "**Material Debt Agreement**"), in each case beyond the grace period, if any, provided therefor; any "**Event of Default**", "**Termination Event**" or "**Additional Termination Event**" occurs (as each such term is defined in any Swap Agreement) or breach or default by any Loan Party with respect to any other material term of any Material Debt Agreement, in each case beyond the grace period, if any, provided therefor, if the effect of such breach or default is to cause, or to permit the Lender or Lenders of that Indebtedness (or a trustee on behalf of such Lender or Lenders), to cause, that Indebtedness to become or be declared due and payable (or subject to a compulsory repurchase or redemption) or to require the prepayment, redemption,

repurchase or defeasance of, or to cause any Loan Party to make any offer to prepay, redeem, repurchase or defease such Indebtedness, prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be;

- (c) Breach of Certain Covenants. Failure of any Loan Party to perform or comply with any term or condition contained in Sections 2.4, 6.1 (but excluding Sections 6.1(h) and 6.1(q)), 6.2, 6.6, 6.8 or 6.12 or the failure of any Loan Party to perform or comply with any term or condition contained in Article 7;
- (d) Breach of Representations, etc. Any representation, warranty, or certification made or deemed made by any Loan Party in any Loan Document or in any certificate at any time given by any Loan Party in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect as of the date made or deemed made;
- (e) Other Defaults Under Loan Documents. Any Loan Party shall default in any material respect in the performance of or compliance with any term contained herein or any of the other Loan Documents, other than any such term referred to in any other Section of this Section 8.1, and such default shall not have been remedied or waived within thirty (30) days after the earlier of the knowledge of any Authorized Officer of any Loan Party, as applicable, of such breach or failure and the date notice thereof is received by the Borrower from the Agent or any Lender;
- (f) Involuntary Bankruptcy. If a decree or order of a court of competent jurisdiction is entered adjudging a Loan Party a bankrupt or insolvent or approving as properly filed a petition seeking the winding-up of a Loan Party under the *Companies' Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada), the *United States Bankruptcy Code*, the *Winding-up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous laws or issuing sequestration or process of execution against any substantial part of the assets of a Loan Party or ordering the winding-up or liquidation of its affairs, and any such decree or order continues unstayed and in effect for a period of ten (10) Business Days;
- (g) Voluntary Bankruptcy. If any Loan Party becomes insolvent, makes any assignment in bankruptcy or makes any other assignment for the benefit of creditors, makes any proposal under the *Bankruptcy and Insolvency Act* (Canada) or any comparable law, seeks relief under the *Companies' Creditors Arrangement Act* (Canada), the *United States Bankruptcy Code*, the *Winding-up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous law, is adjudged bankrupt, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequestrator or other Person with similar powers of itself or of all or any substantial portion of its assets, or files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditors' rights or consents to, or acquiesces in, the filing of such a petition;

- (h) Enforcement by Lienholder. If the holder of a Lien takes possession, by appointment of a receiver, receiver and manager or otherwise, of all or a substantial portion of the Property of any Loan Party;
- (i) Dissolution. If proceedings are commenced for the dissolution, liquidation or voluntary winding-up of any Loan Party, or for the suspension of the operations of any Loan Party unless such proceedings are being actively and diligently contested in good faith;
- (j) Judgments. If a final judgment or decree for the payment of money due has been obtained or entered against the Borrower in an amount in excess of \$500,000, or against any other Loan Party in an amount that, in the reasonable opinion of the Majority Lenders, would materially and adversely affect the ability of any such other Loan Party to fulfil its obligations to the Lenders under this Agreement, and such judgment or decree has not been and remained vacated, discharged or stayed pending appeal within the applicable appeal period;
- (k) Material Adverse Effect. If an event shall occur which would reasonably be expected to have a Material Adverse Effect and, if capable of remedy, such event shall not be remedied within a period of twenty (20) Business Days from the date of written notice by the Agent to the Borrower of such event;
- (l) Security. If any Security ceases to constitute a valid and perfected First Priority security interest (subject only to Permitted Liens) and the applicable Loan Party has failed to remedy such default within ten (10) days of becoming aware of such fact;
- (m) Change of Control. A Change of Control shall occur;
- (n) Change of Operator. The Borrower shall replace the operator of any of the Borrower's material Operated Oil and Gas Properties without the consent of the Majority Lenders which consent shall not be unreasonably withheld, conditioned or delayed;
- (o) Material Contracts. Any party to any Material Contract to which any Loan Party is a party shall repudiate its obligations thereunder, contest the validity or enforceability of such Material Contract or otherwise claim that such Material Contract is invalid (excluding any Material Contract so affected that is replaced by the Borrower in a manner reasonably satisfactory to the Agent within thirty (30) days of such event);
- (p) Swap Intercreditor Agreement. The Swap Intercreditor Agreement shall for any reason, except to the extent permitted by the terms thereof, cease to be in full force and effect and valid, binding and enforceable in accordance with its terms against the Borrower, any Guarantor, the Swap Provider, any counterparty of a Swap Agreement, or any other party thereto, or shall be repudiated, or the Borrower, any Guarantor, the Swap Provider, any counterparty of a Swap Agreement, or any of their respective Affiliates shall so state in writing;
- (q) Security and Other Loan Documents. At any time after the execution and delivery thereof, (i) any guarantee of the Obligations for any reason, other than the

satisfaction in full of all Obligations (other than contingent obligations for which no claim has been made), sale or other disposition permitted by this Agreement (but only with respect to the assets being sold) or a consent provided in accordance with Section 10.6, shall cease to be in full force and effect (other than in accordance with its terms) or shall be declared to be null and void or any Guarantor shall repudiate its obligations thereunder, (ii) this Agreement or any Security ceases to be in full force and effect (other than by reason of a release of Collateral in accordance with the terms hereof or thereof or the satisfaction in full of the Obligations (other than contingent obligations for which no claim has been made) in accordance with the terms hereof) or shall be declared null and void, or the Agent shall not have or shall cease to have, or it shall be asserted in writing by any Loan Party, not to have, a valid and perfected First Priority Lien in any Collateral (subject only to Permitted Liens) purported to be covered by the Security (other than by reason of a release of Collateral in accordance with the terms hereof or thereof or the satisfaction in full of the Obligations (other than contingent obligations for which no claim has been made) in accordance with the terms hereof), or (iii) any Loan Party shall contest in writing the validity or enforceability of any Loan Document or any Lien on the Collateral or any purported Collateral in favour of the Agent or deny in writing that it has any further liability under any Loan Document to which it is a party.

## **8.2 Remedies**

Upon the occurrence of any Event of Default described in Section 8.1(f) or 8.1(g), automatically, and upon the occurrence and during the continuance of any other Event of Default, upon notice to the Borrower to such effect by the Agent, the Agent, on behalf of the Lenders, may and shall have the right to take any of the following actions (provided that the Agent shall take such actions if directed to do so by the Majority Lenders): (i) terminate all Commitments; (ii) declare to be immediately due and payable, in each case without presentment, demand, protest or other requirements of any kind, all of which are hereby expressly waived by each Loan Party, the Obligations, including any Applicable Prepayment Premium and Exit Fee; and (iii) enforce any and all Liens and security interests created pursuant to the Security. Without limiting the generality of the foregoing, it is understood and agreed that if, prior to the Stated Maturity Date, the Loans are accelerated or otherwise become due, in each case, in respect of any Event of Default (including, but not limited to, upon the occurrence of a bankruptcy or insolvency event (including the acceleration of claims by operation of law) (a "**Yield Maintenance Event**")), the Applicable Prepayment Premium and Exit Fee that would have applied if, at the time of such acceleration, the Borrower had paid, refinanced, substituted or replaced any or all of the Loans as contemplated in Section 2.8 will also be due and payable as though a Yield Maintenance Event had occurred and the Applicable Prepayment Premium and Exit Fee shall constitute part of the Obligations, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of the Lenders' lost profits as a result thereof. Any Applicable Prepayment Premium or Exit Fee payable above shall be presumed to be the liquidated damages sustained by the Lenders as the result of payment or acceleration, as applicable, prior to the Stated Maturity Date and the Borrower and the other Loan Parties agree that the Applicable Prepayment Premium and Exit Fee are reasonable under the circumstances currently existing. The Applicable Prepayment Premium and Exit Fee shall also be payable in the event the Obligations (and/or this Agreement) are satisfied or released by enforcement (whether or not by judicial proceeding) or by any other means.

THE BORROWER AND EACH OTHER LOAN PARTY 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 APPLICABLE PREPAYMENT PREMIUM AND EXIT FEE IN CONNECTION WITH ANY SUCH ACCELERATION.

The Borrower and each other Loan Party expressly agrees (to the fullest extent that it may lawfully do so) that: (A) the Applicable Prepayment Premium and Exit Fee are reasonable and are the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (B) the Applicable Prepayment Premium and Exit Fee shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) there has been a course of conduct between the Lenders and the Borrower and the other Loan Parties giving specific consideration in this transaction for such agreement to pay the Applicable Prepayment Premium and Exit Fee; and (D) the Borrower and each other Loan Party shall each be estopped hereafter from claiming differently than as agreed to in this paragraph.

The Borrower and each other Loan Party each expressly acknowledges that its agreement to pay the Applicable Prepayment Premium and Exit Fee to the Lenders as herein described is a material inducement to the Lenders to provide the Commitments and make the Loans.

## **ARTICLE 9 AGENT**

### **9.1 Appointment of Agent**

Wilmington Trust, N.A., is hereby appointed Agent hereunder and under the other Loan Documents and each Lender hereby authorizes Wilmington Trust N.A., in such capacity, to act as its agent (including as collateral agent) in accordance with the terms hereof and the other Loan Documents. The Agent hereby agrees to act upon the express conditions contained herein and the other Loan Documents, as applicable. The provisions of this Section 9.1 are solely for the benefit of the Agent and the Lenders and no Loan Party shall have any rights as a primary or third party beneficiary of any of the provisions thereof. In performing its functions and duties hereunder, the Agent shall act solely as an agent of the Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for any Loan Party or any Affiliate thereof.

### **9.2 Powers and Duties**

Each Lender irrevocably authorizes the Agent to take such action on such Lender's behalf and to exercise such powers, rights and remedies and perform such duties hereunder and under the other Loan Documents as are specifically delegated or granted to the Agent by the terms hereof and thereof, together with such actions, powers, rights and remedies as are reasonably incidental thereto, in all cases at the direction of the Majority Lenders. The Agent shall have only those duties and responsibilities that are expressly specified herein and the other Loan Documents. The Agent may exercise such powers, rights and remedies and perform such duties by or through its agents or employees. The Agent shall not have or be deemed to have, by reason hereof or any of the other Loan Documents, a fiduciary relationship in respect of any Lender; and nothing herein or any of the other Loan Documents, expressed or implied, is intended to or shall be so construed as to impose upon the Agent any obligations in respect hereof or any of the other Loan Documents except as expressly set forth herein or therein.

### 9.3 General Immunity

- (a) No Responsibility for Certain Matters. The Agent shall not be responsible to any Lender for the execution, effectiveness, genuineness, validity, enforceability, collectability or sufficiency hereof or any other Loan Document or for any representations, warranties, recitals or statements made herein or therein or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by the Agent to Lenders or by or on behalf of any Loan Party to the Agent or any Lender in connection with the Loan Documents and the transactions contemplated thereby or for the financial condition or business affairs of any Loan Party or any other Person liable for the payment of any Obligations, nor shall the Agent be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained in any of the Loan Documents or as to the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Default or to make any disclosures with respect to the foregoing. The Agent shall not be responsible for the satisfaction of any condition set forth in Article 4 or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Agent. The Agent will not be required to take any action that is contrary to Applicable Law or any provision of this Agreement or any Loan Document. Anything contained herein to the contrary notwithstanding, the Agent shall not have any liability arising from confirmations of the amount of outstanding Loans or the component amounts thereof.
- (b) Exculpatory Provisions. Neither the Agent nor any of its officers, partners, directors, employees or agents shall be liable to Lenders for any action taken or omitted by the Agent under or in connection with any of the Loan Documents except to the extent caused by the Agent's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable order. The Agent shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection herewith or any of the other Loan Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until the Agent shall have received written instructions in respect thereof from Majority Lenders (or such other Lenders as may be required to give such instructions under Section 10.6) or in accordance with the applicable Loan Document, and, upon receipt of such instructions from Majority Lenders (or such other Lenders, as the case may be), or in accordance with the other applicable Loan Document, as the case may be, the Agent shall be entitled to act or (where so instructed), refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions, except powers and authority expressly contemplated hereby or under the other Loan Documents. Without prejudice to the generality of the foregoing, the Agent shall be entitled to rely, and shall be fully protected in relying, upon any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons, and shall be entitled to rely and shall be protected and free from liability in relying on opinions and judgments of attorneys (who may be attorneys for the Loan Parties), accountants, experts and other professional advisors selected by it; and no Lender shall have any right of action whatsoever against the Agent as a result of the Agent acting or (where so instructed) refraining from acting hereunder or any of the other Loan Documents in accordance with the

instructions of Majority Lenders (or such other Lenders as may be required to give such instructions under Section 10.6) or in accordance with the applicable Loan Document. The Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless the Agent shall first receive such advice or concurrence of the Lenders (as required by this Agreement) and until such instructions are received, the Agent shall act, or refrain from acting, as it deems advisable. If the Agent so requests, it shall first be indemnified to its reasonable satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Majority Lenders and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Lenders. No provision of this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby shall require the Agent to expend or risk its own funds or provide indemnities in the performance of any of its duties hereunder or the exercise of any of its rights or power or otherwise incur any financial liability in the performance of its duties or the exercise of any of its rights or powers. The Agent shall not be responsible for perfecting, maintaining, monitoring, preserving or protecting the security interest or lien granted under this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the filing, re-filing, recording, re-recording or continuing of any document, financing statement, mortgage, assignment, notice, instrument of further assurance or other instrument in any public office at any time or times or providing, maintaining, monitoring or preserving insurance on or the payment of taxes with respect to any of the Collateral. The actions described above shall be the responsibility of the Lenders and the Loan Parties. The Agent shall not be required to qualify in any jurisdiction in which it is not presently qualified to perform its obligations as the Agent. The Agent has accepted and is bound by the Loan Documents executed by the Agent as of the date of this Agreement and, as directed in writing by the Majority Lenders, the Agent shall execute additional Loan Documents delivered to it after the date of this Agreement; *provided, however*, that such additional Loan Documents do not adversely affect the rights, privileges, benefits and immunities of the Agent. The Agent will not otherwise be bound by, or be held obligated by, the provisions of any loan agreement, indenture or other agreement governing the Obligations (other than this Agreement and the other Loan Documents to which the Agent is a party). No written direction given to the Agent by the Majority Lenders or any Loan Party that in the sole judgment of the Agent imposes, purports to impose or might reasonably be expected to impose upon the Agent any obligation or liability not set forth in or arising under this Agreement and the other Loan Documents will be binding upon the Agent unless the Agent elects, at its sole option, to accept such direction. The Agent shall not be responsible or liable for any failure or delay in the performance of its obligations under this Agreement or the other Loan Documents arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; terrorism; wars and other military disturbances; sabotage; epidemics; riots; business interruptions; loss or malfunctions of utilities, computer (hardware or software) or communication services; accidents; labour disputes; acts of civil or military authority and governmental action. Beyond the exercise of reasonable care in the custody of the Collateral in the possession or control of the Agent or its

bailee, the Agent will not have any duty as to any other Collateral or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto. The Agent will be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property, and the Agent will not be liable or responsible for any loss or diminution in the value of any of the Collateral by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Agent in good faith. The Agent will not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes gross negligence or willful misconduct on the part of the Agent, as determined by a court of competent jurisdiction in a final, non-appealable order, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of any grantor to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral. The Agent hereby disclaims any representation or warranty to the present and future Lenders of the Obligations concerning the perfection of the Liens granted hereunder or in the value of any of the Collateral. In the event that the Agent is required to acquire title to an asset for any reason, or take any managerial action of any kind in regard thereto, in order to carry out any fiduciary or trust obligation for the benefit of another, which in the Agent's sole discretion may cause the Agent to be considered an "owner or operator" under any environmental laws or otherwise cause the Agent to incur, or be exposed to, any environmental liability or any liability under any other federal, state or local law, the Agent reserves the right, instead of taking such action, either to resign as Agent or to arrange for the transfer of the title or control of the asset to a court-appointed receiver. The Agent will not be liable to any person for any environmental liability or any environmental claims or contribution actions under any federal, state or local law, rule or regulation by reason of the Agent's actions and conduct as authorized, empowered and directed hereunder or relating to any kind of discharge or release or threatened discharge or release of any hazardous materials into the environment. Each Lender authorizes and directs the Agent to enter into this Agreement and the other Loan Documents to which it is a party. Each Lender agrees that any action taken by the Agent or Majority Lenders in accordance with the terms of this Agreement or the other Loan Documents and the exercise by the Agent or Majority Lenders of their respective powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Lenders.

- (c) Notice of Default. The Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default (except knowledge of any failure to pay principal, interest and fees required to be paid hereunder to the Agent for the benefit of the Lenders) unless the Agent shall have received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". The Agent will notify the Lenders of its receipt of any such notice. The Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interest of the Lenders.

#### **9.4 Agent Entitled to Act as Lender**

The agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, the Agent in its individual capacity to the extent it becomes a Lender hereunder. With respect to its participation in the Loans, if any, the Agent shall have the same rights and powers hereunder as any other Lender and may exercise the same as if it were not performing the duties and functions delegated to it hereunder, and the term “Lender” shall, unless the context clearly otherwise indicates, include the Agent in its individual capacity. The Agent and its Affiliates may accept deposits from, lend money to, own securities of, and generally engage in any kind of banking, trust, financial advisory or other business with any Loan Party or any of its Affiliates as if it were not performing the duties specified herein, and may accept fees and other consideration from any Loan Party or any of their respective Affiliates for services in connection herewith and otherwise without having to account for the same to Lenders.

#### **9.5 Lenders’ Representations, Warranties and Acknowledgment**

- (a) Each Lender represents and warrants to the Agent that it has made its own independent investigation of the financial condition and affairs of each Loan Party, without reliance upon the Agent or any other Lender and based on such documents and information as it has deemed appropriate, in connection with Loans hereunder and that it has made and shall continue to make its own appraisal of the creditworthiness of each Loan Party. The Agent shall not have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of the Lenders or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter, and the Agent shall not have any responsibility with respect to the accuracy of or the completeness of any information provided to the Lenders.
- (b) Each Lender, by delivering its signature page to this Agreement or a joinder agreement and funding its Loan, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be approved by the Agent, Majority Lenders or Lenders, as applicable.

#### **9.6 Right to Indemnity**

Each Lender, in proportion to its Pro Rata Share, severally agrees to indemnify the Agent, its Affiliates and its officers, partners, directors, trustees, employees, representatives and agents of the Agent (each, an “**Indemnatee Agent Party**”), to the extent that such Indemnatee Agent Party shall not have been reimbursed by any Loan Party, for and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against such Indemnatee Agent Party in exercising its powers, rights and remedies or performing its duties hereunder or under the other Loan Documents or otherwise in its capacity as such Indemnatee Agent Party in any way relating to or arising out of this Agreement or the other Loan Documents, **IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY, OR SOLE NEGLIGENCE OF THE AGENT**; *provided*, no Lender shall be liable for any portion of such claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Indemnatee Agent Party’s

gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable order.

#### **9.7 Successor Agent**

- (a) The Agent may resign at any time by giving thirty (30) days' prior written notice thereof to the Lenders and the Borrower. Upon any such notice of resignation, Majority Lenders shall have the right, upon five (5) Business Days' notice to the Borrower, to appoint a successor Agent which successor shall be reasonably acceptable to the Borrower. If no successor shall have been so appointed by the Majority Lenders and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation, then the retiring Agent's resignation shall nevertheless thereupon become effective and the Majority Lenders shall perform all of the duties of Agent, as applicable, hereunder until such time, if any, as the Majority Lenders appoint a successor Agent as provided for above. In such case, the Majority Lenders shall appoint one Person to act as Agent for purposes of any communications with the Borrower, and until the Borrower shall have been notified in writing of such Person and such Person's notice address as provided for in Section 10.1, the Borrower shall be entitled to give and receive communications to/from the resigning Agent. Upon the acceptance of any appointment as Agent hereunder by a successor Agent and the payment of the outstanding fees and expenses of the resigning Agent, that successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent and the retiring Agent shall promptly (i) transfer to such successor Agent all sums, Capital Stock and other items of Collateral held under the Security, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Agent under the Loan Documents, and (ii) execute and deliver to such successor Agent such amendments to financing statements, and take such other actions, as may be reasonably requested in connection with the assignment to such successor Agent of the security interests created under the Security (the reasonable out-of-pocket expenses of which shall be borne by the Borrower), whereupon such retiring Agent shall be discharged from its duties and obligations hereunder. After any retiring Agent's resignation hereunder as Agent, the provisions of this Section 9.7 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent hereunder.
- (b) Notwithstanding anything herein to the contrary, the Agent may assign its rights and duties as Agent hereunder to (i) an Affiliate of the Agent or to any Lender or Affiliate thereof without the prior written consent of, or prior written notice to, the Borrower or the Lenders, or (ii) any other non-Affiliate financing source of the Agent or other third party with the prior written consent of the Majority Lenders; *provided* that the Borrower and the Lenders may deem and treat such assigning Agent as Agent for all purposes hereof, unless and until such assigning Agent provides written notice to the Borrower and the Lenders of such assignment. Upon such assignment, such Affiliate shall succeed to and become vested with all rights, powers, privileges and duties as Agent hereunder and under the other Loan Documents.
- (c) The Agent may perform any and all of its duties and exercise its rights and powers under this Agreement or under any other Loan Document by or through any one

or more sub-agents appointed by the Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates. The Agent shall not be responsible for the acts or omissions of its sub-agents so long as they are appointed with due care. The exculpatory, indemnification and other provisions of Section 9.3 and Section 9.6 shall apply to any Affiliates of the Agent and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein. All of the rights, benefits and privileges (including the exculpatory and indemnification provisions) of Section 9.3 and of Section 9.6 shall apply to any such sub-agent and to the Affiliates of any such sub-agent, and shall apply to their respective activities as sub-agent. Notwithstanding anything herein to the contrary, with respect to each sub-agent appointed by the Agent, such sub-agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory and rights to indemnification) and shall have all of the rights, benefits and privileges of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of the Loan Parties and the Lenders and such sub-agent shall only have obligations to the Agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or any other Person shall have the rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub-agent.

## 9.8 Security

- (a) Agent under Security; Releases. Each Lender and other Indemnitee hereby further irrevocably authorizes the Agent, on behalf of and for the benefit of the Lenders, to be the agent for and representative of Lenders with respect to the Security and to enter into such other agreements with respect to the Collateral (including intercreditor agreements) as it may deem necessary without further consent from the Lenders. Subject to Section 10.6, without further written consent or authorization from the Lenders, the Agent may execute any documents or instruments necessary to release any Lien encumbering any item of Collateral that is the subject of a sale or other disposition of assets permitted hereby or to which Majority Lenders (or such other Lenders as may be required to give such consent under Section 10.6) have otherwise consented, or release any Guarantor from its guarantee of the Obligations in connection with transactions permitted under this Agreement or with respect to which Majority Lenders (or such other Lenders as may be required to give such consent under Section 10.6) have otherwise consented.
- (b) Right to Realize on Collateral and Enforce Guarantee. Anything contained in any of the Loan Documents to the contrary notwithstanding, the Borrower, the Agent and each Lender hereby agree that (i) no Lender shall have any right individually to realize upon any of the Collateral or to enforce any guarantee or exercise any other remedy provided under the Loan Documents (other than the right of set-off), it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Agent (acting at the written direction of the Majority Lenders), on behalf of the Lenders in accordance with the terms hereof and all powers, rights and remedies under this Agreement and the Security may be exercised solely by the Agent (acting at the written direction of the Majority

Lenders), and (ii) in the event of a foreclosure by the Agent on any of the Collateral pursuant to a public or private sale, the Agent or its nominee may be the purchaser of any or all of such Collateral at any such sale and the Agent, as agent for and representative of Lenders (but not any Lender or Lenders in its or their respective individual capacities unless the Majority Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations arising under the Loan Documents as a credit on account of the purchase price for any collateral payable by the Agent at such sale.

## **9.9 Posting of Approved Electronic Communications**

- (a) Delivery of Communications. Each Loan Party hereby agrees, unless directed otherwise by the Agent or unless the electronic mail address referred to below has not been provided by the Agent to such Person, that it will provide to the Agent all information, documents and other materials that it is obligated to furnish to the Agent or to the Lenders pursuant to the Loan Documents, including all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (i) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (ii) provides notice of any Default or Event of Default under this Agreement or any other Loan Document, or (iii) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any Loan hereunder (all such non-excluded communications being referred to herein collectively as “**Communications**”), by transmitting the Communications in an electronic/soft medium that is properly identified in a format acceptable to the Borrower and the Agent to an electronic mail address as directed by the Agent. In addition, each Loan Party agrees to continue to provide the Communications to the Agent or the Lenders, as the case may be, in the manner specified in the Loan Documents but only to the extent requested by the Agent.
- (b) No Prejudice to Notice Rights. Nothing herein shall prejudice the right of the Agent or any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.
- (c) Public/Private. Each Loan Party hereby authorizes the Agent to distribute (A) to Public Siders all Communications that the Borrower identifies in writing as containing no MNPI (“**Public Side Communications**”), and the Borrower represents and warrants that no such Public Side Communications contain any MNPI, and, at the reasonable written request of the Agent, the Borrower shall use commercially reasonable efforts to identify Public Side Communications by clearly and conspicuously marking the same as “PUBLIC”; and (B) to Private Siders all Communications other than Public Side Communications (such Communications, “**Private Side Communications**”). The Borrower agrees to designate as Private Side Communications only those Communications or portions thereof that it reasonably believes in good faith constitute MNPI, and agrees (to the extent such information would otherwise constitute Private Side Communications) to provide to Public Siders a version of any Communications provided under Sections 6.1(a) and 6.1(b) that does not contain MNPI. “**Private Siders**” shall mean Lenders, employees and representatives who have declared at any time that they are

authorized to receive MNPI. “**Public Siders**” shall mean Lenders’ employees and representatives who have not declared that they are authorized to receive MNPI; it being understood that Public Siders may be engaged in investment and other market-related activities with respect to the Borrower’s or its Affiliates’ securities or loans. Each Lender (i) that is a Private Sider may, at any time upon notice to the Borrower and the Agent, withdraw its declaration that it is authorized to receive MNPI, in which case such Lender will then be treated as a Public Sider, and (ii) that is a Public Sider may, at any time, declare that it is authorized to receive MNPI, in which case such Lender will then be treated as a Private Sider.

#### **9.10 Proofs of Claim**

The Lenders and each Loan Party hereby agree that after the occurrence of an Event of Default pursuant to Sections 8.1(f) or 8.1(g), in case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Agent shall have made any demand on any Loan Party) shall be entitled and empowered, by intervention in such proceeding or otherwise: to file and prove a claim for the whole amount of principal and interest owing and unpaid in respect of the Loans and any other Obligations that are owing and unpaid and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Lenders, the Agent and other agents (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Agent and other agents and their agents and counsel and all other amounts due Lenders, the Agent and other agents hereunder) allowed in such judicial proceeding; and

- (b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same,

and any custodian, receiver, assignee, interim trustee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Agent and, in the event that the Agent shall consent to the making of such payments directly to the Lenders, to pay to the Agent any amount due for the compensation, expenses, disbursements and advances of the Agent and its agents and counsel, and any other amounts due the Agent and other agents hereunder. Nothing herein contained shall be deemed to authorize the Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lenders or to authorize the Agent to vote in respect of the claim of any Lender in any such proceeding. Further, nothing contained in this Section 9.10 shall affect or preclude the ability of any Lender to file and prove such a claim in the event that the Agent has not acted within 10 days prior to any applicable bar date and require an amendment of the proof of claim to accurately reflect such Lender’s outstanding Obligations.

### **ARTICLE 10 MISCELLANEOUS**

#### **10.1 Notices**

Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given to a Loan Party or the Agent, shall be sent to such Person’s

address as set forth on Appendix B or in the other relevant Loan Document, and in the case of any Lender, the address as indicated on Appendix B or otherwise indicated to the Agent in writing. Each notice hereunder shall be in writing and may be sent by personal delivery, by registered mail or by electronic means of communication and shall be deemed to have been given when delivered and signed for against receipt thereof, or upon confirmed receipt of electronic transmission; *provided*, no notice to the Agent shall be effective until received by the Agent.

## **10.2 Expenses**

Whether or not the transactions contemplated hereby shall be consummated or the documents related hereto shall be executed, each Loan Party agrees to pay promptly, and in any case no later than thirty (30) days after a payment or reimbursement request by the Agent, all actual, reasonable and documented, out-of-pocket costs and expenses incurred in connection with (a) preparation of the Loan Documents and all documents related to the foregoing and any consents, amendment, waiver or other modifications thereto, (b) all fees and disbursements of counsel to the Loan Parties in furnishing all opinions required hereunder, (c) all fees and disbursements of one firm of counsel to the Agent, and one firm of local counsel for each relevant jurisdiction, in connection with the negotiation, preparation, execution, review and administration of the Loan Documents and all documents related to the foregoing and any consents, amendments, waivers or other modifications thereto any other documents or matters requested by any Loan Party, (d) creating and perfecting Liens in favour of the Agent, for the benefit of the Lenders pursuant hereto, including filing and recording fees, search fees, expenses and disbursements of counsel to the Agent and the Lenders and of counsel providing any opinions that the Agent or the Lenders may request in respect of the Collateral or the Liens created pursuant to the Security, and (e) fees and disbursements of any auditors, accountants, consultants, engineers or appraisers. In addition, each Loan Party agrees to pay the following, without limitation: (i) all actual, reasonable and documented, out-of-pocket costs and expenses (including the fees, expenses and disbursements of counsel and of any appraisers, consultants, engineers, advisors and agents employed or retained by the Agent and its counsel) in connection with administration by the Agent or the custody or preservation of any of the Collateral; (ii) all other actual, reasonable and documented, out-of-pocket costs and expenses incurred by the Agent after the Closing Date in connection with (A) the review and administration of the Loan Documents and all documents related to the foregoing and the transactions contemplated thereby, including the preparation of valuation reports and other reports that the Agent may from time to time be required to deliver to its investors, (B) any consents, amendments, waivers or other modifications to the Loan Documents and all documents related to the foregoing and the transactions contemplated thereby, and (C) any other documents or matters requested by any Loan Party (including, in each case, the actual reasonable fees, expenses and disbursements of one firm of counsel to the Agent, and one firm of counsel therefor for each relevant jurisdiction in connection with the negotiation, preparation, execution, review and administration of such documentation); (iii) after the occurrence and during the continuance of an Event of Default, all costs and expenses, including attorneys' fees and costs of settlement, incurred by the Agent and the Lenders in enforcing any Obligations of or in collecting any payments due from any Loan Party hereunder or under the other Loan Documents by reason of such Event of Default (including in connection with the sale of, collection from, or other realization upon any of the Collateral or the enforcement of any guarantee) or in connection with any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work out" or pursuant to any insolvency or bankruptcy cases or proceedings; and (iv) all costs and fees and related expenses in connection with the formation and maintenance of any Person, structure or account necessary or reasonably desirable to the Agent or the Lenders for tax planning purposes in connection with the Loans.

### 10.3 Indemnity

- (a) In addition to the payment of expenses pursuant to Section 10.2, whether or not any or all of the transactions contemplated hereby shall be consummated, each Loan Party agrees to defend (subject to Indemnitees' selection of counsel), indemnify, pay and hold harmless, the Agent and each Lender, their Affiliates and its and their respective officers, members, shareholders, partners, directors, trustees, employees, advisors, representatives and agents and each of their respective successors and assigns and each Person who controls any of the foregoing (each, an "**Indemnitee**"), from and against any and all Indemnified Liabilities, **IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY, OR SOLE NEGLIGENCE OF SUCH INDEMNITEE**; *provided*, no Loan Party shall have any obligation to any Indemnitee hereunder with respect to any Indemnified Liabilities if such Indemnified Liabilities arise (i) from the gross negligence or willful misconduct of any Indemnitee as determined by a court of competent jurisdiction in a final, non-appealable order, or (ii) in connection with a dispute between or among Indemnitees (excluding the Agent) and not involving any act or omission of any Loan Party. To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this Section 10.3 may be unenforceable in whole or in part because they are violative of any law or public policy, the applicable Loan Party shall contribute the maximum portion that it is permitted to pay and satisfy under Applicable Law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them. Notwithstanding the foregoing, this Section 10.3(a) shall not apply with respect to Taxes other than any Taxes that represent losses, claims or damages arising from any non-Tax claim.
- (b) To the extent permitted by Applicable Law, no Loan Party shall assert, and each Loan Party hereby waives, releases and agrees not to sue upon any claim against any Indemnitee or other party hereto, on any theory of liability, for special, indirect, exemplary, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, as a result of, or in any way related to, this Agreement, any Loan Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein, the transactions contemplated hereby or thereby, any Note or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and each Loan Party hereby waives, releases and agrees not to sue upon any such claim or any such damages, whether or not accrued and whether or not known or suspected to exist in its favour.
- (c) Each Loan Party hereby acknowledges and agrees that an Indemnitee may now or in the future have certain rights to indemnification provided by other sources ("**Other Sources**"). Each Loan Party hereby agrees that (i) it is the indemnitor of first resort (i.e. its obligations to the Indemnitees are primary and any obligation of the Other Sources to provide indemnification for the same Indemnified Liabilities are secondary to any such obligation of the Loan Party), (ii) that it shall be liable for the full amount of all Indemnified Liabilities, without regard to any rights the Indemnitees may have against the Other Sources, and (iii) it irrevocably waives, relinquishes and releases the Other Sources and the Indemnitees from any and all claims (A) against the Other Sources for contribution, indemnification,

subrogation or any other recovery of any kind in respect thereof and (B) that an Indemnitee must seek expense advancement or reimbursement, or indemnification, from the Other Sources before the Loan Party must perform its obligations hereunder. No advancement or payment by the Other Sources on behalf of an Indemnitee with respect to any claim for which such Indemnitee has sought indemnification from a Loan Party shall affect the foregoing. The Other Sources shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery which the Indemnitee would have had against a Loan Party if the Other Sources had not advanced or paid any amount to or on behalf of the Indemnitee.

#### **10.4 Set Off**

In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, upon the occurrence and during the continuation of any Event of Default each Lender and its/their respective Affiliates is hereby authorized by each Loan Party at any time or from time to time subject to the consent of the Agent (such consent to be given or withheld at the written direction of the Majority Lenders), without notice to any Loan Party or to any other Person (other than the Agent), any such notice being hereby expressly waived, to set off and to appropriate and to apply any and all deposits (general or special, including Indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts (in whatever currency)) and any other Indebtedness at any time held or owing by such Lender to or for the credit or the account of any Loan Party (in whatever currency) against and on account of the obligations and liabilities of any Loan Party to such Lender hereunder, and under the other Loan Documents, including all claims of any nature or description arising out of or connected hereto or any other Loan Document, irrespective of whether or not such Lender shall have made any demand hereunder, the principal of or the interest on the Loans or any other amounts due hereunder shall have become due and payable pursuant to Article 2 and although such obligations and liabilities, or any of them, may be contingent or unmatured or such obligation or liability is owed to a branch or office of such Lender different from the branch or office holding such deposit or obligation or such Indebtedness.

#### **10.5 Sharing of Payments by Lenders**

If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest in any of its Loans or other Obligations hereunder resulting in such Lender receiving payment of a proportion of the aggregate amount of its Loans and accrued interest thereon or other such obligations greater than its *pro rata* share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Agent of such fact, and (b) purchase (for Cash at face value) participations in the Loans and other Obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal and accrued interest on their respective Loans and other amounts owing them; *provided* that: if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

- (b) the provisions of this paragraph shall not be construed to apply to (i) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement, or (ii) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or Obligations to any

assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this paragraph shall apply).

The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

## **10.6 Amendments and Waivers**

- (a) Majority Lenders' Consent. Subject to Section 10.6(b), no amendment, modification, termination or waiver of any provision of the Loan Documents, or consent to any departure by any Loan Party therefrom, shall in any event be effective without the written concurrence of in the case of this Agreement, the Borrower, the Agent and the Majority Lenders or in the case of any other Loan Document, the Borrower and the Agent with the consent of the Majority Lenders.
- (b) Affected Lenders' Consent. Without the written consent of each Lender (other than a Defaulting Lender) that would be affected thereby, no amendment, modification, termination, or consent shall be effective if the effect thereof would:
- (i) extend the scheduled final maturity of any Loan of such Lender;
  - (ii) waive, reduce or postpone any scheduled repayment due such Lender (but not prepayment);
  - (iii) reduce the rate of interest on any Loan of such Lender and any waiver of any increase in the interest rate applicable to any Loan pursuant to Section 2.6(c) or any fee or premium payable hereunder (including any Applicable Prepayment Premium or Exit Fee);
  - (iv) increase the Commitment Amount of such Lender;
  - (v) extend the time for payment of any such interest or fees to such Lender;
  - (vi) reduce the principal amount of any Note;
  - (vii) release all or substantially all of the value of any guarantee or release the Liens securing all or substantially all of the Collateral; or
  - (viii) amend the definition of "**Majority Lenders**" or "**Pro Rata Share**".
- (c) Other Consents. No amendment, modification, termination or waiver of any provision of the Loan Documents, or consent to any departure by any Loan Party therefrom, shall amend, modify, terminate or waive any provision of Article 9 as the same applies to the Agent or any Indemnitee Agent Party, or any other provision hereof as the same applies to the rights or obligations of the Agent, in each case without the consent of the Agent.

- (d) Execution of Amendments, etc. The Agent may, but shall have no obligation to, with the concurrence of the Majority Lenders (other than any Defaulting Lenders), execute amendments, modifications, waivers or consents on behalf of such Lenders. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on any Loan Party shall entitle any Loan Party to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section 10.6(d) shall be binding upon each Lender at the time outstanding, each future Lender and, if signed by a Loan Party, on such Loan Party.
- (e) Retirement of Loans. No Loan Party will, and the Borrower will not permit any of its Subsidiaries or any of the Loan Parties to, directly or indirectly, offer to purchase or otherwise acquire any outstanding Loans.
- (f) Amendment Consideration. None of Borrower or any of its Affiliates or any other party to any Loan Documents will, directly or indirectly, request or negotiate for, or offer or pay any remuneration or grant any security as an inducement for, any proposed amendment or waiver of any of the provisions of this Agreement or any of the other Loan Documents unless each Lender of the Loans (irrespective of the kind and amount of Loans then owned by it) shall be informed thereof by Borrower and, if such Lender is entitled to the benefit of any such provision proposed to be amended or waived, shall be afforded the opportunity of considering the same, shall be supplied by Borrower and any other party hereto with sufficient information to enable it to make an informed decision with respect thereto and shall be offered and paid such remuneration and granted such security on the same terms. For the avoidance of doubt, nothing in this Section 10.6(e) is intended to restrict or limit the amendment requirements otherwise set forth herein.

## **10.7 Successors and Assigns; Assignments**

- (a) Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns and shall inure to the benefit of the parties hereto and the successors and permitted assigns of Lenders. None of Loan Party's rights or obligations hereunder nor any interest therein may be assigned or delegated by any such Person without the prior written consent of all Lenders (and any attempted assignment or transfer by any such Person without such consent shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, Affiliates of each of the Agent and Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.
- (b) Assignments. Any Lender may assign to one or more Eligible Assignees all or any portion of its rights and obligations under this Agreement (including, without limitation, all or a portion of its Commitment Amount, and the Loans made by it and may assign its Commitment Amount and the Loan made by it separately from one another); *provided, however*, that (i) each such assignment shall be to an Eligible Assignee and (ii) prior written notice shall be given to the Borrower.

- (c) Mechanics. The assigning Lender and the assignee thereof shall deliver to the Agent (i) a duly executed Assignment Agreement, together with a \$3,500 processing and recordation fee payable to the Agent for its own account, (ii) all documentation and other information reasonably determined by the Agent to be required by applicable regulatory authorities required under applicable “know your customer” and anti-money laundering rules and regulations, including the PATRIOT Act, and (iii) such forms, certificates or other evidence, if any, with respect to income tax withholding matters as the assignee under such Assignment Agreement may be required to deliver to Agent.
- (d) Notice of Assignment. Upon its receipt and acceptance of a duly executed and completed Assignment Agreement, any “know your customer” information and any forms, certificates or other evidence required by this Agreement in connection therewith, the Agent shall record the information contained in such Assignment Agreement in the Register, shall give prompt notice thereof to the Borrower and shall maintain a copy of such Assignment Agreement.
- (e) Representations and Warranties of Assignee. Each Lender, upon execution and delivery hereof or upon executing and delivering an Assignment Agreement, as the case may be, represents and warrants as of the Closing Date or as of the applicable Effective Date (as defined in the applicable Assignment Agreement) that it has experience and expertise in the making of or investing in loans such as the applicable Loans; and it will make or invest in, as the case may be, its Loans for its own account in the ordinary course of its business and without a view to distribution of such Loans within the meaning of applicable securities laws of any jurisdiction (it being understood that, subject to the provisions of this Section 10.7(e), the disposition of Loans or any interests therein shall at all times remain within its exclusive control).
- (f) Effect of Assignment. Subject to the terms and conditions of this Section 10.7(f), as of the “Effective Date” specified in the applicable Assignment Agreement, which, for the avoidance of doubt, shall be the date of recordation in the Register: the assignee thereunder shall have the rights and obligations of a “Lender” hereunder to the extent such rights and obligations hereunder have been assigned to it pursuant to such Assignment Agreement and shall thereafter be a party hereto and a “Lender” for all purposes hereof; the assigning Lender thereunder shall, to the extent that rights and obligations hereunder have been assigned thereby pursuant to such Assignment Agreement, relinquish its rights (other than any rights which survive the termination hereof under Section 10.8) and be released from its obligations hereunder (and, in the case of an Assignment Agreement covering all or the remaining portion of an assigning Lender’s rights and obligations hereunder, such Lender shall cease to be a party hereto; *provided*, anything contained in any of the Loan Documents to the contrary notwithstanding such assigning Lender shall continue to be entitled to the benefit of all indemnities hereunder as specified herein with respect to matters arising out of the prior involvement of such assigning Lender as a Lender hereunder); and if any such assignment occurs after the issuance of any Note hereunder, the assigning Lender shall, upon the effectiveness of such assignment or as promptly thereafter as practicable, surrender its applicable Note to the Agent for cancellation, and thereupon the Borrower shall issue and deliver a new Note, if so requested by the assignee and/or assigning Lender, to such assignee and/or to such assigning Lender, with

appropriate insertions, to reflect the outstanding principal balance under the Loans of the assignee and/or the assigning Lender.

- (g) Participations. Each Lender shall have the right at any time to sell one or more participations to any Person (other than a natural Person, any Loan Party or any of their respective Affiliates) (each, a "**Participant**") in all or any part of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Loans or any other Obligation); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (iii) the Borrower, the Agent, and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in Section 10.6 that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.13 and 2.14 (subject to the requirements and limitations therein) (it being understood that the documentation required under Section 2.14 shall be delivered by the Participant to the applicable Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (c) of this Section 10.7; *provided* that such Participant shall not be entitled to receive any greater payment under Section 2.14 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless such greater payment results from a change in Law that occurs after the Participant acquired the applicable participation, or is made with the Borrower's prior written consent. To the extent permitted by Applicable Law, each Participant shall be entitled to the benefits of Section 10.4 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 10.5 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other Obligations under the Loan Documents (the "**Participant Register**"); *provided* that no Lender shall have any obligation to disclose all or a portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans or its other Obligations under any Loan Document) to any Person except to the extent that such disclosure is required under Applicable Law. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Agent (in its capacity as the Agent) shall have no responsibility for maintaining a Participant Register.

- (h) Security Interest. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement and/or the Security to secure

obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

- (i) Independence of Covenants. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists.

#### **10.8 Survival of Representations, Warranties and Agreements**

All representations, warranties and agreements made herein shall survive the execution and delivery hereof and the making of any Loan. Notwithstanding anything herein or implied by law to the contrary, the agreements of each Loan Party set forth in Sections 2.14, 10.2, 10.3, and 10.4 and the agreements of Lenders set forth in Sections 2.12, 9.3(b) and 9.6 shall survive the payment of the Loans, and the termination hereof.

#### **10.9 No Waiver; Remedies Cumulative**

No failure or delay on the part of the Agent or any Lender in the exercise of any power, right or privilege hereunder or under any other Loan Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to the Agent and each Lender hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Loan Documents. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

#### **10.10 Marshaling; Payments Set Aside**

Neither the Agent nor any Lender shall be under any obligation to marshal any assets in favour of any Loan Party or any other Person or against or in payment of any or all of the Obligations. To the extent that any Loan Party makes a payment or payments to the Agent or Lenders (or to the Agent, on behalf of Lenders), or the Agent or Lenders enforce any security interests or exercise their rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, any other state or federal law, common law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred.

### **10.11 Severability**

In case any provision in or obligation hereunder or any Note or other Loan Document shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

### **10.12 Obligations Several; Independent Nature of Lenders' Rights**

The obligations of Lenders hereunder are several and no Lender shall be responsible for the obligations or Commitment of any other Lender hereunder. Nothing contained herein or in any other Loan Document, and no action taken by Lenders pursuant hereto or thereto, shall be deemed to constitute Lenders as a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and each Lender shall be entitled to protect and enforce its rights arising out hereof and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

### **10.13 Headings**

Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

### **10.14 Applicable Law**

- (a) This Agreement will be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein.
- (b) Each Loan Party irrevocably and unconditionally submits, for itself and its property, to the non-exclusive jurisdiction of the courts of the Province of Alberta and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such court. Each Loan Party agrees that a final judgment in any such action or proceeding will be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document will affect any right that the Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party or its properties in the courts of any jurisdiction.

### **10.15 Waiver of Jury Trial**

**EACH OF THE PARTIES HERETO HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING HEREUNDER OR UNDER ANY OF THE OTHER LOAN DOCUMENTS OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT OR THE AGENT/ LENDER/ BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE**

**SUBJECT MATTER OF THIS TRANSACTION, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 10.15 AND EXECUTED BY EACH OF THE PARTIES HERETO THAT IS PARTY TO SUCH JUDICIAL PROCEEDING), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.**

#### **10.16 Confidentiality**

If the Borrower reasonably believes that any information being furnished by it or any other Loan Party to the Agent or a Lender (each, a “**Recipient**” and collectively, the “**Recipients**”) is confidential, the Borrower may so indicate by notice in writing to the Recipient, identifying the information with specificity (such identified information, the “**Confidential Information**”), and the parties hereto acknowledge that all information relating to the Loan Parties and their Subsidiaries and their businesses (other than information described in clauses (x) and (y) below) provided by the Loan Parties to the Agent and the Lenders on or prior to the date hereof constitutes Confidential Information. The Recipient will maintain the confidentiality of all of the Confidential Information; *provided, however*, that a Recipient may disclose such information to its Affiliates, partners, potential partners and members and its and their respective directors, managers, officers, employees, attorneys, accountants, auditors, advisors, consultants, agents or representatives and actual or prospective investors with a need to know such Confidential Information and who have been advised of agreed to be bound by the provisions of this Section 10.16 (collectively “**Permitted Recipients**”), to any potential assignee or transferee of any of its rights or obligations hereunder (including without limitation, in connection with a sale of any or all of the Loans) or any of their agents and advisors (provided that such potential assignee or transferee shall have been advised of and agree to be bound by the provisions of this Section 10.16), if such information (x) becomes publicly available other than as a result of a breach of this Section 10.16, (y) becomes available to a Recipient or any of its Permitted Recipients on a non-confidential basis from a source other than the Loan Parties or (z) is independently developed by the Recipient or any of its Permitted Recipients, to enable it to enforce or otherwise exercise any of its rights and remedies under any Loan Document or as consented to in writing by the Borrower. Notwithstanding anything to the contrary set forth in this Section 10.16 or otherwise, nothing herein shall prevent a Recipient or its Permitted Recipients from complying with any legal requirements (including, without limitation, pursuant to any rule, regulation, stock exchange requirement, self-regulatory body, supervisory authority, other applicable judicial or governmental order, legal process, fiduciary or similar duties or otherwise) to disclose any Confidential Information; *provided, however*, that in each case, the Recipient or its Permitted Recipients furnish only that portion of such information which it is advised by such Recipient or its Permitted Recipient’s counsel is required to be disclosed. In addition, the

Recipient and its Permitted Recipients may disclose Confidential Information if so requested by a governmental, self-regulatory or supervisory authority. Each Loan Party hereby acknowledges and agrees that, subject to the restrictions on disclosure of Confidential Information as provided in this Section 10.16, the Recipient and their respective Affiliates are in the business of making investments in and otherwise engaging in businesses which may or may not be in competition with the Loan Parties or otherwise related to their and their Affiliates' respective business and that nothing herein shall, or shall be construed to, limit the Lenders' or their Affiliates' ability to make such investments or engage in such businesses.

#### **10.17 Usury Savings Clause**

Notwithstanding any other provision herein, the aggregate interest rate charged or agreed to be paid with respect to any of the Obligations, including all charges or fees in connection therewith deemed in the nature of interest under Applicable Law shall not exceed the Highest Lawful Rate. If the rate of interest (determined without regard to the preceding sentence) under this Agreement at any time exceeds the Highest Lawful Rate, the outstanding amount of the Loans made hereunder shall bear interest at the Highest Lawful Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect. In addition, if when the Loans made hereunder are repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, the Borrower shall pay to the Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Highest Lawful Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of Lenders and the Borrower to conform strictly to any applicable usury laws. Accordingly, if any Lender contracts for, charges, or receives any consideration which constitutes interest in excess of the Highest Lawful Rate, then any such excess shall be cancelled automatically and, if previously paid, shall at such Lender's option be applied to the outstanding amount of the Loans made hereunder or be refunded to the Borrower. In determining whether the interest contracted for, charged, or received by Agent or a Lender exceeds the Highest Lawful Rate, such Person may, to the extent permitted by Applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest, throughout the contemplated term of the Obligations hereunder.

#### **10.18 Counterparts; Integration; Effectiveness; Electronic Execution**

(a) Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents and any separate letter agreements with respect to fees payable to the Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in the conditions precedent Section(s) of this Agreement, this Agreement shall become effective when it has been executed by the Agent and when the Agent has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or by sending a scanned copy by electronic mail shall be effective as delivery of an manually executed counterpart of this Agreement.

(b) **Electronic Execution of Assignments.** The words “execution”, “signed”, “signature”, and words of like import shall be deemed to include electronic signature or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Electronic Transactions Act* (Alberta) and other similar federal or provincial laws based on the *Uniform Electronic Commerce Act* of the Uniform Law Conference of Canada or its *Uniform Electronic Evidence Act*, as the case may be.

#### **10.19 PATRIOT Act**

Each Lender and the Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the PATRIOT Act, it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or Agent, as applicable, to identify such Loan Party in accordance with the PATRIOT Act.

#### **10.20 Disclosure**

Each Loan Party and each Lender hereby acknowledge and agree that the Agent and/or its Affiliates and their respective Related Funds from time to time may hold investments in, and make loans to, or have other relationships with any of the Loan Parties and their respective Affiliates, including the ownership, purchase and sale of Capital Stock in any Loan Party and their respective Affiliates and each Lender hereby expressly consents to such relationships.

#### **10.21 Appointment for Perfection**

Each Lender hereby appoints each other Lender as its agent for the purpose of perfecting Liens, for the benefit of the Agent and the Lenders, in assets which, in accordance with the PPSA, Article 9 of the Uniform Commercial Code or any other Applicable Law can be perfected only by possession. Should any Lender (other than the Agent) obtain possession of any such Collateral, such Lender shall notify the Agent thereof, and, promptly upon the Agent's request therefor (acting at the written direction of the Majority Lenders) shall deliver such Collateral to the Agent or otherwise deal with such Collateral in accordance with the Agent's instructions.

#### **10.22 Advertising and Publicity**

No Loan Party shall issue or disseminate to the public (by advertisement, including without limitation any “tombstone” advertisement, press release or otherwise), submit for publication or otherwise cause or seek to publish any information describing the credit or other financial accommodations made available by Lenders pursuant to this Agreement and the other Loan Documents without the prior written consent of the Agent and the Majority Lenders. Nothing in the foregoing shall be construed to prohibit any Loan Party from making any submission or filing which it is required to make by Applicable Law (including securities laws, rules and regulations), stock exchange rules or pursuant to judicial process; *provided*, that, (a) such filing or submission shall contain only such information as is necessary to comply with Applicable Law, rule or judicial process, and (b) unless specifically prohibited by Applicable Law, rule or court order, the Borrower shall promptly notify the Agent of the requirement to make such submission or filing and provide the Agent with a copy thereof.

### **10.23 Acknowledgments and Admissions**

The Borrower hereby represents, warrants and acknowledges and admits that: it has been advised by counsel in the negotiation, execution and delivery of the Loan Documents;

- (b) it has made an independent decision to enter into this Agreement and the other Loan Documents to which it is a party, without reliance on any representation, warranty, covenant or undertaking by the Agent or any Lender, whether written, oral or implicit, other than as expressly set out in this Agreement or in another Loan Document delivered on or after the date hereof;
- (c) there are no representations, warranties, covenants, undertakings or agreements by the Agent or any Lender as to the Loan Documents except as expressly set out in this Agreement;
- (d) none of the Agent or any Lender has any fiduciary obligation toward it with respect to any Loan Document or the transactions contemplated thereby;
- (e) no partnership or joint venture exists with respect to the Loan Documents between any Loan Party, on the one hand, and the Agent or any Lender, on the other;
- (f) the Agent is not any Loan Party's agent;
- (g) should an Event of Default occur or exist, each of the Agent and each Lender will determine in its discretion and for its own reasons what remedies and actions it will or will not exercise or take at that time;
- (h) without limiting any of the foregoing, no Loan Party is relying upon any representation or covenant by any of the Agent or any Lender, or any representative thereof, and no such representation or covenant has been made, that any of the Agent or any Lender will, at the time of an Event of Default or Default, or at any other time, waive, negotiate, discuss, or take or refrain from taking any action permitted under the Loan Documents with respect to any such Event of Default or Default or any other provision of the Loan Documents; and
- (i) the Agent and the Lenders have all relied upon the truthfulness of the acknowledgments in this Section 10.23 in deciding to execute and deliver this Agreement and to become obligated hereunder.

### **10.24 Third Party Beneficiary**

Except as stated in Section 9.7(c) and in this Section, there are no third party beneficiaries of this Agreement.

### **10.25 Amendment and Restatement**

Effective as of the Closing Date, the Existing Credit Agreement is hereby amended and restated as set forth herein without novation and without in any way affecting the rights or obligations of any party which may have accrued pursuant to the provisions of the Existing Credit Agreement prior to their amendment hereby, and is, as so amended and restated, hereby ratified and confirmed.

#### **10.26 Confirmation of Security**

The Borrower agrees with and confirms to the Agent and the Lenders that, as of the date hereof, the Security is and shall remain in full force and effect in all respects and shall continue to exist and secure the Obligations. This confirmation is in addition to and shall not limit, derogate from or otherwise affect any provisions of the Security.

#### **10.27 Entire Agreement**

THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

#### **10.28 Swap Intercreditor Agreement**

Each Lender hereby acknowledges receipt of an executed copy of the Swap Intercreditor Agreement and (by receiving the benefits thereunder and of the Collateral pledged pursuant to the Security) agrees that the terms of the Swap Intercreditor Agreement are binding on such Lender and its successors and assigns, as if it were a party thereto.

#### **10.29 Erroneous Payments**

- (a) Each Lender hereby agrees that (i) if the Agent notifies such Lender that the Agent has determined in its sole discretion that any funds received by such Lender from the Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Lender (whether or not known to such Lender) (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, a “**Erroneous Payment**”) and demands the return of such Erroneous Payment (or a portion thereof), such Lender shall promptly, but in no event later than one (1) Business Day thereafter, return to the Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Agent in same day funds at a rate determined by the Agent in accordance with banking industry rules on interbank compensation from time to time in effect and (ii) to the extent permitted by applicable law, such Lender shall not assert any right or claim to the Erroneous Payment, and hereby waives, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Agent for the return of any Erroneous Payments received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine. A notice of the Agent to any Lender under this clause (a) shall be conclusive, absent manifest error.
- (b) Without limiting immediately preceding clause (a), each Lender hereby further agrees that if it receives an Erroneous Payment from the Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by the Agent (or any of its Affiliates) with respect to such Erroneous Payment (an “**Erroneous Payment Notice**”), (y) that was not preceded or accompanied by an Erroneous Payment Notice, or (z) that

such Lender otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), in each case, an error has been made (and that it is deemed to have knowledge of such error at the time of receipt of such Erroneous Payment) with respect to such Erroneous Payment, and to the extent permitted by Applicable Law, such Lender shall not assert any right or claim to the Erroneous Payment, and hereby waives, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Agent for the return of any Erroneous Payments received, including without limitation waiver of any defense based on "discharge for value" or any similar doctrine. Each Lender agrees that, in each such case, it shall promptly (and, in all events, within one Business Day of its knowledge (or deemed knowledge) of such error) notify the Agent of such occurrence and, upon demand from the Agent, it shall promptly, but in all events no later than one (1) Business Day thereafter, return to the Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Agent in same day funds at the greater of the Federal Funds Effective Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

- (c) The Borrower and each other Loan Party hereby agrees that (x) in the event an Erroneous Payment (or portion thereof) is not recovered from any Lender that has received such Erroneous Payment (or portion thereof) for any reason, the Agent shall be subrogated to all the rights of such Lender with respect to such amount and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party.

***[Remainder of Page Intentionally Left Blank]***

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

**SATURN OIL & GAS INC., as Borrower**

Per: (signed) "John Jeffrey"

Name: John Jeffrey  
Title: CEO

**AGENT:**

**WILMINGTON TRUST, N.A., as Agent**

Per: (signed) "Teisha Wright"

Name: Teisha Wright  
Title: Vice President

**LENDER:**

*[Redacted - commercially sensitive information],*  
as Lender

Per: (signed) [Redacted]

Name: *[Redacted]*  
Title: *[Redacted]*

**LENDER:**

*[Redacted - commercially sensitive information],*  
as Lender

Per: (signed) [Redacted]

Name: *[Redacted]*  
Title: *[Redacted]*

**LENDER:**

*[Redacted - commercially sensitive information],*  
as Lender

Per: (signed) [Redacted]

Name: *[Redacted]*  
Title: *[Redacted]*

**LENDER:**

*[Redacted - commercially sensitive information],*  
as Lender

Per: (signed) [Redacted]

Name: *[Redacted]*  
Title: *[Redacted]*

**APPENDIX A  
COMMITMENTS**

<b>Lender</b>	<b>Existing Loans</b>	<b>Additional Loans</b>	<b>Total Commitment</b>
<i>[Redacted - commercially sensitive information]</i>	\$52,107,077.54	\$80,578,810.00	\$132,685,887.54
<i>[Redacted - commercially sensitive information]</i>	\$42,515,905.29	\$21,984,095.00	\$64,500,000.29
<i>[Redacted - commercially sensitive information]</i>	N/A	\$63,729,434.00	\$63,729,434.00
<i>[Redacted - commercially sensitive information]</i>	N/A	\$33,707,661.00	\$33,707,661.00
<b>Totals</b>	\$94,622,982.83	\$200,000,000.00	\$294,622,982.83

**APPENDIX B  
NOTICE ADDRESSES**

**LENDERS:**

*[Redacted - commercially sensitive information]*

**BORROWER:**

Saturn Oil & Gas Inc.  
207 9 Ave SW #1000  
Calgary, AB T2P 1K3

Email: *[Redacted]*

**AGENT:**

Wilmington Trust, N.A.  
50 South Sixth Street, Suite 1290  
Minneapolis, MN 55402 USA

Email: *[Redacted]*

**SCHEDULE 5.1  
JURISDICTIONS OF ORGANIZATION AND QUALIFICATION**

<b>Loan Party</b>	<b>Jurisdiction of Organization</b>	<b>Jurisdictions of Qualification</b>
Saturn Oil & Gas Inc.	Saskatchewan	Alberta

**SCHEDULE 5.2  
CAPITAL STOCK AND OWNERSHIP**

**Saturn Oil & Gas Inc.**

<b>Insider Shareholders</b>	<b>Class of Shares</b>	<b>No. of Shares</b>	<b>Percentage of Outstanding Shares</b>
<i>[Redacted]</i>	Common Shares	<i>[Redacted]</i>	0.012%
<i>[Redacted]</i>	Common Shares	<i>[Redacted]</i>	0.002%
<i>[Redacted]</i>	Common Shares	<i>[Redacted]</i>	0.002%
<i>[Redacted]</i>	Common Shares	<i>[Redacted]</i>	0.001%
<i>[Redacted]</i>	Common Shares	<i>[Redacted]</i>	0.0005%

**SCHEDULE 5.7**  
**FINANCIAL INFORMATION**

1. Lease dated April 15, 2008 between *[redacted]*, as landlord, and *[redacted]*. ( (the “Tenant”), as tenant, and as partially subleased by a consent to sublease dated March 1, 2019 between the Tenant, as sublandlord, and Saturn Oil & Gas Inc. (the “Subtenant”), as subtenant, as amended by a consent to sublease amending agreement dated January 25, 2021 between the Landlord, the Tenant and the Subtenant.
  
2. Carlyle Lease dated September 9, 2013 between *[redacted]* as landlord and *[redacted]*, as tenant, as amended by amending agreement dated June 1, 2015 and as further amended by a second amending agreement dated December 20, 2017, as assigned to Saturn Oil & Gas Inc. June 1, 2021.

**SCHEDULE 5.16**  
**MATERIAL CONTRACTS**

1. Credit Agreement dated May 8, 2017 between Digistore 24 GmbH, as lender, and the Borrower, as borrower.
2. Convertible Promissory Note dated May 8, 2017 granted by the Borrower in favour of Digistore24 GmbH.
3. Loan Agreement dated December 2, 2017 between Digistore 24 GmbH, as lender, and the Borrower, as borrower.
4. Agreement of Purchase and Sale dated May 12, 2021 between *[Redacted]*, as vendor, and the Borrower, as purchaser.
5. Gas Purchase Agreement dated June 7, 2021 between *[Redacted]*, as purchaser, and the Borrower, as seller.
6. Agreement of Purchase and Sale dated May 26, 2022 between *[Redacted]*, as vendor, and the Borrower, as purchaser.

**SCHEDULE 5.24  
INSURANCE**

<b>Type</b>	<b>Policy Number</b>	<b>Insured</b>	<b>Underwriter</b>	<b>Policy Period</b>
Control of Well and Extra Expense	<i>[Redacted]</i>	Saturn Oil and Gas Inc.	Lloyd's Underwriters	June 7, 2021 to July 9, 2022
All Risk Property	<i>[Redacted]</i>	Saturn Oil and Gas Inc.	Lloyd's Underwriters	June 7, 2021 to July 9, 2022
Commercial General Liability and Pollution Liability	<i>[Redacted]</i>	Saturn Oil and Gas Inc.	Lloyd's Underwriters	June 7, 2021 to July 9, 2022
1 <sup>st</sup> Excess Liability	<i>[Redacted]</i>	Saturn Oil and Gas Inc.	Chubb Insurance Company of Canada	June 7, 2021 to July 9, 2022
2 <sup>nd</sup> Excess Liability	<i>[Redacted]</i>	Saturn Oil and Gas Inc.	Lloyd's Underwriters	June 7, 2021 to July 9, 2022
Primary Directors' & Officers' Liability	<i>[Redacted]</i>	Saturn Oil and Gas Inc.	AIG Insurance Company of Canada	June 21, 2021 to August 20, 2022
1 <sup>st</sup> Excess Directors' & Officers' Liability	<i>[Redacted]</i>	Saturn Oil and Gas Inc.	Great American Insurance Company	June 21, 2021 to August 20, 2022
2 <sup>nd</sup> Excess Directors' & Officers' Liability	<i>[Redacted]</i>	Saturn Oil and Gas Inc.	Starr Insurance & Reinsurance Limited; Economical Insurance	June 21, 2021 to August 20, 2022
Excess Directors' & Officers' Liability Side A DIC	<i>[Redacted]</i>	Saturn Oil and Gas Inc.	Chubb Insurance Company of Canada	June 21, 2021 to August 20, 2022
Office Contents	<i>[Redacted]</i>	Saturn Oil and Gas Inc.	Chubb Insurance Company of Canada	June 7 2021 to July 9, 2022
Cyber, Private Enterprise	<i>[Redacted]</i>	Saturn Oil and Gas Inc.	CFC Underwriting Ltd.	November 10, 2021 to November 10, 2022

**SCHEDULE 5.27  
AFFILIATE TRANSACTIONS**

1. Lease Purchase Contract between *[Redacted]* as buyer, and Saturn Oil & Gas Inc., as Seller, dated May 5, 2020 for the purchase of approximately 1,000 m<sup>3</sup> per month of crude oil.

**Affiliate Ownership**

<b>Top Shareholders</b>	<b>Class of Shares</b>	<b>No. of Shares</b>
<i>[Redacted]</i>	Common Shares	<i>[Redacted]</i>

**SCHEDULE 5.28**  
**SWAP AGREEMENTS**

2002 ISDA Master Agreement between *[Redacted]* and Saturn Oil & Gas Inc. dated September 11, 2018 (the "ISDA Master Agreement") covering Specified Transactions as defined in section 14 of the ISDA Master Agreement.

**SCHEDULE 5.30  
NAMES AND PLACES OF BUSINESS**

<b>Loan Party</b>	<b>Trade or Fictitious Names Used Within the Past 5 Years</b>	<b>Chief Executive Offices Within the Last 5 Years</b>	<b>Principal Places of Business Within the Last 5 Years</b>	<b>Jurisdiction of Organization and Entity Number</b>	<b>Tax ID</b>
Saturn Oil & Gas Inc.	Saturn Minerals Inc. (2016)	1000, 207 9 Ave SW Calgary, AB T2P 1K3  101-3239 Faithfull Ave, Saskatoon, Saskatchewan, Canada, S7K 8H4	1000, 207 9 Ave SW Calgary, AB T2P 1K3  101-3239 Faithfull Ave, Saskatoon, Saskatchewan, Canada, S7K 8H4	Saskatchewan 101122148	<i>[Redacted]</i>

**SCHEDULE 5.32**  
**TAKE OR PAY, GAS IMBALANCES AND SIMILAR ARRANGEMENTS**

1. Gas Purchase Agreement between *[Redacted]* ("Purchaser") and Saturn Oil & Gas Inc. ("Seller"), where Seller has agreed to sell to Purchaser, and Purchaser has agreed to purchase from Seller, Seller Gas for the Purchase Price, subject to and in accordance with the conditions and terms set forth in the Gas Purchase Agreement.

**SCHEDULE 5.33  
EXISTING ACCOUNTS PAYABLE**

Saturn Oil and Gas Accounts Payable as of April, 2021

Accounts payable and accrued liabilities	<i>[Redacted]</i>
GST Payable	<i>[Redacted]</i>
Interest Payable	<i>[Redacted]</i>

**SCHEDULE 7.1  
INDEBTEDNESS**

Nil

**SCHEDULE 7.11**  
**AGREEMENTS IN EXISTENCE ON CLOSING DATE**

1. Lease Purchase Contract between *[Redacted]* as buyer, and Saturn Oil & Gas Inc., as Seller, dated May 5, 2020 for the purchase of approximately 1,000 m<sup>3</sup> per month of crude oil.

**SCHEDULE 7.14  
DEPOSIT AND SECURITIES ACCOUNTS**

<b>Account Number</b>	<b>Account Name</b>	<b>Province in Which Account is Located</b>
<i>[Redacted]</i>	<i>[Redacted]</i>	Alberta

**SCHEDULE 10.7**  
**EXCLUDED ELIGIBLE ASSIGNEES**

1. *[Redacted]* or any affiliate thereof
2. *[Redacted]* or any affiliate thereof

**EXHIBIT A  
FORM OF BORROWING NOTICE**

●, 2022

Saturn Oil & Gas Inc., a Saskatchewan corporation (the “**Borrower**”), pursuant to Section 2.3 of the Second Amended and Restated Term Loan Agreement dated as of July 6, 2022 (together with all amendments, restatements, supplements, extensions or other modifications thereto, the “**Term Loan Agreement**”; and, unless otherwise defined herein, each capitalized term used herein shall have the meaning specified in the Term Loan Agreement) among the Borrower, the Lenders from time to time party thereto and Wilmington Trust, N.A., as Agent (in such capacity, the “**Agent**”), hereby requests Additional Loans as follows:

- (a) Aggregate amount of Additional Loans to be made is \$●.
- (b) Date the Additional Loans are to be made is ●, 2022.
- (c) The initial Interest Period applicable thereto is three months.
- (d) Location and number of the Borrower's account to which funds are to be disbursed is as follows:
  - (i) ●.

The undersigned certifies that he/she is the ●<sup>1</sup> of the Borrower, and that as such he/she is authorized to execute this certificate on behalf of the Borrower. The undersigned further certifies, represents and warrants on behalf of the Borrower that:

1. As of the Advance Date of the Additional Loans requested in this Borrowing Notice, each representation and warranty contained in Article 5 of the Term Loan Agreement shall be true and correct in all material respects unless such representations and warranties are stated to relate to a specific earlier date, in which case such representations and warranties shall be true and correct as of such earlier date.
2. As of the Advance Date of the Additional Loans requested in this Borrowing Notice, and immediately after giving effect to the Additional Loans issued on such Advance Date, no Default or Event of Default shall have occurred and be continuing.

***[Signature Page Follows]***

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<sup>1</sup> [NTD: To be a Financial Officer of the Borrower.]

EXECUTED AND DELIVERED as of the date first written above.

Per: \_\_\_\_\_

Name:

Title:

**EXHIBIT B**  
**FORM OF APPROVAL LETTER**

Reference is made to the Second Amended and Restated Term Loan Agreement dated as of July 6, 2022 (as it may be amended, supplemented or otherwise modified, the “**Term Loan Agreement**”), among Saturn Oil & Gas Inc., a Saskatchewan corporation (the “**Borrower**”), the Lenders from time to time party thereto and Wilmington Trust, N.A., as Agent (in such capacity, the “**Agent**”). Terms defined in the Term Loan Agreement shall have the same meanings when used herein.

The Term Loan Agreement contemplates that certain Approval Letters may be given from time to time in connection therewith in order to specify certain exemptions, requirements, allowances or approvals for certain Indebtedness and/or Liens, capital expenditures or other acquisitions and Investments. This letter is such an Approval Letter and is given by the Agent on behalf of the undersigned Lenders, constituting Majority Lenders, in order so to approve the ● that are specified in the schedule attached hereto, which approval shall remain in effect for the time period (if any) specified in such schedule. This letter [is in addition to/supersedes] all previous Approval Letters dealing with ●.

This letter is a Loan Document, and all provisions of the Term Loan Agreement that apply to Loan Documents shall apply hereto.

This letter may be separately executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed shall be deemed to constitute one and the same Approval Letter.

Please execute a counterpart of this letter in the place provided below to evidence your agreement to the foregoing and your continuing ratification of the Term Loan Agreement and the other Loan Documents in consideration of the approval herein contained.

By signing below, the undersigned Lenders, constituting Majority Lenders, hereby authorize and direct the Agent to execute this Approval Letter.

The parties hereto hereby agree that the Agent shall be entitled to all of its rights, privileges, protections, indemnities and immunities in connection with its execution of this Approval Letter.

Yours truly,

**[Signature Page Follows]**

Acknowledged:

**WILMINGTON TRUST, N.A.**, as Agent

Per: \_\_\_\_\_  
Name:  
Title:

Per: Name:  
Title:

Lenders:

•

Per: \_\_\_\_\_  
Name:  
Title:

•

Per: Name:  
Title:

**EXHIBIT C  
FORM OF NOTE**

**THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS. NEITHER THIS NOTE NOR ANY INTEREST HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, REGISTRATION.**

**THIS NOTE IS BEING ISSUED WITH ORIGINAL ISSUE DISCOUNT FOR UNITED STATES FEDERAL INCOME TAX PURPOSES. FOR INFORMATION REGARDING THE ISSUE PRICE, THE TOTAL AMOUNT OF ORIGINAL ISSUE DISCOUNT, THE ISSUE DATE, AND THE YIELD TO MATURITY OF THE NOTE, PLEASE CONTACT THE ● OF THE BORROWER AT ●.**

**FORM OF NOTE**

\$●

●, 20●

FOR VALUE RECEIVED, Saturn Oil & Gas Inc., a Saskatchewan corporation (the “**Borrower**”), hereby promises to pay to ● (the “**Lender**”) or its registered assigns, at the office of Wilmington Trust, N.A. (in such capacity, the “**Agent**”), the principal sum of ● Dollars [(\$)●] (or such lesser amount as shall equal the aggregate unpaid principal amount of the Loans made by the Lender to the Borrower under the Term Loan Agreement as hereinafter defined), in lawful money of Canada and in immediately available funds, on the dates and in the principal amounts provided in the Term Loan Agreement, and to pay interest on the unpaid principal amount of this Note, at such office, in like money and funds, for the period commencing on the date of the execution of this Note until this Note shall be paid in full, at the rates per annum and on the dates provided in the Term Loan Agreement.

The date and amount of this Note, and each payment made on account of the principal thereof, shall be recorded by the Lender on its books. Failure to make any such notation shall not affect the Lender’s or the Borrower’s rights or obligations in respect of this Note or affect the validity of such transfer by the Lender of this Note.

This Note is one of the Notes referred to in the Second Amended and Restated Term Loan Agreement dated as of July 6, 2022 (such Term Loan Agreement as the same may be amended, restated, supplemented or otherwise modified from time to time, the “**Term Loan Agreement**”) among the Borrower, the Lenders from time to time party thereto (including the Lender) and the Agent. Capitalized terms used in this Note have the respective meanings assigned to them in the Term Loan Agreement.

This Note is issued pursuant to the Term Loan Agreement and is entitled to the benefits provided for in the Term Loan Agreement and the other Loan Documents. The Term Loan Agreement provides for the acceleration of the maturity of this Note upon the occurrence of certain events, for prepayments of this Note upon the terms and conditions specified therein and other provisions relevant to this Note.

The ownership of an interest in this Note shall be registered in the Register. Notwithstanding anything else in this Note to the contrary, the right to the principal of, and stated interest on, this Note may be transferred only if the transfer is made in accordance with the terms and conditions

of the Term Loan Agreement, is registered in the Register and the transferee is identified as the owner of an interest in the obligation. The Lender or its agent shall be entitled to treat the registered holder of this Note (as recorded on such record of ownership) as the owner in fact thereof for all purposes and shall not be bound to recognize any equitable or other claim to or interest in this Note on the part of any other person or entity.

***[Signature Page Follows]***

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE PROVINCE OF ALBERTA AND THE LAWS OF CANADA APPLICABLE THEREIN.

**SATURN OIL & GAS INC.**

Per: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT D**  
**FORM OF COMPLIANCE CERTIFICATE**

●, 20●

The undersigned hereby certifies that he/she is the ● of Saturn Oil & Gas Inc., a Saskatchewan corporation (the “**Borrower**”), and that as such he/she is authorized to execute this certificate on behalf of the Borrower. With reference to Section 6.1(c) of the Second Amended and Restated Term Loan Agreement dated as of July 6, 2022 (as it may be amended, restated, supplemented or otherwise modified, the “**Term Loan Agreement**”), among the Borrower, the Lenders from time to time party thereto and Wilmington Trust, N.A., as Agent (in such capacity, the “**Agent**”), the undersigned represents and warrants as follows (each capitalized term used herein having the same meaning given to it in the Term Loan Agreement unless otherwise specified):

1. As of the date hereof, no Default or Event of Default has occurred and is continuing [**or specify Default and describe**].
2. The Loan Parties are in compliance with Section 7.7 of the Term Loan Agreement, and attached hereto as Schedule I are detailed calculations demonstrating such compliance.

**[Signature Page Follows]**

EXECUTED AND DELIVERED as of the date first written above.

Per: \_\_\_\_\_  
Name:  
Title:

**Schedule I to Compliance Certificate  
Calculations**

**EXHIBIT E**  
**FORM OF ADVANCE DATE CERTIFICATE**

●, 2022

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. I am the [secretary] of Saturn Oil & Gas Inc., a Saskatchewan corporation (the “**Borrower**”). This advance date certificate is delivered pursuant to Section 4.2 of the Second Amended and Restated Term Loan Agreement dated as of July 6, 2022 (as it may be amended, supplemented or otherwise modified, the “**Term Loan Agreement**”; and, the capitalized terms not otherwise defined herein shall have the meanings specified in the Term Loan Agreement), among the Borrower, the Lenders from time to time party thereto and Wilmington Trust, N.A., as Agent (in such capacity, the “**Agent**”).
2. I hereby certify to the Agent and the Lenders, solely in my capacity as ● of the Borrower, and not in any individual capacity, that as of the date hereof:
  - (a) the representations and warranties contained in each of the Loan Documents are true and correct on and as of the Advance Date (or to the extent such representations and warranties specifically relate to an earlier date, on and as of such earlier date);
  - (b) as of the Advance Date, the Borrower has performed and complied with all covenants, agreements, obligations and conditions contained in the Term Loan Agreement that are required to be performed or complied with by the Borrower on or before the Advance Date;
  - (c) after giving effect to the making of the Additional Loans:
    - (i) the Loan Parties have Liquidity in an amount not less than \$●;
    - (ii) the Borrower’s PDP Asset Coverage Ratio is not less than 1.75 to 1.00;
    - (iii) the Borrower’s First Lien Net Leverage Ratio is not greater than 1.75 to 1.00; and
    - (iv) The Borrower’s Current Ratio is not less than 1.00 to 1.00; and
  - (d) attached hereto as Schedule I are detailed calculations demonstrating such compliance.

**[Signature Page Follows]**

The foregoing certifications are made and delivered as of the date first written above.

Per: \_\_\_\_\_  
Name:  
Title:

**Schedule I  
Calculations**

**EXHIBIT F**  
**FORM OF SOLVENCY CERTIFICATE**

●, 20●

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. I am the **[Chief Financial Officer]**<sup>2</sup> of Saturn Oil & Gas Inc., a Saskatchewan corporation (**"Borrower"**).
2. Reference is made to that certain Second Amended and Restated Term Loan Agreement, dated as of July 6, 2022 (as it may be amended, supplemented or otherwise modified, the **"Term Loan Agreement"**), among the Borrower, the Lenders from time to time party thereto and Wilmington Trust, N.A., as Agent (in such capacity, the **"Agent"**). Capitalized terms not otherwise defined herein shall have the meanings specified in the Term Loan Agreement.
3. I have reviewed the terms of Section 4.1, 4.2 and 0 of the Term Loan Agreement, the definition of the term **"Solvent"** and the other definitions and provisions contained in the Term Loan Agreement and the other Loan Documents relating thereto, and, in my opinion, in my capacity as **[Chief Financial Officer]** of the Borrower, have made, or have caused to be made under my supervision, such examination or investigation as is necessary to enable me to express an informed opinion as to the matters referred to herein.
4. Based upon my review and examination described in paragraph 3 above, I certify, solely in my capacity as **[Chief Financial Officer]** of the Borrower, and not in any individual capacity, that as of the date hereof, the Borrower, the other Loan Parties and their Subsidiaries taken as a whole on a consolidated basis **[(i)]** are and, upon the incurrence of any Loan upon the date hereof will be, Solvent, **[and (ii) after giving effect to the consummation of the Transactions, will be]**<sup>3</sup> Solvent.

***[Signature Page Follows]***

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<sup>2</sup> [NTD: To be a Financial Officer of the Borrower.]

<sup>3</sup> [NTD: To be delivered with the first Solvency Certificate.]

The foregoing certifications are made and delivered as of the date first written above.

Per: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**  
**FORM OF ASSIGNMENT AGREEMENT**

This Assignment Agreement (the “**Assignment Agreement**”) is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the “**Assignor**”) and [*Insert name of Assignee*] (the “**Assignee**”)⁴. Capitalized terms used but not defined herein shall have the meanings given to them in the Term Loan Agreement identified below (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Term Loan Agreement**”), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment Agreement as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Term Loan Agreement, as of the Effective Date inserted by the Agent as contemplated below (i) all of the Assignor’s rights and obligations in its capacity as a Lender under the Term Loan Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including guarantees included in such facilities) and (ii) to the extent permitted to be assigned under Applicable Law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Term Loan Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the “**Assigned Interest**”). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment Agreement, without representation or warranty by the Assignor.

5. Assignor: ●
6. Assignee: ●  
**[and is an Affiliate of [identify Lender]]**
7. Borrower: Saturn Oil & Gas Inc.
8. Agent: Wilmington Trust, N.A., as the Agent under the Term Loan Agreement.
9. Agreement: The Second Amended and Restated Term Loan Agreement dated as of July 6, 2022 among Saturn Oil & Gas Inc., the Lenders from time to time party thereto, and Wilmington Trust, N.A., as Agent.

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⁴ [NTD: Assignee cannot be one of the parties listed on Schedule 10.7 to the Term Loan Agreement.]

10. Assigned Interest:<sup>5</sup>

<b>Commitment Amount Assigned</b>	<b>Aggregate Commitment Amount /Loans for all Lenders</b>	<b>Percentage Assigned of Commitment Amount/Loans</b>
	\$	%
	\$	%
	\$	%

Effective Date: ●, 20● **[TO BE INSERTED BY AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]**

The terms set forth in this Assignment Agreement are hereby agreed to:

**ASSIGNOR:**

**[NAME OF ASSIGNOR]**

Per: \_\_\_\_\_  
Name:  
Title:

**ASSIGNEE:**

**[NAME OF ASSIGNEE]**

Per: \_\_\_\_\_  
Name:  
Title:

**Accepted:**

**WILMINGTON TRUST, N.A.**, as Agent

Per: \_\_\_\_\_  
Name:  
Title:

<sup>5</sup> Table to be updated as needed to reflect Assigned Interests.

**ANNEX 1**  
**STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT AGREEMENT**

1. **Representations and Warranties**

1.1 **Assignor**

The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment Agreement and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Term Loan Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. **Assignee**

The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment Agreement and to consummate the transactions contemplated hereby and to become a Lender under the Term Loan Agreement, (ii) it satisfies the requirements, if any, specified in the Term Loan Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Term Loan Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Term Loan Agreement and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment Agreement and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Agent or any other Lender, (v) if it is a U.S. person (as defined in Regulation S of the Securities Act of 1933), it is an “**accredited investor**” within the meaning of Rule 501 of Regulation D promulgated under the Securities Act of 1933, as presently in effect, or a Qualified Institutional Buyer (as defined in Rule 144A promulgated under the Securities Act of 1933, as presently in effect), (vi) it is acquiring Loans for its own account or for one or more accounts for which it is acting as a fiduciary or agent, and is not acquiring Loans with a view to any resale, distribution or other disposition in violation of federal or state securities laws, and (vii) it understands that the Loans have not and will not be registered under the Securities Act of 1933 or any state securities laws and may not be offered or sold unless so registered or pursuant to an exemption from registration or in circumstances where neither such registration or exemption is required by law; and (b) agrees that (i) it will, independently and without reliance on the Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. **Payments**

From and after the Effective Date, the Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. **General Provisions**

This Assignment Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment Agreement may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment Agreement by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment Agreement. This Assignment Agreement shall be governed by, and construed in accordance with, the laws of the Province of Alberta and the laws of Canada applicable therein. **EACH OF THE PARTIES HERETO HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING HEREUNDER OR UNDER ANY OF THE OTHER LOAN DOCUMENTS OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT OR THE ASSIGNOR/ASSIGNEE RELATIONSHIP THAT IS BEING ESTABLISHED. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS ARTICLE 4 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.**