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

Form 8-K

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

Date of Report (Date of earliest event reported) **March 18, 2016**

Black Hills Corporation
(Exact name of registrant as specified in its charter)

South Dakota
(State or other jurisdiction of incorporation)

001-31303 (Commission File Number)	**46-0458824** (IRS Employer Identification No.)
625 Ninth Street **Rapid City, South Dakota** (Address of principal executive offices)	**57709-1400** (Zip Code)

605.721-1700
(Registrants telephone number, indicating area code)

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

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

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

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

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

Item 8.01 Other Events.

Black Hills Corporation, a South Dakota Corporation, is filing this Current Report on Form 8-K solely for the purpose of filing certain previously disclosed material agreements, as indicated below under Item 9.01.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

The following exhibits are being filed herewith:

Number	Exhibit
10.1	Indenture dated as of April 16, 2007 between Source Gas LLC and U.S. Bank National Association, as Trustee (*relating to $325 million 5.90% Senior Notes due 2017*).
10.2	Note Purchase Agreement dated September 29, 2014 among SourceGas Holdings LLC and the purchasers party thereto (*relating to $95 million 3.98% Senior Secured Notes due 2019*).
10.3	Second Amended and Restated Term Loan Credit Agreement dated as of February 12, 2016 among Black Hills Corporation, the financial institutions party thereto as Banks, JPMorgan Chase Bank, N.A., as Administrative Agent and Wells Fargo Bank, National Association, as Syndication Agent.
10.4	Amendment No. 3 to Credit Agreement dated as of February 12, 2016 by and among Black Hills Corporation, the financial institutions listed on the signatures pages thereto and U.S. Bank National Association, as Administrative Agent (*relating to Credit Agreement dated May 29, 2014*).
10.5	Amendment No. 2 to Credit Agreement dated as of February 12, 2016 by and among Black Hills Corporation, the financial institutions

listed on the signature pages thereto and JPMorgan Chase Bank, N.A., as Administrative Agent (*relating to Credit Agreement dated April 13, 2015*).

SIGNATURES

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

BLACK HILLS CORPORATION

By: /s/ Richard W. Kinzley
Richard W. Kinzley
Senior Vice President
and Chief Financial Officer

Date: March 18, 2016

Exhibit Index

Exhibit No.	Description
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Exhibit 10.1

EXECUTION VERSION

SOURCE GAS LLC

5.90% SENIOR NOTES DUE 2017

INDENTURE

Dated as of April 16, 2007

U.S. BANK NATIONAL ASSOCIATION

Trustee

CROSS-REFERENCE TABLE*

Trust Indenture Act Section	**Indenture Section**
310(a)(1)	7.10
(a)(2)	7.10
(a)(3)	N.A.
(a)(4)	N.A.
(a)(5)	7.10
(b)	7.10
(c)	N.A.
311(a)	7.11
(b)	7.11
(c)	N.A.
312(a)	2.05
(b)	11.03
(c)	11.03
313(a)	7.06
(b)(2)	7.06; 7.07
(c)	7.06; 11.02
(d)	7.06
314(a)	4.03;11.02; 11.05
(c)(1)	11.04
(c)(2)	11.04
(c)(3)	N.A.
(e)	11.05
(f)	N.A.
315(a)	7.01
(b)	7.05; 11.02
(c)	7.01
(d)	7.01
(e)	6.11
316(a) (last sentence)	2.09
(a)(1)(A)	6.05
(a)(1)(B)	6.04
(a)(2)	N.A.
(b)	6.07
(c)	2.12
317(a)(1)	6.08
(a)(2)	6.09
(b)	2.04
318(a)	11.01
(b)	N.A.
(c)	11.01

N.A. means not applicable.
* This Cross Reference Table is not part of the Indenture.

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Exhibit D FORM OF CERTIFICATE OF ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR
Exhibit E FORM OF SUPPLEMENTAL INDENTURE

INDENTURE dated as of April 16, 2007 between Source Gas LLC, a Delaware limited liability company, and U.S. Bank National Association, as trustee.

The Company and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders (as defined) of the 5.90% Senior Notes due 2017 (the *"Notes"):*

ARTICLE 1
DEFINITIONS AND INCORPORATION
BY REFERENCE

Section 1.01 Definitions.

"144A Global Note" means a Global Note substantially in the form of Exhibit Al hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

"Additional Notes" means additional Notes (other than the Initial Notes) issued under this Indenture in accordance with Section 2.02 hereof, as part of the same series as the Initial Notes.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; *provided* that beneficial ownership of 10% or more of the Voting Stock of a Person will be deemed to be control. For purposes of this definition, the terms *"controlling," "controlled by"* and *"under common control with"* have correlative meanings.

"Agent" means any Registrar, co-registrar, Paying Agent or additional paying agent.

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

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

"Bankruptcy Law" means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

"Board of Directors" means:

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

(2) with respect to a partnership, the Board of Directors of the general partner of the partnership;

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

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

"Business Day" means any day other than a Legal Holiday.

"Capital Stock" means:

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

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

"Clearstream" means Clearstream Banking, S.A.

"Company" means Source Gas LLC, and any and all successors thereto.

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

"Comparable Treasury Price" means, with respect to any redemption date:

(1) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third Business Day preceding such redemption date, as set forth in the daily statistical release (or any successor release) published by the Federal Reserve Bank of New York and designated "Composite 3:30 p.m. Quotations for U.S. Government Securities;" or

(2) if such release (or any successor release) is not published or does not contain such prices on such business day, (A) the average of the Reference Treasury Dealer Quotations for such redemption date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations or (B) if the trustee obtains fewer than three such Reference Treasury Dealer Quotations, the average of all such quotations.

"Consolidated Net Tangible Assets" means, with respect to any Person at any date of determination, the aggregate amount of Total Assets included in such Person's most recent quarterly or annual consolidated balance sheet prepared in accordance with GAAP, less applicable reserves reflected in such balance sheet, after deducting the following amounts: (i) all current liabilities reflected in such

balance sheet, and (ii) all goodwill, trademarks, patents, unamortized debt discount and expenses and other like intangibles reflected in such balance sheet.

"Consolidated Total Capitalization" means, as of any date of determination, the sum of (i) Consolidated Total Indebtedness, plus (ii) the sum of the Capital Stock (excluding treasury stock and capital stock subscribed for and unissued) and surplus (including earned surplus, capital surplus, translation adjustment and the balance of the current profit and loss account not transferred to surplus) accounts of the Company and its Subsidiaries appearing on a consolidated balance sheet of the Company and its Subsidiaries, in each case prepared as of the date of determination in accordance with GAAP, after eliminating all intercompany transactions and all amounts properly attributable to minority interests, if any, in the stock and surplus of the Company's Subsidiaries.

"Consolidated Total Indebtedness" means the aggregate amount of all outstanding Indebtedness of the Company and its consolidated Subsidiaries, determined on a consolidated basis in accordance with GAAP.

"Corporate Trust Office of the Trustee" will be at the address of the Trustee specified in Section 11.02 hereof or such other address as to which the Trustee may give notice to the Company.

"Custodian" means the Trustee, as custodian with respect to the Notes in global form, or any successor entity thereto.

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

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit Al hereto except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depositary" means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depositary with respect to the Notes, and any and all successors thereto appointed as depositary hereunder and having become such pursuant to the applicable provision of this Indenture.

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

"Euroclear" means Euroclear Bank, S.A./N.V., as operator of the Euroclear system.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Funded Indebtedness" means any Indebtedness that matures more than one year after the date as of which Funded Indebtedness is being determined less any such Indebtedness as will be retired through or by means of any deposit or payment required to be made within one year from such date under any prepayment provision, sinking fund, purchase fund or otherwise.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such

other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

"*Global Note Legend*" means the legend set forth in Section 2.06(f)(2) hereof, which is required to be placed on all Global Notes issued under this Indenture.

"*Global Notes*" means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes deposited with or on behalf of and registered in the name of the Depository or its nominee, substantially in the form of Exhibit Al hereto and that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, issued in accordance with Section 2.01, 2.06(b)(3), 2.06(b)(4) or 2.06(d)(2) hereof.

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

"*Guarantee*" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof; of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

"*Guarantors*" means any Subsidiary of the Company that executes a Note Guarantee in accordance with the provisions of this Indenture, and its successors and assigns, in each case, until the Note Guarantee of such Person has been released in accordance with the provisions of this Indenture.

"*Hedging Obligations*" means, with respect to any Person, the obligations of such Person under any interest rate or currency swap agreement, interest rate or currency future agreement, interest rate collar agreement, swap agreement (as defined in 11 U.S.C. § 101), interest rate or currency hedge agreement, and any put, call or other agreement or arrangement designed to protect such Person against fluctuations in interest rates or currency exchange rates.

"*Holder*" means a Person in whose name a Note is registered.

"*IAI Global Note*" means a Global Note substantially in the form of Exhibit Al hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold to Institutional Accredited Investors.

"*Indebtedness*" means, for any Person, all obligations of such Person which in accordance with GAAP should be classified on a balance sheet of such Person as liabilities of such Person, and in any event shall include, without duplication, all (i) indebtedness for borrowed money, (ii) obligations evidenced by bonds, debentures, notes or other similar instruments, (iii) obligations to pay the deferred purchase price of property or services (other than current trade payables incurred in the ordinary course of such Person's business), (iv) obligations as lessee under leases which shall have been or should be, in accordance with GAAP, recorded as capital leases, (v) obligations as lessee under operating leases which have been recorded as off-balance sheet liabilities, (vi) all payments that such Person would have to make in the event of an early termination on the date Indebtedness of such Person is being determined in respect of its Hedging Obligations, (vii) reimbursement obligations (contingent or otherwise) in respect of outstanding letters of credit, (viii) indebtedness of the type referred to in clauses (i) through (vi) above

secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any lien or encumbrance on, or security interest in, property (including, without limitation, accounts and contract rights) owned by such Person up to the value of such property, even though such Person has not assumed or become liable for the payment of such indebtedness, and (ix) obligations under direct or indirect guaranties in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in clauses (i) through (vii) above. Notwithstanding anything to the contrary set forth above, Capital Stock, including Capital Stock having a preferred interest, shall not constitute Indebtedness for purposes of this Indenture.

"*Indenture*" means this Indenture, as amended or supplemented from time to time.

"*Independent Investment Banker*" means the Reference Treasury Dealers appointed by the trustee after consultation with the Company.

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

"*Initial Notes*" means the first $325,000,000 aggregate principal amount of Notes issued under this Indenture on the date hereof.

"*Initial Purchasers*" means Lehman Brothers Inc. and Wachovia Capital Markets, LLC.

"*Institutional Accredited Investor*" means an institution that is an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act, who are not also QIBs.

"*Legal Holiday*" means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment are authorized by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period.

"*Non-US. Person*" means a Person who is not a U.S. Person.

"*Note Guarantee*" means the Guarantee by any Subsidiary of the Company's obligations under this Indenture and the Notes, executed pursuant to the provisions of this Indenture.

"*Notes*" has the meaning assigned to it in the preamble to this Indenture. The Initial Notes and the Additional Notes shall be treated as a single class for all purposes under this Indenture, and unless the context otherwise requires, all references to the Notes shall include the Initial Notes and any Additional Notes.

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

“*Officer*” means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of such Person.

“*Officers’ Certificate*” means a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the principal executive officer, the principal financial officer, the

treasurer or the principal accounting officer of the Company, that meets the requirements of Section 11.05 hereof.

“*Opinion of Counsel*” means an opinion from legal counsel who is reasonably acceptable to the Trustee, that meets the requirements of Section 11.05 hereof. The counsel may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

“*Parent*” means Source Gas Holdings LLC.

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

“*Permitted Payments to Parent*” means, without duplication as to amounts:

(1) payments to the Parent to permit the Parent to pay reasonable accounting, legal and administrative expenses of the Parent when due, in an aggregate amount not to exceed $1,200,000 per annum; and

(2) for so long as the Company is treated as a pass-through or disregarded entity for United States federal income tax purposes or the Company is included in a consolidated, combined or unitary tax return filing group of which it is not the parent, payments to the Parent in respect of an allocable portion of the tax liabilities of such group that is attributable to the Company and its Subsidiaries *(“Tax Payments”).* The Tax Payments shall not exceed the lesser of (i) the amount of the relevant tax (including any penalties and interest) that the Company would owe if the Company were filing a separate tax return (or a separate consolidated or combined return with its Subsidiaries that are members of the consolidated or combined group), taking into account any carryovers and carrybacks of tax attributes (such as net operating losses) of the Company and such Subsidiaries from other taxable years and (ii) the amount of the relevant tax (including any penalties and interest) that the Parent would owe if the Parent were filing a separate tax return (or a separate consolidated or combined return with its Subsidiaries that are members of the consolidated or combined group), taking into account any carryovers and carrybacks of tax attributes (such as net operating losses) of the Parent and such Subsidiaries from other taxable years. Any Tax Payments received from the Company shall be paid over to the appropriate taxing authority within 90 days of the distribution of such Tax Payments or refunded to the Company.

“*Person*” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

“*Principal Property*” means any natural gas pipeline property located in the United States or Mexico, except any such property that in the opinion of the Board of Directors is not of material importance to the total business conducted by the Company and its consolidated Subsidiaries.

“*Private Placement Legend*” means the legend set forth in Section 2.06(f)(1) hereof to be placed on all Notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

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

“*Reference Treasury Dealer*” means each of Lehman Brothers Inc. and Wachovia Capital Markets, LLC and their respective successors; *provided, however,* that if any of the foregoing shall cease to be a primary U.S. Government securities dealer in New York City (a *“Primary Treasury Dealer”),* the Company shall substitute therefor another Primary Treasury Dealer.

“*Reference Treasury Dealer Quotations*” means, with respect to each Reference Treasury Dealer and any redemption date, the average as determined by the trustee, of the bid and asked prices of the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the trustee by such Reference Treasury Dealer at 5:00 p.m. on the third business day preceding such redemption date.

“*Regulation S*” means Regulation S promulgated under the Securities Act.

“*Regulation S Global Note*” means a Regulation S Temporary Global Note or Regulation S Permanent Global Note, as appropriate.

“*Regulation S Permanent Global Note*” means a permanent Global Note in the form of Exhibit Al hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Regulation S Temporary Global Note upon expiration of the Restricted Period.

“*Regulation S Temporary Global Note*” means a temporary Global Note in the form of Exhibit A2 hereto deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903 of Regulation S.

"Responsible Officer," when used with respect to the Trustee, means any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

"Restricted Period" means the 40-day distribution compliance period as defined in Regulation S.

"Rule 144" means Rule 144 promulgated under the Securities Act.

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

"Rule 903" means Rule 903 promulgated under the Securities Act.

"Rule 904" means Rule 904 promulgated under the Securities Act.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Significant Subsidiary" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date of this Indenture.

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

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

"TIA" means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb).

"Total Assets" means, with respect to any Person, the total assets of such Person on a consolidated basis determined in accordance with GAAP, as shown on the most recently available consolidated balance sheet of such Person.

"Treasury Rate" means, with respect to any redemption date, the rate per annum equal to the quarterly equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date.

"Trustee" means U.S. Bank National Association until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

"Unrestricted Definitive Note" means a Definitive Note that does not bear and is not required to bear the Private Placement Legend.

"Unrestricted Global Note" means a Global Note that does not bear and is not required to bear the Private Placement Legend.

"US. Person" means a U.S. Person as defined in Rule 902(k) promulgated under the Securities Act.

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

Section 1.02 Other Definitions.

Term	**Defined in Section**
"Authentication Order"	2.02
"Covenant Defeasance"	8.03

"DTC"	2.03
"Event of Default"	6.01

"incur"	4.08
"Legal Defeasance"	8.02
"mortgage"	4.09
"Paying Agent"	2.03
"Payment Default"	6.01
"Registrar"	2.03
"Restricted Payments"	4.07

Section 1.03 *Incorporation by Reference of Trust Indenture Act*.

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture.

The following TIA terms used in this Indenture have the following meanings:

"indenture securities" means the Notes;

"indenture security Holder" means a Holder of a Note;

"indenture to be qualified" means this Indenture;

"indenture trustee" or *"institutional trustee"* means the Trustee; and

"obligor" on the Notes means the Company and any successor obligor upon the Notes.

All other terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule under the TIA have the meanings so assigned to them.

Section 1.04 *Rules of Construction*.

Unless the context otherwise requires:

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

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

(3) "or" is not exclusive;

(4) words in the singular include the plural, and in the plural include the singular;

(5) "will" shall be interpreted to express a command;

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

(7) references to sections of or rules under the Securities Act will be deemed to include substitute, replacement of successor sections or rules adopted by the SEC from time to time.

ARTICLE 2
THE NOTES

Section 2.01 *Form and Dating*.

(a) *General.* The Notes and the Trustee's certificate of authentication will be substantially in the form of Exhibits Al and A2 hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note will be dated the date of its authentication. The Notes shall be in denominations of $2,000 and integral multiples of $1,000 in excess thereof.

The terms and provisions contained in the Notes will constitute, and are hereby expressly made, a part of this Indenture and the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(b) *Global Notes.* Notes issued in global form will be substantially in the form of Exhibits Al or A2 hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form will be substantially in the form of Exhibit Al hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note will represent such of the outstanding Notes as will be specified therein and each shall provide that it represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby will be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) *Temporary Global Notes.* Notes offered and sold in reliance on Regulation S will be issued initially in the form of the Regulation S Temporary Global Note, which will be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, at its New York office, as custodian for the Depositary, and registered in the name of the Depositary or the nominee of the Depositary for the accounts of designated agents holding on

behalf of Euroclear or Clearstream, duly executed by the Company and authenticated by the Trustee as hereinafter provided. The Restricted Period will be terminated upon the receipt by the Trustee of:

(1) a written certificate from the Depositary, together with copies of certificates from Euroclear and Clearstream certifying that they have received certification of non-United States beneficial ownership of 100% of the aggregate principal amount of the Regulation S Temporary Global Note (except to the extent of any beneficial owners thereof who acquired an interest therein during the Restricted Period pursuant to another exemption from registration under the Securities Act and who will take delivery of a beneficial ownership interest in a 144A Global Note or an IAI Global Note bearing a Private Placement Legend, all as contemplated by Section 2.06(b) hereof); and

(2) an Officers' Certificate from the Company.

Following the termination of the Restricted Period, beneficial interests in the Regulation S Temporary Global Note will be exchanged for beneficial interests in the Regulation S Permanent Global Note pursuant to the Applicable Procedures. Simultaneously with the authentication of the Regulation S

Permanent Global Note, the Trustee will cancel the Regulation S Temporary Global Note. The aggregate principal amount of the Regulation S Temporary Global Note and the Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depositary or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

(d) *Euroclear and Clearstream Procedures Applicable.* The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream Banking" and "Customer Handbook" of Clearstream will be applicable to transfers of beneficial interests in the Regulation S Temporary Global Note and the Regulation S Permanent Global Note that are held by Participants through Euroclear or Clearstream.

Section 2.02 *Execution and Authentication.*

At least one Officer must sign the Notes for the Company by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time a Note is authenticated, the Note will nevertheless be valid.

A Note will not be valid until authenticated by the manual signature of the Trustee. The signature will be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee will, upon receipt of a written order of the Company signed by an Officer (an *"Authentication Order"),* authenticate Notes for original issue that may be validly issued under this Indenture, including any Additional Notes. The aggregate principal amount of Notes outstanding at any time may not exceed the aggregate principal amount of Notes authorized for issuance by the Company pursuant to one or more Authentication Orders, except as provided in Section 2.07 hereof.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Company.

Section 2.03 *Registrar and Paying Agent.*

The Company will maintain an office or agency where Notes may be presented for registration of transfer or for exchange *("Registrar")* and an office or agency where Notes may be presented for payment *("Paying Agent").* The Registrar will keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company will notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints The Depository Trust Company *("DTC")* to act as Depositary with respect to the Global Notes.

The Company initially appoints the Trustee to act as the Registrar and Paying Agent and to act as Custodian with respect to the Global Notes.

Section 2.04 *Paying Agent to Hold Money in Trust.*

The Company will require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal, premium, if any, or interest on the Notes, and will notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Subsidiary) will have no further liability for the money. If the Company or a Subsidiary acts as Paying Agent, it will segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee will serve as Paying Agent for the Notes.

Section 2.05 *Holder Lists.*

The Trustee will preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar, the Company will furnish to the Trustee at least seven Business

Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes and the Company shall otherwise comply with TIA § 312(a).

Section 2.06 *Transfer and Exchange*.

(a) *Transfer and Exchange of Global Notes.* A Global Note may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Notes will be exchanged by the Company for Definitive Notes if:

(1) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary; or

(2) there has occurred and is continuing a Default or Event of Default with respect to the Notes.

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

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes.* The transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes will be subject to restrictions on transfer comparable to those set forth herein to

the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also will require compliance with either subparagraph (1) or (2) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(1) *Transfer of Beneficial Interests in the Same Global Note.* Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; *provided, however,* that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Temporary Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(1).

(2) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes.* In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(1) above, the transferor of such beneficial interest must deliver to the Registrar either:

(A) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase; or

(B) both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above; *provided* that in no event shall Definitive Notes be issued upon the transfer or exchange of beneficial interests in the Regulation S Temporary Global Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903 under the Securities Act.

Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(g) hereof.

(3) *Transfer of Beneficial Interests to Another Restricted Global Note.* A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(2) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Temporary Global Note or the Regulation S Permanent Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

if the transferee will take delivery in the form of a beneficial interest in the IAI Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(4) *Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note*. A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(2) above and:

(A) the Registrar receives the following:

(i) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

(ii) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (A), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the

Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (A) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (A) above.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) *Transfer or Exchange of Beneficial Interests for Definitive Notes*.

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

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof.,

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof.,

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof.,

(E) if such beneficial interest is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof., or

(G) (if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(1) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(2) *Beneficial Interests in Regulation S Temporary Global Note to Definitive Notes.* Notwithstanding Sections 2.06(c)(1)(A) and (C) hereof, a beneficial interest in the Regulation S Temporary Global Note may not be exchanged for a Definitive Note or transferred to a Person who takes delivery thereof in the form of a Definitive Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) under the Securities Act, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

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

(A) the Registrar receives the following:

(i) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(ii) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (A), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the

Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(4) *Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes.* If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(2) hereof, the Trustee will cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company will execute and the Trustee will authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(4) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest requests through instructions to the Registrar from or through the Depositary and the Participant or Indirect Participant. The Trustee will deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(4) will not bear the Private Placement Legend.

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

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

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in

subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such Restricted Definitive Note is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof, the Trustee will cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (B) above, the 144A Global Note, in the case of clause (C) above, the Regulation S Global Note, and in all other cases, the IAI Global Note.

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

(A) the Registrar receives the following:

(i) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(ii) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (A), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(2), the Trustee will cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(3) *Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes.* A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted

Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraph (2)(A) or (3) above at a time when an Unrestricted Global Note has not yet been issued, the Company will issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee will authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

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

(1) *Restricted Definitive Notes to Restricted Definitive Notes.* Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(2) *Restricted Definitive Notes to Unrestricted Definitive Notes.* Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if:

(A) the Registrar receives the following:

(i) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(ii) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (A), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

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

(f) *Legends.* The following legends will appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(1) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

"THE NOTES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY OTHER JURISDICTION. NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS THE TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THIS SECURITY BY ITS ACCEPTANCE HEREOF (1) REPRESENTS THAT (A) IT IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) OR (B) IT IS NOT A U.S. PERSON AND IS ACQUIRING ITS NOTE IN AN "OFFSHORE TRANSACTION" PURSUANT TO RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (2) AGREES THAT IT WILL NOT PRIOR TO (X) THE DATE WHICH IS TWO YEARS (OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144(K) UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THEREUNDER) AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF (OR OF ANY PREDECESSOR OF THIS NOTE) OR THE LAST DAY ON WHICH THE COMPANY OR ANY AFFILIATE OF THE COMPANY WAS THE OWNER OF THIS NOTE (OR ANY PREDECESSOR OF THIS NOTE) AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW (THE "RESALE RESTRICTION TERMINATION DATE"), OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE EXCEPT (A) TO THE COMPANY, (B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BEEN DECLARED EFFECTIVE UNDER THE

SECURITIES ACT, (C) FOR SO LONG AS THE NOTES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) PURSUANT TO OFFERS AND SALES TO NON-U.S. PERSONS THAT OCCUR OUTSIDE THE UNITED STATES WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT OR (E) PURSUANT TO ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS NOTE IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND; PROVIDED THAT THE COMPANY, THE TRUSTEE AND THE REGISTRAR SHALL HAVE THE RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (D) OR (E) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE. AS USED HEREIN, THE TERMS "OFFSHORE TRANSACTION," "UNITED STATES" AND "U.S. PERSON" HAVE THE MEANINGS GIVEN TO THEM BY REGULATION S UNDER THE SECURITIES ACT."

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(4), (c)(3), (c)(4), (d)(2), (d)(3), (e)(2) or (e)(3) of this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) will not bear the Private Placement Legend.

(2) *Global Note Legend.* Each Global Note will bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF SOURCE GAS LLC.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC"), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN

AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

(3) *Regulation S Temporary Global Note Legend.* The Regulation S Temporary Global Note will bear a Legend in substantially the following form:

"THE RIGHTS ATTACHING TO THIS REGULATION S TEMPORARY GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR CERTIFICATED NOTES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN). NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS REGULATION S TEMPORARY GLOBAL NOTE SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON."

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

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

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

(2) No service charge will be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, and 9.05 hereof).

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

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

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

(A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection;

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

(C) to register the transfer of or to exchange a Note between a record date and the next succeeding interest payment date.

(6) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of

principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

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

(8) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

Section 2.07 *Replacement Notes*.

If any mutilated Note is surrendered to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Note, the Company will issue and the Trustee, upon receipt of an Authentication Order, will authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Company may charge for its expenses in replacing a Note.

Every replacement Note is an additional obligation of the Company and will be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

Section 2.08 *Outstanding Notes*.

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser.

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, on a redemption date or maturity date, money sufficient to pay Notes payable on that date, then on and after that date such Notes will be deemed to be no longer outstanding and will cease to accrue interest.

Section 2.09 Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any Guarantor, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any Guarantor, will be considered as though not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Notes that the Trustee knows are so owned will be so disregarded.

Section 2.10 Temporary Notes.

Until certificates representing Notes are ready for delivery, the Company may prepare and the Trustee, upon receipt of an Authentication Order, will authenticate temporary Notes. Temporary Notes will be substantially in the form of certificated Notes but may have variations that the Company considers appropriate for temporary Notes and as may be reasonably acceptable to the Trustee. Without unreasonable delay, the Company will prepare and the Trustee will authenticate definitive Notes in exchange for temporary Notes.

Holders of temporary Notes will be entitled to all of the benefits of this Indenture.

Section 2.11 *Cancellation*.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent will forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else will cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and will destroy canceled Notes (subject to the record retention requirement of the Exchange Act). Certification of the destruction of all canceled Notes will be delivered to the Company. The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

Section 2.12 *Defaulted Interest*.

If the Company defaults in a payment of interest on the Notes, it will pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 4.01 hereof. The Company will notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment. The Company will fix or cause to be fixed each such special record date and payment date; *provided* that no such special record date may be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) will mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

ARTICLE 3
REDEMPTION AND PREPAYMENT

Section 3.01 *Notices to Trustee*.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07 hereof, it must furnish to the Trustee, at least 30 days but not more than 60 days before a redemption date, an Officers' Certificate setting forth:

(1) the clause of this Indenture pursuant to which the redemption shall occur;

(2) the redemption date;

(3) the principal amount of Notes to be redeemed; and

(4) the redemption price.

Section 3.02 *Selection of Notes to Be Redeemed or Purchased*.

If less than all of the Notes are to be redeemed or purchased in an offer to purchase at any time, the Trustee will select Notes for redemption or purchase on a *pro rata* basis unless otherwise required by law or applicable stock exchange requirements.

In the event of partial redemption or purchase by lot, the particular Notes to be redeemed or purchased will be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the redemption or purchase date by the Trustee from the outstanding Notes not previously called for redemption or purchase.

The Trustee will promptly notify the Company in writing of the Notes selected for redemption or purchase and, in the case of any Note selected for partial redemption or purchase, the principal amount thereof to be redeemed or purchased. Notes and portions of Notes selected will be in amounts of $2,000 or integral multiples of $1,000 in excess thereof; except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder, even if not in an amount of $2,000 or an integral multiple of $1,000 in excess thereof, shall be redeemed or purchased. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption or purchase also apply to portions of Notes called for redemption or purchase.

Section 3.03 *Notice of Redemption*.

At least 30 days but not more than 60 days before a redemption date, the Company will mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture pursuant to Articles 8 or 10 hereof.

The notice will identify the Notes to be redeemed and will state:

(1) the redemption date;

(2) the redemption price;

(3) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion will be issued upon cancellation of the original Note;

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

(5) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(6) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;

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

(8) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee will give the notice of redemption in the Company's name and at its expense; *provided, however*, that the Company has delivered to the Trustee, at least 45 days prior to the redemption date, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

Section 3.04 *Effect of Notice of Redemption*.

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price. A notice of redemption may not be conditional.

Section 3.05 *Deposit of Redemption or Purchase Price*.

One Business Day prior to the redemption or purchase date, the Company will deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of and accrued interest on all Notes to be redeemed or purchased on that date. The Trustee or the Paying Agent will promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption or purchase price of, and accrued interest on, all Notes to be redeemed or purchased.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption or purchase date, interest will cease to accrue on the Notes or the portions of Notes called for redemption or purchase. If a Note is redeemed or purchased on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption or purchase is not so paid upon surrender for redemption or purchase because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

Section 3.06 *Notes Redeemed or Purchased in Part*.

Upon surrender of a Note that is redeemed or purchased in part, the Company will issue and, upon receipt of an Authentication Order, the Trustee will authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered.

Section 3.07 *Optional Redemption*.

(a) The Company may redeem all or a part of the Notes, upon not less than 30 nor more than 60 days' prior notice, at a redemption price equal to the greater of (1) 100% of the principal amount of notes redeemed and (2) the sum of the present values of the remaining scheduled payments of principal and interest thereon discounted to the redemption date on a quarterly basis (assuming a 360-day year comprised of twelve 30-day months) at the Treasury Rate, plus 25 basis points, plus accrued and unpaid interest, if any, to the date of redemption, subject to the rights of Holders on the relevant record date to receive interest on the relevant interest payment date.

Unless the Company defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable redemption date.

(b) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

Section 3.08 *Mandatory Redemption; Open Market Purchases*.

The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes. The Company may at any time and from time to time purchase notes in the open market or otherwise.

ARTICLE 4
COVENANTS

Section 4.01 *Payment of Notes*.

The Company will pay or cause to be paid the principal of, premium, if any, and interest on, the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest will be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 10:00 a.m. Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due.

The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to 1% per annum in excess of the then applicable interest rate on the Notes to the extent lawful; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

Section 4.02 *Maintenance of Office or Agency*.

The Company will maintain in the Borough of Manhattan, the City of New York, an office or agency (which may be an office of the Trustee or an Affiliate of the Trustee, Registrar or co-registrar)

where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company fails to maintain any such required office or agency or fails to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however,* that no such designation or rescission will in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, the City of New York for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03 hereof.

Section 4.03 *Reports.*

(a) So long as any Notes are outstanding, the Company will furnish to the Holders of Notes or cause the Trustee to furnish to the Holders of Notes and, upon request, prospective investors in the Notes and securities analysts with:

(1) the information regarding the Company required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act; and

(2) (a) within 120 days after the end of each fiscal year of the Company, audited financial statements (including balance sheets and statements of income and cash flow) for such fiscal year (along with customary comparative results for the prior fiscal year), together with a report on the annual financial statements by the Company's certified independent accountants and (b) within 75 days of the end of each of the first three fiscal quarters of each fiscal year, unaudited financial statements (including balance sheets and statements of income and cash flow) for such fiscal quarter (along with customary comparative results for the corresponding interim period in the prior year),

(all of the foregoing financial information to be prepared on a basis substantially consistent with GAAP).

Section 4.04 *Compliance Certificate*.

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year, an Officers' Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default has occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal

of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto.

(b) So long as not contrary to the then current recommendations of the American Institute of Certified Public Accountants, the year-end financial statements delivered pursuant to Section 4.03 above shall be accompanied by a written statement of the Company's independent public accountants (who shall be a firm of established national reputation) that in making the examination necessary for certification of such financial statements, nothing has come to their attention that would lead them to believe that the Company has violated any provisions of Article 4 or Article 5 hereof or, if any such violation has occurred, specifying the nature and period of existence thereof, it being understood that such accountants shall not be liable directly or indirectly to any Person for any failure to obtain knowledge of any such violation.

(c) So long as any of the Notes are outstanding, the Company will deliver to the Trustee, forthwith upon any Officer becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.05 *Taxes.*

The Company will pay, and will cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

Section 4.06 *Stay, Extension and Usury Laws*.

The Company and each of the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company and each of the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.07 *Restricted Payments*.

(a) The Company will not, directly or indirectly:

(1) declare or pay any dividend or make any other payment or distribution on account of the Company's Capital Stock (including, without limitation, any payments in connection with any merger or consolidation involving the Company) or to the direct or indirect holders of the Company's Capital Stock in their capacity as such; or

(2) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Company) any Capital Stock of the Company or any direct or indirect parent of the Company,

(all such payments and other actions set forth in clauses (1) and (2) above being collectively referred to as *"Restricted Payments")*, unless, at the time of and after giving effect to such Restricted Payment:

(1) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment; and

(2) the Company would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the end of the most recently ended fiscal quarter, have a ratio of Consolidated Total Indebtedness to Consolidated Total Capitalization of not more than 0.60 to 1.00 at the end of the most recently ended fiscal quarter.

(b) So long as no Default has occurred and is continuing or would be caused thereby, the provisions of Section 4.07(a) hereof will not prohibit:

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

(2) Permitted Payments to Parent.

Section 4.08 *Incurrence of Indebtedness by Subsidiaries.*

(a) The Company will not permit any of its Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, *"incur")* any Indebtedness.

(b) Notwithstanding the provisions of Section 4.08(a) hereof, the Company's Subsidiaries may incur Indebtedness so long as:

(1) such Indebtedness is intercompany Indebtedness between or among the Company and any of its Subsidiaries; *provided, however,* that (A) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Subsidiary of the Company or (B) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Subsidiary of the Company, will be deemed, in each case, to constitute an incurrence of such Indebtedness by such Subsidiary that was not permitted by this clause (1);

(2) at the time of such incurrence and together with, without duplication, (A) mortgages incurred pursuant to Section 4.09(e) hereof and (B) the Attributable Debt in respect of sale and leaseback transactions permitted by the last sentence of Section 4.10 hereof, the total consolidated Indebtedness incurred by Subsidiaries, excluding Indebtedness permitted under clause (b)(1) above, does not exceed 10% of Consolidated Net Tangible Assets; or

(3) such Subsidiary simultaneously guarantees the payment of the Notes, which Guarantee will be senior to or *pari passu* with such Subsidiary's other Indebtedness, pursuant to the procedures of this Indenture.

Section 4.09 *Liens.*

The Company will not, nor will it permit any Subsidiary to, issue, assume or guarantee any Indebtedness secured by a mortgage, pledge, lien, security interest or encumbrance *("mortgage")* upon any property of the Company or any Subsidiary without effectively providing that the Notes shall be equally and ratably secured with such Indebtedness; *provided, however,* that this Section 4.09 shall not apply to:

(a) purchase money mortgages covering only, and in an amount not exceeding the value of, the assets acquired or financed by such purchase money Indebtedness;

(b) preexisting mortgages on any property acquired by the Company or a Subsidiary;

(c) mortgages on property of a Subsidiary existing at the time it became a Subsidiary of the Company;

(d) mortgages that extend, or renew or replace in whole or in part a mortgage referred to herein; *provided, however,* that (i) the new mortgage shall be limited to all or part of the same property and assets that secured the original mortgage (plus improvements and accessions to such property or proceeds or distributions thereof), and (ii) the Indebtedness secured by the new mortgage is not increased to any amount greater than the outstanding principal amount, or, if greater, committed amount of the Indebtedness being extended, renewed or replaced; and

(e) other mortgages in an aggregate amount which, at the time of incurrence and together with, without duplication, (i) the Attributable Debt in respect of sale and leaseback transactions permitted by the last sentence of Section 4.10 hereof and (ii) Indebtedness of Subsidiaries permitted by Section 4.08 hereof, do not exceed 10% of Consolidated Net Tangible Assets.

Section 4.10 *Sale and Leaseback Transactions.*

The Company will not, and will not permit any of its Subsidiaries to, sell and lease back for more than three years any Principal Property acquired or placed into service more than 180 days before such lease arrangement, unless (x) the lessee would be entitled to incur Indebtedness secured by a Lien on such Principal Property in a principal amount equivalent to the Attributable Debt in respect of such arrangement without equally and ratably securing the notes or (y) the Company retires Funded Indebtedness or causes Funded Indebtedness to be retired within 90 days of the effective date of such sale and leaseback transaction equal to the net proceeds of such sale; *provided, however,* that this Section shall not apply to sale and leaseback transactions:

(a) relating to industrial development or pollution control financing; or

(b) involving only the Company and any Subsidiary or Subsidiaries of the Company, nor will such transactions be included in any computation of Attributable Debt.

Notwithstanding the foregoing, the Company and its Subsidiaries may enter into sale and leaseback transactions so long as, at the time of such transactions and together with, without duplication, (i) mortgages incurred pursuant to Section 4.09(e) hereof and (ii) Indebtedness of Subsidiaries permitted by Section 4.08 hereof, the total consolidated Attributable Debt in respect of such transactions does not exceed 10% of Consolidated Net Tangible Assets.

Section 4.11 *Corporate Existence*.

Subject to Article 5 hereof; the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect:

(1) its limited liability company existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Subsidiary; and

(2) the rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries; *provided, however,* that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Subsidiaries, if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

Section 4.12 *Note Guarantees*.

If any of the Company's Subsidiaries incur any Indebtedness permitted hereunder pursuant to the provisions of Section 4.08(b)(3) hereof, then the Company will cause such Subsidiary to execute a Note Guarantee pursuant to a supplemental indenture in form substantially as set forth in Exhibit E hereto and substance reasonably satisfactory to the Trustee and deliver an Opinion of Counsel to the Trustee within 10 Business Days of the date on which such Indebtedness was incurred to the effect that such supplemental indenture has been duly authorized, executed and delivered by such Subsidiary and constitutes a valid and binding agreement of that Subsidiary, enforceable in accordance with its terms (subject to customary exceptions).

ARTICLE 5
SUCCESSORS

Section 5.01 *Merger, Consolidation, or Sale of Assets*.

The Company shall not, directly or indirectly: (i) consolidate or merge with or into another Person (whether or not the Company is the surviving entity); or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(1) either:

(A) the Company is the surviving entity; or

(B) the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, conveyance or other disposition has been made is a corporation, limited liability company, business trust or limited partnership organized or existing under the laws of the United States, any state of the United States or the District of Columbia; *provided* that if the Person formed by or surviving any such consolidation or merger (if other than the Company) is a limited liability company, business trust or limited partnership, a corporation of which all of the

Capital Stock is owned by such Person shall be added to this Indenture as co-issuer of the notes by a supplemental indenture pursuant to which such corporation shall act as joint and several obligor with respect to the Notes;

(2) the Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of the Company under the Notes and this Indenture pursuant to agreements reasonably satisfactory to the Trustee; and

(3) immediately after such transaction, no Default or Event of Default exists.

Notwithstanding this Section 5.01, the Company is permitted to reorganize as a corporation in accordance with the procedures established in this Indenture; *provided* that the Company shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that such reorganization is not adverse to Holders of the Notes (it being recognized that such reorganization shall not be deemed adverse to the Holders of the Notes solely because (i) of the accrual of deferred tax liabilities resulting from such reorganization or (ii) the successor or surviving corporation (a) is subject to income tax as a corporate entity or (b) is considered to be an "includible corporation" of an affiliated group of corporations within the meaning of the Internal Revenue Code of 1986, as amended, or any similar state or local law) and certain other conditions are satisfied.

In addition, this Section 5.01 will not apply to a merger of the Company with an Affiliate solely for the purpose of reincorporating the Company in another jurisdiction.

In addition, the Company must deliver an Officers' Certificate and an Opinion of Counsel to the Trustee confirming that all requirements of this Section 5.01 have been complied with.

Section 5.02 *Suc6essor Corporation Substituted*.

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Company in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof, the successor Person formed by such consolidation or into or with which the Company is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition, the provisions of this Indenture referring to the "Company" shall refer instead to the successor Person and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; *provided, however,* that the predecessor Company shall not be relieved from the obligation to pay the principal of and interest on the Notes except in the case of a sale of all of the Company's assets in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof.

ARTICLE 6
DEFAULTS AND REMEDIES

Section 6.01 *Events of Default*.

Each of the following is an *"Event of Default":*

(1) default for 30 days in the payment when due of interest on the Notes;

(2) default in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on, the Notes;

(3) failure by the Company or any of its Subsidiaries for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with any of the agreements in this Indenture;

(4) default under any Indebtedness of the Company or any of its Significant Subsidiaries (or the payment of which is guaranteed by the Company or any of its Significant Subsidiaries), whether such Indebtedness or Guarantee now exists, or is created after the date of this Indenture, if that default:

(A) is caused by a failure to pay principal of, or interest or premium, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a *"Payment Default");* or

(B) results in the acceleration of such Indebtedness prior to its express maturity,

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates $25.0 million or more;

(5) the Company pursuant to or within the meaning of Bankruptcy Law:

(A) commences a voluntary case,

(B) consents to the entry of an order for relief against it in an involuntary case,

(C) consents to the appointment of a custodian of it or for all or substantially all of its property,

(D) makes a general assignment for the benefit of its creditors, or

(E) generally is not paying its debts as they become due; or

(6) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company in an involuntary case;

(B) appoints a custodian of the Company or for all or substantially all of the property of the Company; or

(C) orders the liquidation of the Company; and the order or decree remains unstayed and in effect for 60 consecutive days.

Section 6.02 *Acceleration*.

In the case of an Event of Default specified in clause (5) or (6) of Section 6.01 hereof, with respect to the Company, all outstanding Notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately.

Upon any such declaration, the Notes shall become due and payable immediately.

The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may, on behalf of all of the Holders, rescind an acceleration and its consequences, if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

Section 6.03 *Other Remedies*.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04 *Waiver of Past Defaults*.

Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of the principal of, premium, if any, or interest on, the Notes (including in connection with an offer to purchase); *provided, however,* that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related Payment Default that resulted from such acceleration. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05 *Control by Majority*.

Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability.

Section 6.06 *Limitation on Suits*.

A Holder may pursue a remedy with respect to this Indenture or the Notes only if:

(1) such Holder gives to the Trustee written notice that an Event of Default is continuing;

(2) Holders of at least 25% in aggregate principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;

(3) such Holder or Holders offer and, if requested, provide to the Trustee security or indemnity reasonably satisfactory to the Trustee against any loss, liability or expense;

(4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of security or indemnity; and

(5) during such 60-day period, Holders of a majority in aggregate principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with such request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

Section 6.07 *Rights of Holders of Notes to Receive Payment*.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, premium, if any, and interest on the Note, on or after the respective due dates expressed in the Note (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.08 *Collection Suit by trustee*.

If an Event of Default specified in Section 6.01(1) or (2) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium, if any, and interest remaining unpaid on, the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09 *Trustee May File Proofs of Claim*.

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall

be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to

pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 *Priorities.*

If the Trustee collects any money pursuant to this Article 6, it shall pay out the money in the following order:

First: to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of Notes for amounts due and unpaid on the Notes for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any and interest, respectively; and

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

Section 6.11 *Undertaking for Costs.*

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in aggregate principal amount of the then outstanding Notes.

ARTICLE 7
TRUSTEE

Section 7.01 *Duties of Trustee.*

(a) If an Event of Default has occurred and is continuing, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its

exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

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

(1) the duties of the Trustee will be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

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

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

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

(3) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability. The Trustee will be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holders, unless such Holder has offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense.

(f) The Trustee will not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

Section 7.02 *Rights of Trustee*.

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with

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counsel and the written advice of such counsel or any Opinion of Counsel will be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee will not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company will be sufficient if signed by an Officer of the Company.

(f) The Trustee will be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders have offered to the Trustee reasonable indemnity or security against the losses, liabilities and expenses that might be incurred by it in compliance with such request or direction.

Section 7.03 *Individual Rights of Trustee*.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee (if this Indenture has been qualified under the TIA) or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

Section 7.04 *Trustee's Disclaimer*.

The Trustee will not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it will not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it will not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

Section 7.05 *Notice of Defaults*.

If a Default or Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee will mail to Holders of Notes a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium, if any, or interest on, any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

Section 7.06 *Reports by Trustee to Holders of the Notes*.

(a) Within 60 days after each May 15 beginning with the May 15 following the date of this Indenture, and for so long as Notes remain outstanding, the Trustee will mail to the Holders of the Notes a brief report dated as of such reporting date that complies with TIA § 313(a) (but if no event described in

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TIA § 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also will comply with TIA § 313(b)(2). The Trustee will also transmit by mail all reports as required by TIA § 313(c).

(b) A copy of each report at the time of its mailing to the Holders of Notes will be mailed by the Trustee to the Company and filed by the Trustee with the SEC and each stock exchange on which the Notes are listed in accordance with TIA § 313(d). The Company will promptly notify the Trustee

when the Notes are listed on any stock exchange.

Section 7.07 *Compensation and Indemnity*.

(a) The Company will pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. The Company will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses will include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(b) The Company will indemnify the Trustee against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this Section 7.07) and defending itself against any claim (whether asserted by the Company, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its negligence or bad faith. The Trustee will notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company will not relieve the Company of its obligations hereunder. The Company will defend the claim and the Trustee will cooperate in the defense. The Trustee may have separate counsel and the Company will pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent will not be unreasonably withheld.

(c) The obligations of the Company under this Section 7.07 will survive the satisfaction and discharge of this Indenture.

(d) To secure the Company's payment obligations in this Section 7.07, the Trustee will have a lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such lien will survive the satisfaction and discharge of this Indenture.

(e) When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(5) or (6) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

(f) The Trustee will comply with the provisions of TIA § 313(b)(2) to the extent applicable.

Section 7.08 *Replacement of Trustee*.

(a) A resignation or removal of the Trustee and appointment of a successor Trustee will become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08.

(b) The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in aggregate principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

(1) the Trustee fails to comply with Section 7.10 hereof;

(2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(3) a custodian or public officer takes charge of the Trustee or its property; or

(4) the Trustee becomes incapable of acting.

(c) If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company will promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

(d) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of at least 10% in aggregate principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(e) If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will mail a notice of its succession to Holders. The retiring Trustee will promptly transfer all property held by it as Trustee to the successor Trustee; *provided* all sums owing to the Trustee hereunder have been paid and subject to the lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 hereof will continue for the benefit of the retiring Trustee.

Section 7.09 *Successor Trustee by Merger, etc*.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act will be the successor Trustee.

Section 7.10 *Eligibility; Disqualification*.

There will at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least $100.0 million as set forth in its most recent published annual report of condition.

This Indenture will always have a Trustee who satisfies the requirements of TIA § 310(a)(1), (2) and (5). The Trustee is subject to TIA § 310(b).

Section 7.11 *Preferential Collection of Claims Against Company*.

The Trustee is subject to TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein.

ARTICLE 8
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01 *Option to Effect Legal Defeasance or Covenant Defeasance*.

The Company may at any time, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

Section 8.02 *Legal Defeasance and Discharge*.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from its obligations with respect to all outstanding Notes on the date the conditions set forth below are satisfied (hereinafter, *"Legal Defeasance")*. For this purpose, Legal Defeasance means that the Company will be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which will thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in clauses (1) and (2) below, and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which will survive until otherwise terminated or discharged hereunder:

(1) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, or interest or premium, if any, on, such Notes when such payments are due from the trust referred to in Section 8.04 hereof;

(2) the Company's obligations with respect to such Notes under Article 2 and Section 4.02 hereof;

(3) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's obligations in connection therewith; and

(4) this Article 8.

Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

Section 8.03 *Covenant Defeasance*.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be

released from its obligations under the covenants contained in Sections 4.03, 4.07, 4.08, 4.09, 4.10 and 4.12 hereof on and after the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, *"Covenant Defeasance")*, and the Notes will thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but will continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes will not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Company may omit to comply with and will have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply will not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes will be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(3) and 6.01(4) hereof will not constitute Events of Default.

Section 8.04 *Conditions to Legal or Covenant Defeasance*.

In order to exercise either Legal Defeasance or Covenant Defeasance under either Section 8.02 or 8.03 hereof:

(1) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm, or firm of independent public accountants, to pay the principal of, premium, if any, and interest on, the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the Notes are being defeased to such stated date for payment or to a particular redemption date;

(2) in the case of an election under Section 8.02 hereof, the Company must deliver to the Trustee an Opinion of Counsel confirming that:

(A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling; or

(B) since the date of this Indenture, there has been a change in the applicable federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of an election under Section 8.03 hereof, the Company must deliver to the Trustee an Opinion of Counsel confirming that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) or insofar as Events of Default pursuant to Sections 6.01(5) or (6) hereof are concerned, at any time in the period ending on the 91' day after the day of deposit;

(5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(6) the Company must deliver to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of Notes over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding any creditors of the Company or others; and

(7) the Company must deliver to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05 *Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions*.

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the *"Trustee")* pursuant to Section 8.04 hereof in respect of the outstanding Notes will be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company will pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Notwithstanding anything in this Article 8 to the contrary, the Trustee will deliver or pay to the Company from time to time upon the request of the Company any money or non-callable Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(1) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06 *Repayment to Company*.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on, any Note and remaining unclaimed for two years after such principal, premium, if any, or interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) will be discharged from

such trust; and the Holder of such Note will thereafter be permitted to look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, will thereupon cease; *provided, however,* that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which will not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 8.07 *Reinstatement*.

If the Trustee or Paying Agent is unable to apply any U.S. dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's and the Guarantors' obligations under this Indenture and the Notes and the Note Guarantees will be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in

accordance with Section 8.02 or 8.03 hereof, as the case may be; *provided, however*, that, if the Company makes any payment of principal of, premium, if any, or interest on, any Note following the reinstatement of its obligations, the Company will be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9
AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01 *Without Consent of Holders of Notes*.

Notwithstanding Section 9.02 of this Indenture, the Company and the Trustee may amend or supplement this Indenture or the Notes without the consent of any Holder of Notes:

(1) to cure any ambiguity, defect or inconsistency;

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

(3) to provide for the assumption of the Company's obligations to the Holders of the Notes in the case of a merger or consolidation or sale of all or substantially all of the Company's assets in compliance with Article 5 hereof;

(4) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder;

(5) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA;

(6) to conform the text of this Indenture or the Notes to any provision of the "Description of Notes" section of the Company's Offering Memorandum dated April 11, 2007, relating to the initial offering of the Notes, to the extent that such provision in that "Description of Notes" was intended to be a verbatim recitation of a provision of this Indenture or the Notes;

(7) to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture as of the date hereof; or

(8) to allow any Guarantor to execute a supplemental indenture and/or a Note Guarantee with respect to the Notes.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee will join with the Company in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee will not be obligated to enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02 *With Consent of Holders of Notes*.

Except as provided below in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture and the Notes with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, Additional Notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on, the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture or the Notes may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, Additional Notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Section 2.08 hereof shall determine which Notes are considered to be "outstanding" for purposes of this Section 9.02.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee will join with the Company in the execution of such amended or supplemental indenture unless such amended or supplemental indenture directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but will not be obligated to, enter into such amended or supplemental Indenture.

It is not be necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver, but it is sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company will mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 6.04 and 6.07 hereof, the Holders of a majority in aggregate principal amount of the Notes then outstanding voting as a single class may waive compliance in a particular instance by the Company with any provision of this Indenture or the Notes. However, without the consent of each

Holder affected, an amendment, supplement or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

(1) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(2) reduce the principal of or change the fixed maturity of any Note or alter the provisions with respect to the redemption of the Notes;

(3) reduce the rate of or change the time for payment of interest, including default interest, on any Note;

(4) waive a Default or Event of Default in the payment of principal of, or interest or premium, if any, on, the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);

(5) make any Note payable in money other than that stated in the Notes;

(6) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, or interest or premium, if any, on, the Notes;

(7) waive a redemption payment with respect to any Note; or

(8) make any change in the ranking or priority of any Note that would adversely affect the Holders of Notes; or

(9) make any change in the preceding amendment and waiver provisions.

Section 9.03 *Compliance with Trust Indenture Act*.

Every amendment or supplement to this Indenture or the Notes will be set forth in a amended or supplemental indenture that complies with the TIA as then in effect.

Section 9.04 *Revocation and Effect of Consents*.

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

Section 9.05 *Notation on or Exchange of Notes*.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee

shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note will not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06 *Trustee to Sign Amendments, etc*.

The Trustee will sign any amended or supplemental indenture authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amended or supplemental indenture until the Board of Directors of the Company approves it. In executing any amended or supplemental indenture, the Trustee will be entitled to receive and (subject to Section 7.01 hereof) will be fully protected in relying upon, in addition to the documents required by Section 11.04 hereof, an Officers’ Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture.

ARTICLE 10
SATISFACTION AND DISCHARGE

Section 10.01 *Satisfaction and Discharge*.

This Indenture will be discharged and will cease to be of further effect as to all Notes issued hereunder, when:

(1) either:

(a) all Notes that have been authenticated, except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust and thereafter repaid to the Company, have been delivered to the Trustee for cancellation; or

(b) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and the Company has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the Notes not delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption;

(2) no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company is a party or by which the Company is bound;

(3) the Company has paid or caused to be paid all sums payable by it under this Indenture; and

(4) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Notes at maturity or on the redemption date, as the case may be.

In addition, the Company must deliver an Officers' Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money has been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section 10.01, the provisions of Sections 10.02 and 8.06 hereof will survive. In addition, nothing in this Section 10.01 will be deemed to discharge those provisions of Section 7.07 hereof, that, by their terms, survive the satisfaction and discharge of this Indenture.

Section 10.02 *Application of Trust Money*.

Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 10.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 10.01 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 10.01 hereof; *provided* that if the Company has made any payment of principal of, premium, if any, or interest on, any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

ARTICLE 11
MISCELLANEOUS

Section 11.01 *Trust Indenture Act Controls*.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA §318(c), the imposed duties will control.

Section 11.02 Notices.

Any notice or communication by the Company or the Trustee to the others is duly given if in writing and delivered in Person or by first class mail (registered or certified, return receipt requested), facsimile transmission or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company:

Source Gas LLC
370 Van Gordon Street, Suite 4000
Lakewood, Colorado 80228

Facsimile No.: (303) 984-3637
Attention: Bentley W. Breland, Chief Financial Officer

With a copy to:

GE Energy Financial Services, Inc.
120 Long Ridge Road
Stamford, Connecticut 06927
Attention: General Counsel
Fax: 203-357-6632

GE Energy Financial Services, Inc.
120 Long Ridge Road
Stamford, Connecticut 06927
Attention: Manager - Portfolio
Fax: 203-357-4890

Weil, Gotshal & Manges LLP
200 Crescent Court, Suite 300

Dallas, Texas 75201
Facsimile No.: (214) 746-7777
Attention: Michael A. Saslaw

Alinda Investments LLC
c/o Alinda Capital Partners LLC
599 Lexington Avenue, Suite 1803
New York, New York 10022
Attention: Kwon Chung
Fax: 212-202-7560

If to the Trustee:

U.S. Bank National Association
5555 San Felipe, Suite 1150
Houston, Texas 77056
Facsimile No.: (713) 235-9213
Attention: Steven A. Finklea

The Company or the Trustee, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if transmitted by facsimile; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder will be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication will also be so mailed

to any Person described in TIA § 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder or any defect in it will not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it will mail a copy to the Trustee and each Agent at the same time.

Section 11.03 *Communication by Holders of Notes with Other Holders of Notes*.

Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

Section 11.04 *Certificate and Opinion as to Conditions Precedent*.

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(1) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which must include the statements set forth in Section 11.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(2) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which must include the statements set forth in Section 11.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 11.05 *Statements Required in Certificate or Opinion*.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA § 314(a)(4)) must comply with the provisions of TIA § 314(e) and must include:

(1) a statement that the Person making such certificate or opinion has read such covenant or condition;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(4) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Section 11.06 *Rules by Trustee and Agents*.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 11.07 *No Personal Liability of Directors, Members, Officers, Employees and Stockholders*.

No past, present or future director, member, officer, employee, incorporator or stockholder of the Company, as such, will have any liability for any obligations of the Company under the Notes, this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

Section 11.08 *Governing Law*.

THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE, THE NOTES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

Section 11.09 *No Adverse Interpretation of Other Agreements*.

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 11.10 *Successors.*

All agreements of the Company in this Indenture and the Notes will bind its successors. All agreements of the Trustee in this Indenture will bind its successors.

Section 11.11 *Severability*.

In case any provision in this Indenture or in the Notes is invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

Section 11.12 *Counterpart Originals*.

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, but all of them together represent the same agreement.

Section 11.13 *Table of Contents, Headings, etc.*

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions hereof.

[Signatures on following page]

SIGNATURES

Dated as of April 16, 2007

SOURCE GAS LLC

By: ______________________________
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION

By: ______________________________
Name:
Title:

[Face of Note]

CUSIP/CINS

5.90% Senior Notes due 2017

No. $

SOURCE GAS LLC

promises to pay to [ ] or registered assigns,

the principal sum of DOLLARS on April 1, 2017.

Interest Payment Dates: January 1, April 1, July 1 and October 1

Record Dates: December 15, March 15, June 15 and September 15

Dated: , 200

SOURCE GAS LLC

By: ____________________________
Name:
Title:

This is one of the Notes referred to
in the within-mentioned Indenture:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: ____________________________
Authorized Signatory

[Back of Note]
5.90% Senior Notes due 2017

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

Capitalized terms used herein have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

(1) INTEREST. Source Gas LLC, a Delaware limited liability company (the *"Company")*, promises to pay interest on the principal amount of this Note at 5.90% per annum from , 20 until maturity. The Company will pay interest quarterly in arrears on January 1, April 1, July 1 and October 1 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an *"Interest Payment Date")*. Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided further* that the first Interest Payment Date shall be , 20 . The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that, is 1% per annum in excess of the rate then in effect to the extent lawful; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

(2) METHOD OF PAYMENT. The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the December 15, March 15, June 15 and September 15 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium, if any, and interest at the office or agency of the Company maintained for such purpose within or without the City and State of New York, or, at the option of the Company, payment of interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders; *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of and premium, if any, and interest on, all Global Notes and all other Notes the Holders of which will have provided wire transfer instructions to the Company or the Paying Agent. Such payment will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

(3) PAYING AGENT AND REGISTRAR. Initially, U.S. Bank National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

(4) INDENTURE. The Company issued the Notes under an Indenture dated as of April 16, 2007 (the *"Indenture")* between the Company and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the TIA.

The Notes are subject to all such terms, and Holders are referred to the Indenture and the TIA for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Notes are unsecured obligations of the Company. The Indenture does not limit the aggregate principal amount of Notes that may be issued thereunder.

(5) *OPTIONAL REDEMPTION.* The Company may redeem all or a part of the Notes, upon not less than 30 nor more than 60 days' prior notice, at a redemption price equal to the greater of (1) 100% of the principal amount of notes redeemed and (2) the sum of the present values of the remaining scheduled payments of principal and interest thereon discounted to the redemption date on a quarterly basis (assuming a 360-day year comprised of twelve 30-day months) at the Treasury Rate, plus 25 basis points, plus accrued and unpaid interest, if any, to the date of redemption, subject to the rights of Holders on the relevant record date to receive interest on the relevant Interest Payment Date. Unless the Company defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable redemption date.

(6) *MANDATORY REDEMPTION.* The Company is not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

(7) *NOTICE OF REDEMPTION.* Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction or discharge of the Indenture. Notes in denominations larger than $2,000 may be redeemed in part but only in whole multiples of $1,000, unless all of the Notes held by a Holder are to be redeemed.

(8) *DENOMINATIONS, TRANSFER, EXCHANGE.* The Notes are in registered form without coupons in denominations of $2,000 and integral multiples of $1,000. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

(9) *PERSONS DEEMED OWNERS.* The registered Holder of a Note may be treated as its owner for all purposes.

(10) *AMENDMENT, SUPPLEMENT AND WAIVER.* Subject to certain exceptions, the Indenture or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes including Additional Notes, if any, voting as a single class, and any existing Default or Event or Default or compliance with any provision of the Indenture or the Notes may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes including Additional Notes, if any, voting as a single class. Without the consent of any Holder of a Note, the Indenture or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency; to provide for uncertificated Notes in addition to or in place of certificated Notes; to provide for the

assumption of the Company's obligations to the Holders of the Notes in the case of a merger or consolidation or sale of all or substantially all of the Company's assets in compliance with Article 5 hereof; to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder; to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA; to conform the text of this Indenture or the Notes to any provision of the "Description of Notes" section of the Company's Offering Memorandum dated April 11, 2007, relating to the initial offering of the Notes, to the extent that such provision in that "Description of Notes" was intended to be a verbatim recitation of a provision of this Indenture or the Notes; to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture as of the date hereof; or to allow any Guarantor to execute a supplemental indenture and/or a Note Guarantee with respect to the Notes.

(11) *DEFAULTS AND REMEDIES.* Events of Default include: (i) default for 30 days in the payment when due of interest on the Notes; (ii) default in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on, the Notes; (iii) failure by the Company or any of its Subsidiaries for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with any of the agreements in this Indenture; (v) default under certain other agreements relating to Indebtedness of the Company which default results in the acceleration of such Indebtedness prior to its express maturity; and (vi) certain events of bankruptcy or insolvency with respect to the Company. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable immediately without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest or premium, if any) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may, on behalf of the Holders of all of the Notes, rescind an acceleration or waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest or premium, if any, on, or the principal of, the Notes. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required, upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

(12) *TRUSTEE DEALINGS WITH COMPANY.* The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

(13) *NO RECOURSE AGAINST OTHERS.* A director, member officer, employee, incorporator or stockholder of the Company, as such, will not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives

and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

(14) *AUTHENTICATION.* This Note will not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

(15) *ABBREVIATIONS.* Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(16) *CUSIP NUMBERS.* Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes, and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption, and reliance may be placed only on the other identification numbers placed thereon.

(17) *GOVERNING LAW.* THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THIS NOTE WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to:

Source Gas LLC
370 Van Gordon Street
Lakewood, Colorado 80228
Attention: Bentley W. Breland, Chief Financial Officer

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: ______________________________

(Insert assignee's legal name)

____

(Insert assignee's soc. sec. or tax I.D. no.)

____
____
____
____

(Print or type assignee's name, address and zip code)

and irrevocably appoint ______________________________
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: ____________________

Your Signature: ____________________
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee*: ____________________

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE *

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Custodian

* *This schedule should be included only if the Note is issued in global form.*

[Face of Regulation S Temporary Global Note]

CUSIP/CINS

5.90% Senior Notes due 2017

No. $

SOURCE GAS LLC

promises to pay to [ ] or registered assigns,

the principal sum of DOLLARS on April 1, 2017.

Interest Payment Dates: January 1, April 1, July 1 and October 1

Record Dates: December 15, March 15, June 15 and September 15

Dated: , 200

SOURCE GAS LLC

By: ____________________________
Name:
Title:

This is one of the Notes referred to
in the within-mentioned Indenture:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: ____________________________
Authorized Signatory

[Back of Regulation S Temporary Global Note]
5.90% Senior Notes due 2017

THE RIGHTS ATTACHING TO THIS REGULATION S TEMPORARY GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR CERTIFICATED NOTES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN). NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS REGULATION S TEMPORARY GLOBAL NOTE SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON.

THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF SOURCE GAS LLC.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (“DTC”), TO THE

COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, [CEDE & CO.], HAS AN INTEREST HEREIN.

THE NOTES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY OTHER JURISDICTION. NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS THE TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THIS SECURITY BY ITS ACCEPTANCE HEREOF (1) REPRESENTS THAT (A) IT IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) OR (B) IT IS NOT A U.S. PERSON AND IS ACQUIRING ITS NOTE IN AN "OFFSHORE TRANSACTION" PURSUANT TO RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (2) AGREES THAT IT WILL NOT PRIOR TO (X) THE DATE WHICH IS TWO YEARS (OR SUCH SHORTER PERIOD OF TIME AS PERMITTED

BY RULE 144(K) UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THEREUNDER) AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF (OR OF ANY PREDECESSOR OF THIS NOTE) OR THE LAST DAY ON WHICH THE COMPANY OR ANY AFFILIATE OF THE COMPANY WAS THE OWNER OF THIS NOTE (OR ANY PREDECESSOR OF THIS NOTE) AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW (THE "RESALE RESTRICTION TERMINATION DATE"), OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE EXCEPT (A) TO THE COMPANY, (B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE NOTES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) PURSUANT TO OFFERS AND SALES TO NON-U.S. PERSONS THAT OCCUR OUTSIDE THE UNITED STATES WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT OR (E) PURSUANT TO ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS NOTE IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND; PROVIDED THAT THE COMPANY, THE TRUSTEE AND THE REGISTRAR SHALL HAVE THE RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (D) OR (E) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE. AS USED HEREIN, THE TERMS "OFFSHORE TRANSACTION," "UNITED STATES" AND "U.S. PERSON" HAVE THE MEANINGS GIVEN TO THEM BY REGULATION S UNDER THE SECURITIES ACT.

Capitalized terms used herein have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

(1) *INTEREST.* Source Gas LLC, a Delaware limited liability company (the *"Company")*, promises to pay interest on the principal amount of this Note at 5.90% per annum from , 20 until maturity. The Company will pay interest quarterly in arrears on January 1, April 1, July 1 and October 1 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an *"Interest Payment Date")*. Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided further* that the first Interest Payment Date shall be , 20 . The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect to the extent lawful; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

Until this Regulation S Temporary Global Note is exchanged for one or more Regulation S Permanent Global Notes, the Holder hereof shall not be entitled to receive payments of interest

hereon; until so exchanged in full, this Regulation S Temporary Global Note shall in all other respects be entitled to the same benefits as other Notes under the Indenture.

(2) *METHOD OF PAYMENT.* The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the December 15, March 15, June 15 and September 15 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium, if any, and interest at the office or agency of the Company maintained for such purpose within or without the City and State of New York, or, at the option of the Company, payment of interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders; *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of and premium, if any, and interest on, all Global Notes and all other Notes the Holders of which will have provided wire transfer instructions to the Company or the Paying Agent. Such payment will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

(3) *PAYING AGENT AND REGISTRAR.* Initially, U.S. Bank National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries

may act in any such capacity.

(4) INDENTURE. The Company issued the Notes under an Indenture dated as of April 16, 2007 (the *"Indenture")* between the Company and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the TIA. The Notes are subject to all such terms, and Holders are referred to the Indenture and the TIA for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Notes are unsecured obligations of the Company. The Indenture does not limit the aggregate principal amount of Notes that may be issued thereunder.

(5) OPTIONAL REDEMPTION. The Company may redeem all or a part of the Notes, upon not less than 30 nor more than 60 days' prior notice, at a redemption price equal to the greater of (1) 100% of the principal amount of notes redeemed and (2) the sum of the present values of the remaining scheduled payments of principal and interest thereon discounted to the redemption date on a quarterly basis (assuming a 360-day year comprised of twelve 30-day months) at the Treasury Rate, plus 25 basis points, plus accrued and unpaid interest, if any, to the date of redemption, subject to the rights of Holders on the relevant record date to receive interest on the relevant Interest Payment Date. Unless the Company defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable redemption date.

(6) MANDATORY REDEMPTION. The Company is not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

(7) NOTICE OF REDEMPTION. Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction or discharge of the Indenture. Notes in denominations larger than $1,000

may be redeemed in part but only in whole multiples of $2,000, unless all of the Notes held by a Holder are to be redeemed.

(8) DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of $2,000 and integral multiples of $1,000. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

This Regulation S Temporary Global Note is exchangeable in whole or in part for one or more Global Notes only (i) on or after the termination of the 40-day distribution compliance period (as defined in Regulation S) and (ii) upon presentation of certificates (accompanied by an Opinion of Counsel, if applicable) required by Article 2 of the Indenture. Upon exchange of this Regulation S Temporary Global Note for one or more Global Notes, the Trustee shall cancel this Regulation S Temporary Global Note.

(9) PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

(10) AMENDMENT, SUPPLEMENT AND WAIVER. Subject to certain exceptions, the Indenture or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes including Additional Notes, if any, voting as a single class, and any existing Default or Event of Default or compliance with any provision of the Indenture or the Notes may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes including Additional Notes, if any, voting as a single class. Without the consent of any Holder of a Note, the Indenture or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency; to provide for uncertificated Notes in addition to or in place of certificated Notes; to provide for the assumption of the Company's obligations to the Holders of the Notes in the case of a merger or consolidation or sale of all or substantially all of the Company's assets in compliance with Article 5 hereof; to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder; to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA; to conform the text of this Indenture or the Notes to any provision of the "Description of Notes" section of the Company's Offering Memorandum dated April 11, 2007, relating to the initial offering of the Notes, to the extent that such provision in that "Description of Notes" was intended to be a verbatim recitation of a provision of this Indenture or the Notes; to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture as of the date hereof; or to allow any Guarantor to execute a supplemental indenture and/or a Note Guarantee with respect to the Notes.

(11) DEFAULTS AND REMEDIES. Events of Default include: (i) default for 30 days in the payment when due of interest on the Notes; (ii) default in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on, the Notes; (iii) failure by the Company or any of its Subsidiaries for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting

as a single class to comply with any of the agreements in this Indenture; (v) default under certain other agreements relating to Indebtedness of the Company which default results in the acceleration of such Indebtedness prior to its express maturity; and (vi) certain events of bankruptcy or insolvency with respect to the Company. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable immediately without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain

limitations, Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest or premium, if any) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may, on behalf of the Holders of all of the Notes, rescind an acceleration or waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest or premium, if any, on, or the principal of, the Notes. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required, upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

(12) *TRUSTEE DEALINGS WITH COMPANY.* The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

(13) *NO RECOURSE AGAINST OTHERS.* A director, member, officer, employee, incorporator or stockholder of the Company, as such, will not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

(14) *AUTHENTICATION.* This Note will not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

(15) *ABBREVIATIONS.* Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(16) *CUSIP NUMBERS.* Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes, and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption, and reliance may be placed only on the other identification numbers placed thereon.

(17) GOVERNING LAW. THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THIS NOTE WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to:

Source Gas LLC
370 Van Gordon Street
Lakewood, Colorado 80228
Attention: Bentley W. Breland, Chief Financial Officer

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: ______________________________
(Insert assignee's legal name)

____
(Insert assignee's soc. sec. or tax I.D. no.)

____
____
____
____
(Print or type assignee's name, address and zip code)

and irrevocably appoint ______________________________
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: ______________________________

Your Signature: ______________________________
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee*: ______________________________

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE REGULATION S TEMPORARY GLOBAL NOTE *

The following exchanges of a part of this Regulation S Temporary Global Note for an interest in another Global Note or exchanges of a part of another Restricted Global Note for an interest in this Regulation S Temporary Global Note , have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Custodian

EXHIBIT B

FORM OF CERTIFICATE OF TRANSFER

[Company address block]

[Registrar address block]

Re: 5.90% Senior Notes due 2017

Reference is hereby made to the Indenture, dated as of April 16, 2007 (the *"Indenture")*, between Source Gas LLC, as issuer (the *"Company")*, and U.S. Bank National Association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

, (the *"Transferor")* owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of $ in such Note[s] or interests (the *"Transfer")*, to (the *"Transferee")*, as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. o Check if Transferee will take delivery of a beneficial interest in the 144A Global Note or a Restricted Definitive Note pursuant to Rule 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the Securities Act of 1933, as amended (the *"Securities Act")*, and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A, and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

2. o Check if Transferee will take delivery of a beneficial interest in the Regulation S Temporary Global Note, the Regulation S Permanent Global Note or a Restricted Definitive Note pursuant to Regulation S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated

in the Private Placement Legend printed on the Regulation S Permanent Global Note, the Regulation S Temporary Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

3. **o Check and complete if Transferee will take delivery of a beneficial interest in the IAI Global Note or a Restricted Definitive Note pursuant to any provision of the Securities Act other than Rule 144A or Regulation S.** The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) o such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b) o such Transfer is being effected to the Company or a subsidiary thereof;

or

(c) o such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act;

or

(d) o such Transfer is being effected to an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144, Rule 903 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Note or Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) if such Transfer is in respect of a principal amount of Notes at the time of transfer of less than $250,000, an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the IAI Global Note and/or the Restricted Definitive Notes and in the Indenture and the Securities Act.

4. **o** **Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note.**

(a) **o** **Check if Transfer is pursuant to Rule 144.** (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private

Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) o **Check if Transfer is Pursuant to Regulation S.** (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) o **Check if Transfer is Pursuant to Other Exemption.** (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

____
[Insert Name of Transferor]

By: ____
Name:
Title:

Dated: ____

ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a) o a beneficial interest in the:

(i) o 144A Global Note (CUSIP), or

(ii) o Regulation S Global Note (CUSIP), or

(iii) o IAI Global Note (CUSIP); or

(b) o a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a) o a beneficial interest in the:

(i) o 144A Global Note (CUSIP), or

(ii) o Regulation S Global Note (CUSIP), or

(iii) o IAI Global Note (CUSIP); or

(iv) o Unrestricted Global Note (CUSIP); or

(b) o a Restricted Definitive Note; or

(c) o an Unrestricted Definitive Note,

in accordance with the terms of the Indenture.

EXHIBIT C

FORM OF CERTIFICATE OF EXCHANGE

[Company address block]

[Registrar address block]

Re: <u>5.90% Senior Notes due 2017</u>

(CUSIP)

Reference is hereby made to the Indenture, dated as of April 16, 2007 (the *"Indenture")*, between Source Gas LLC, as issuer (the *"Company")*, and U.S. Bank National Association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

, (the *"Owner")* owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of $ in such Note[s] or interests (the *"Exchange")*. In connection with the Exchange, the Owner hereby certifies that:

1. <u>Exchange of Restricted Definitive Notes or Beneficial Interests in a Restricted Global Note for Unrestricted Definitive Notes or Beneficial Interests in an Unrestricted Global Note</u>

(a) **o Check if Exchange is from beneficial interest in a Restricted Global Note to beneficial interest in an Unrestricted Global Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the Securities Act of 1933, as amended (the *"Securities Act")*, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) **o Check if Exchange is from beneficial interest in a Restricted Global Note to Unrestricted Definitive Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) **o Check if Exchange is from Restricted Definitive Note to beneficial interest in an Unrestricted Global Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and

(iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) o **Check if Exchange is from Restricted Definitive Note to Unrestricted Definitive Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. **Exchange of Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes for Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes**

(a) o **Check if Exchange is from beneficial interest in a Restricted Global Note to Restricted Definitive Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) o **Check if Exchange is from Restricted Definitive Note to beneficial interest in a Restricted Global Note.** In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] o 144A Global Note, o Regulation S Global Note, o IAI Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

____
[Insert Name of Transferor]

By: ______________________________
Name:
Title:

Dated: ______________________________

EXHIBIT D

FORM OF CERTIFICATE FROM
ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

[Company address block]

[Registrar address block]

Re: 5.90% Senior Notes due 2017

Reference is hereby made to the Indenture, dated as of April 16, 2007 (the *"Indenture")*, between Source Gas LLC, as issuer (the *"Company")*, and U.S. Bank National Association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of $ aggregate principal amount of:

(a) o a beneficial interest in a Global Note, or

(b) o a Definitive Note,

we confirm that:

1. We understand that any subsequent transfer of the Notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes or any interest therein except in compliance with, such restrictions and conditions and the Securities Act of 1933, as amended (the *"Securities Act").*

2. We understand that the offer and sale of the Notes have not been registered under the Securities Act, and that the Notes and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Notes or any interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a "qualified institutional buyer" (as defined therein), (C) to an institutional "accredited investor" (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Company a signed letter substantially in the form of this letter and, if such transfer is in respect of a principal amount of Notes, at the time of transfer of less than $250,000, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) outside the

United States in accordance with Rule 904 of Regulation S under the Securities Act, (E) pursuant to the provisions of Rule 144(k) under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any Person purchasing the Definitive Note or beneficial interest in a Global Note from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

3. We understand that, on any proposed resale of the Notes or beneficial interest therein, we will be required to furnish to you and the Company such certifications, legal opinions and other information as you and the Company may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. We further understand that the Notes purchased by us will bear a legend to the foregoing effect.

4. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes or beneficial interest therein purchased by us for our own account or for one or more accounts (each of which is an institutional "accredited investor") as to each of which we exercise sole investment discretion.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

____
[Insert Name of Accredited Investor]

By: ______________________________
Name:
Title:

Dated: ______________________________

EXHIBIT E

[FORM OF SUPPLEMENTAL INDENTURE
TO BE DELIVERED BY SUBSEQUENT GUARANTORS]

SUPPLEMENTAL INDENTURE (this *"Supplemental Indenture"),* dated as of , 200 , among (the *"Guaranteeing Subsidiary"),* a subsidiary of Source Gas LLC (or its permitted successor), a Delaware limited liability company (the *"Company"),* the Company, the other Guarantors (as defined in the Indenture referred to herein) and U.S. Bank, National Association, as trustee under the Indenture referred to below (the *"Trustee").*

W I T N E S S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the *"Indenture"),* dated as of April 16, 2007 providing for the issuance of 5.90% Senior Notes due 2017 (the *"Notes");*

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Company's Obligations under the Notes and the Indenture on the terms and conditions set forth herein (the *"Note Guarantee");* and WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee on the terms and subject to the conditions set forth in the Note Guarantee and in the Indenture, including but not limited to this Section 2.

(a) Subject to this Section 2, each of the Guaranteeing Subsidiaries hereby, jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that:

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

(2) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guaranteeing Subsidiaries will be jointly and severally obligated to pay the same immediately. Each Guaranteeing Subsidiary agrees that this is a guarantee of payment and not a guarantee of collection.

The Guaranteeing Subsidiaries hereby agree that their obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of the Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Guaranteeing Subsidiary hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that this Note Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and the Indenture.

If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guaranteeing Subsidiaries or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guaranteeing Subsidiaries, any amount paid by either to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

Each Guaranteeing Subsidiary agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guaranteeing Subsidiary further agrees that, as between the Guaranteeing Subsidiaries, on the one hand, and the Holders and the Trustee, on the other hand, (i) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 of the Indenture for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (ii) in the event of any declaration of acceleration of such obligations as provided in Article 6 of the Indenture, such obligations (whether or not due and payable) will forthwith become due and payable by the Guaranteeing Subsidiaries for the purpose of this Note Guarantee. The Guaranteeing Subsidiaries will have the right to seek contribution from any non-paying Guaranteeing Subsidiary so long as the exercise of such right does not impair the rights of the Holders under the Note Guarantee.

(b) Each Guaranteeing Subsidiary, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Note Guarantee of such Guaranteeing Subsidiary not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guaranteeing Subsidiaries hereby irrevocably agree that the obligations of such Guaranteeing Subsidiary will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guaranteeing Subsidiary that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guaranteeing Subsidiary under this Section 2, result in the obligations of such Guaranteeing Subsidiary under its Note Guarantee not constituting a fraudulent transfer or conveyance.

(c) To evidence its Note Guarantee set forth in Section 2 hereof, each Guaranteeing Subsidiary hereby agrees that a notation of such Note Guarantee substantially in the form attached as

Exhibit E to the Indenture will be endorsed by an Officer of such Guaranteeing Subsidiary on each Note authenticated and delivered by the Trustee.

Each Guaranteeing Subsidiary hereby agrees that its Note Guarantee set forth in Section 2 hereof will remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Note Guarantee.

If an Officer whose signature is on this Supplemental Indenture or on the Note Guarantee no longer holds that office at the time the Trustee authenticates the Note on which a Note Guarantee is endorsed, the Note Guarantee will be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, will constitute due delivery of the Note Guarantee set forth in this Supplemental Indenture on behalf of the Guaranteeing Subsidiaries.

(d) In the event of any sale or other disposition of all or substantially all of the assets of any Guaranteeing Subsidiary, by way of merger, consolidation or otherwise, or a sale or other disposition of all of the Capital Stock of any Guaranteeing Subsidiary, in each case to a Person that is not (either before or after giving effect to such transactions) the Company or a Subsidiary of the Company, then such Guaranteeing Subsidiary (in the event of a sale or other disposition, by way of merger, consolidation or otherwise, of all of the Capital Stock of such Guaranteeing Subsidiary) or the corporation acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such Guaranteeing Subsidiary) will be released and relieved of any obligations under its Note Guarantee. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Supplemental Indenture, including without limitation Section 2 hereof, the Trustee will execute any documents reasonably required in order to evidence the release of any Guaranteeing Subsidiary from its obligations under its Note Guarantee.

Upon Legal Defeasance in accordance with Article 8 of the Indenture or satisfaction and discharge of the Indenture in accordance with Article 10 thereof, each Guaranteeing Subsidiary will be released and relieved of any obligations under its Note Guarantee.

Any Guarantor not released from its obligations under its Note Guarantee as provided in this Section 2 will remain liable for the full amount of principal of and interest and premium, if any, on the Notes and for the other obligations of any Guaranteeing Subsidiary under this Indenture as provided in this Section 2.

4. NO RECOURSE AGAINST OTHERS. No past, present or future director, member, officer, employee, incorporator, stockholder or agent of the Guaranteeing Subsidiary, as such, shall have any liability for any obligations of the Company or any Guaranteeing Subsidiary under the Notes, any Note

Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

5. NEW YORK LAW TO GOVERN. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE

EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

6. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

7. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

8. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: , 20

[GUARANTEEING SUBSIDIARY]

By: ______________________________
Name:
Title:

SOURCE GAS LLC

By: ______________________________
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: ______________________________
Authorized Signatory

SIGNATURES

Dated as of April 16, 2007

SOURCE GAS LLC

By: /s/
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION

By: /s/ Steven A. Finklea
Name: Steven A. Finklea
Title: Vice President

SIGNATURES

Dated as of April 16, 2007

SOURCE GAS LLC

By: /s/

Name:

Title:

U.S. BANK NATIONAL ASSOCIATION

By: /s/ Steven A. Finklea

Name: Steven A. Finklea

Title: Vice President

Exhibit 10.2

EXECUTION VERSION

SOURCEGAS HOLDINGS LLC

$95,000,000

3.98% Senior Secured Notes, Series A, due September 29, 2019

NOTE PURCHASE AGREEMENT

Dated September 29, 2014

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SourceGas Holdings LLC
600 12th Street, Suite 300
Golden, CO 80401

3.98% Senior Secured Notes, Series A, due 2019

September 29, 2014

TO EACH OF THE PURCHASERS LISTED IN
SCHEDULE B HERETO:

Ladies and Gentlemen:

SourceGas Holdings LLC, a Delaware limited liability company (together with any permitted successor pursuant to Section 10.2, the **"Company"**), agrees with each of the Purchasers as follows:

SECTION 1. AUTHORIZATION OF NOTES; COLLATERAL.

Section 1.1. Authorization of Notes. The Company will authorize the issue and sale of $95,000,000 aggregate principal amount of its 3.98% Senior Secured Notes, Series A, due September 29, 2019 (the "**Notes**", such term to include any such notes issued in substitution therefor pursuant to Section 13). The Notes shall be substantially in the form set out in Schedule 1. Certain capitalized and other terms used in this Agreement are defined in Schedule A. References to a "Schedule" are references to a Schedule attached to this Agreement unless otherwise specified. References to a "Section" are references to a Section of this Agreement unless otherwise specified.

Section 1.2. Collateral. Pursuant to the terms and conditions in Section 9.10, the Company will secure its obligations under this Agreement, the Notes and the other Finance Documents to which it is a party by granting to the Collateral Agent, for the benefit of the holders of the Notes (together with the other Secured Parties securing the other Secured Obligations), a security interest and Lien in all of its right, title and interest in the Collateral under the Security Documents.

SECTION 2. SALE AND PURCHASE OF NOTES .

Subject to the terms and conditions of this Agreement, the Company will issue and sell to each Purchaser and each Purchaser will purchase from the Company, at the Closing provided for in Section 3, Notes in the principal amount specified opposite such Purchaser's name in Schedule B at the purchase price of 100% of the principal amount thereof. The Purchasers' obligations hereunder are several and not joint obligations and no Purchaser shall have any

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liability to any Person for the performance or non-performance of any obligation by any other Purchaser hereunder.

SECTION 3. CLOSING.

The sale and purchase of the Notes to be purchased by each Purchaser shall occur at the offices of Greenberg Traurig, LLP, 77 West Wacker Drive, Suite 3100, Chicago 60601, at 10:00 a.m., Chicago time, at a closing (the "**Closing**") on September 29, 2014 or on such other Business Day thereafter as may be agreed upon by the Company and the Purchasers. At the Closing, the Company will deliver to each Purchaser the Notes to be purchased by such Purchaser in the form of a single Note (or such greater number of Notes in denominations of at least $100,000 as such Purchaser may request) dated the date of the Closing and registered in such Purchaser's name (or in the name of its nominee), against delivery by such Purchaser to the Company or its order of immediately available funds in the amount of the purchase price therefor by wire transfer of immediately available funds for the account of the Company to account number 4121518070 at Wells Fargo Bank, N.A. San Francisco, CA 94104, Account Name: SourceGas Holdings LLC, ABA No.: 121000248. If at the Closing the Company shall fail to tender such Notes to any Purchaser as provided above in this Section 3, or any of the conditions specified in Section 4 shall not have been fulfilled to such Purchaser's satisfaction, such Purchaser shall, at its election, be relieved of all further obligations under this Agreement, without thereby waiving any rights such Purchaser may have by reason of any of the conditions specified in Section 4 not having been fulfilled to such Purchaser's satisfaction or such failure by the Company to tender such Notes.

SECTION 4. CONDITIONS TO CLOSING.

Each Purchaser's obligation to purchase and pay for the Notes to be sold to such Purchaser at the Closing is subject to the fulfillment to such Purchaser's satisfaction, prior to or at the Closing, of the following conditions:

Section 4.1. Representations and Warranties. The representations and warranties of the Company in this Agreement and the other Finance Documents shall be correct when made and at the time of the Closing.

Section 4.2. Performance; No Default. The Company shall have performed and complied with all agreements and conditions contained in this Agreement and the other Finance Documents required to be performed or complied with by it prior to or at the Closing. Before and after giving effect to the issue and sale of the Notes (and the application of the proceeds thereof as contemplated by Section 5.14), no Default or Event of Default shall have occurred and be continuing. Neither the Company nor any Subsidiary shall have entered into any transaction since the date of the Memorandum that would have been prohibited by Section 10 had such Section applied since such date.

Section 4.3. Compliance Certificates.

(a) *Officer's Certificate*. The Company shall have delivered to such Purchaser an Officer's Certificate, dated the date of the Closing, certifying that the conditions specified in Sections 4.1, 4.2 and 4.9 have been fulfilled.

(b) *Secretary's Certificate*. The Company shall have delivered to such Purchaser a certificate of its Secretary or Assistant Secretary, dated the date of the Closing, certifying as to (i) the resolutions attached thereto and other corporate proceedings relating to the authorization, execution and delivery of the Notes, this Agreement and the other Finance Documents and (ii) the Company's organizational documents as then in effect.

Section 4.4. Opinions of Counsel. Such Purchaser shall have received opinions in form and substance reasonably satisfactory to such Purchaser, dated the date of the Closing (a) from Vinson & Elkins LLP, counsel for the Company, covering the matters set forth in Schedule 4.4(a), and

(b) from Greenberg Traurig, LLP, the Purchasers' special counsel in connection with such transactions, substantially in the form set forth in Schedule 4.4(b).

Section 4.5. **Purchase Permitted By Applicable Law, Etc**. On the date of the Closing such Purchaser's purchase of Notes shall (a) be permitted by the laws and regulations of each jurisdiction to which such Purchaser is subject, without recourse to provisions (such as section 1405(a)(8) of the New York Insurance Law) permitting limited investments by insurance companies without restriction as to the character of the particular investment, (b) not violate any applicable law or regulation (including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System) and (c) not subject such Purchaser to any tax, penalty or liability under or pursuant to any applicable law or regulation, which law or regulation was not in effect on the date hereof. If requested by such Purchaser, such Purchaser shall have received an Officer's Certificate certifying as to such matters of fact as such Purchaser may reasonably specify to enable such Purchaser to determine whether such purchase is so permitted.

Section 4.6. **Sale of Other Notes**. Contemporaneously with the Closing, the Company shall sell to each other Purchaser and each other Purchaser shall purchase the Notes to be purchased by it at the Closing as specified in Schedule B.

Section 4.7. **Payment of Special Counsel Fees**. Without limiting Section 15.1, the Company shall have paid on or before the Closing the fees, charges and disbursements of the Purchasers' special counsel referred to in Section 4.4 to the extent reflected in a statement of such counsel rendered to the Company at least one Business Day prior to the Closing (it being understood that the Company is permitted to pay such fees, charges and disbursements from the proceeds of the Notes on the date of Closing, and, in any event is responsible for such fees, charges and disbursements pursuant to Section 15.1).

Section 4.8. **Private Placement Number**. A Private Placement Number issued by Standard & Poor's CUSIP Service Bureau (in cooperation with the SVO) shall have been obtained for the Notes.

Section 4.9. **Changes in Limited Liability Company and Corporate Structure**. Neither the Company nor any Subsidiary shall have changed its jurisdiction of organization or incorporation, as applicable, or been a party to any merger or consolidation or succeeded to all or any substantial part of the liabilities of any other entity, at any time following the date of the most recent financial statements referred to in Schedule 5.5.

Section 4.10. **Funding Instructions**. At least three Business Days prior to the date of the Closing, each Purchaser shall have received written instructions signed by a Responsible Officer on letterhead of the Company confirming the information specified in Section 3 including (i) the name and address of the transferee bank, (ii) such transferee bank's ABA number and (iii) the account name and number into which the purchase price for the Notes is to be deposited.

Section 4.11. **Security Documents; Searches; Etc**. (a) (i) The Pledge and Security Agreement and any Uncertificated Securities Control Agreement, Securities Account Control Agreement or Deposit Account Control Agreement, the Intercreditor Agreement and any other Security Document shall have been duly executed and delivered by the parties thereto and shall be in full force and effect and such Purchaser shall have received true and complete copies of each of the foregoing and (ii) the security interests in and to the Collateral intended to be created under the Security Documents shall have been created in favor of the Collateral Agent for the benefit of the Secured Parties and shall be in full force and effect and the necessary notices, consents, acknowledgments, filings, registrations and recordings to create, preserve, protect and perfect the security interests in the Collateral shall have been made prior to or concurrently with the date of the Closing, such that the security interests granted in favor of the Collateral Agent for the benefit of the Secured Parties will constitute a first-priority, perfected security interest in the Collateral free and clear of any Liens, other than Permitted Liens, and all related recordation, registration and/or notarial fees of such Collateral, to the extent required, shall have been paid.

(b) Such Purchaser shall have received copies of a customary UCC search report, dated a date reasonably near to the date of the Closing, listing any effective financing statements that name the Company as the debtor and that are filed in the jurisdiction of organization of the Company, which such search shall reveal no Liens on the assets of the Company other than the Lien of the Collateral Agent in the Collateral for the benefit of the Secured Parties and any other Permitted Lien.

Section 4.12. **Proceedings and Documents**. All limited liability company and other proceedings in connection with the transactions contemplated by this Agreement and all documents and instruments incident to such transactions shall be reasonably satisfactory to such Purchaser and its special counsel, and such Purchaser and its special counsel shall have received all such counterpart originals or certified or other copies of such documents as such Purchaser or such special counsel may reasonably request.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

The Company represents and warrants to each Purchaser that:

Section 5.1. **Organization; Power and Authority**. The Company is a limited liability company duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and is duly qualified as a foreign limited liability company and is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company has the limited liability company power and authority to own or hold under lease the properties it purports to own or hold under lease, to transact the business it transacts and proposes to transact, to execute and deliver this Agreement, the Notes and the other Finance Documents and to perform the provisions hereof and thereof.

Section 5.2. **Authorization, Etc**. This Agreement, the Notes and the other Finance Documents have been duly authorized by all necessary limited liability company action on the part of the Company, and this Agreement constitutes, and upon execution and delivery thereof each other Finance Document will constitute, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 5.3. **Disclosure**. The Company, through its agents, Wells Fargo Securities, LLC and CIBC World Markets Corp., has delivered to each Purchaser a copy of a Private Placement Memorandum, dated August 2014 (the **"Memorandum"**), relating to the transactions contemplated hereby. The Memorandum fairly describes, in all material respects, the general nature of the business and principal properties of the Company and its Subsidiaries. This Agreement, the other Finance Documents, the Memorandum, the financial statements listed in Schedule 5.5 and the documents, certificates or other writings delivered to the Purchasers by or on behalf of the Company prior to September 10, 2014 in connection with the transactions contemplated hereby and identified in Schedule 5.3 (this Agreement, the other Finance Documents, the Memorandum and such documents, certificates or other writings and such financial statements delivered to each Purchaser being referred to, collectively, as the **"Disclosure Documents"**; provided that projections, estimates, opinions, evaluations, forecasts or other forward looking statements (each of which have been prepared using assumptions believed by the Company in good faith to be reasonable at the time made, with no assurances as to actual outcome) shall not be considered Disclosure Documents), taken as a whole, do not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein (taken as a whole) not materially misleading in light of the circumstances under which they were made. Except as disclosed in the Disclosure Documents, since December 31, 2013, there has been no change in the financial condition, operations, business or properties of the Company or any Subsidiary except changes that could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. There is no fact known to the Company that could reasonably be expected to have a Material Adverse Effect that has not been set forth herein or in the Disclosure Documents.

Section 5.4. **Organization and Ownership of Shares of Subsidiaries; Affiliates**. (a) Schedule 5.4 contains (except as noted therein) complete and correct lists of the Company's Subsidiaries, showing, as to each Subsidiary, the name thereof, the jurisdiction of its organization, and the percentage of shares of each class of its capital stock or similar equity interests outstanding owned by the Company and each other Subsidiary.

(b) All of the outstanding shares of capital stock or similar equity interests of each Subsidiary shown in Schedule 5.4 as being owned by the Company and its Subsidiaries have been validly issued, are fully paid and non-assessable and are owned by the Company or another Subsidiary free and clear of any Lien that is prohibited by this Agreement.

(c) Each Subsidiary is a limited liability company, corporation or other legal entity duly organized, validly existing and, where applicable, in good standing under the laws of its jurisdiction of organization, and is duly qualified as a foreign limited liability company, corporation or other legal entity and, where applicable, is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each such Subsidiary has the limited liability company, corporate or other power and authority to own or hold under lease the properties it purports to own or hold under lease and to transact the business it transacts and proposes to transact.

(d) No Subsidiary is subject to any legal, regulatory, contractual or other restriction (other than the agreements listed on Schedule 5.4 and customary limitations imposed by corporate law or similar statutes) restricting the ability of such Subsidiary to pay dividends out of profits or make any other similar distributions of profits to the Company or any of its Subsidiaries that owns outstanding shares of capital stock or similar equity interests of such Subsidiary.

Section 5.5. **Financial Statements; Material Liabilities**. The Company has delivered to each Purchaser copies of the financial statements of the Company and its Subsidiaries listed on Schedule 5.5. All of such financial statements (including in each case the related schedules and notes) fairly present in all material respects the consolidated financial position of the Company and its Subsidiaries as of the respective dates specified in such Schedule and the consolidated results of their operations and cash flows for the respective periods so specified and have been prepared in accordance with GAAP consistently applied throughout the periods involved except as set forth in the notes thereto (subject, in the case of any interim financial statements, to normal year-end adjustments). The Company and its Subsidiaries do not have any Material liabilities that are not disclosed in the Disclosure Documents.

Section 5.6. **Compliance with Laws, Other Instruments, Etc**. The execution, delivery and performance by the Company of this Agreement, the Notes and the other Finance Documents will not (i) contravene, result in any breach of, or constitute a default under, or result in the creation of any Lien in respect of any property of the Company or any Subsidiary under, any indenture, mortgage, deed of trust, loan, purchase or credit agreement, lease, corporate charter or by-laws, shareholders agreement or any other Material agreement or instrument to

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which the Company or any Subsidiary is bound or by which the Company or any Subsidiary or any of their respective properties may be bound or affected, (ii) conflict with or result in a breach of any of the terms, conditions or provisions of any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority applicable to the Company or any Subsidiary or (iii) violate any provision of any statute or other rule or regulation of any Governmental Authority applicable to the Company or any Subsidiary.

Section 5.7. **Governmental Authorizations, Etc**. No consent, approval or authorization of, or registration, filing or declaration with, any Governmental Authority is required in connection with the execution, delivery or performance by the Company of this Agreement, the Notes or the other Finance Documents, except the filings and recordings in connection with the Security Documents.

Section 5.8. **Litigation; Observance of Agreements, Statutes and Orders**. (a) There are no actions, suits, investigations or proceedings pending or, to the Knowledge of the Company, threatened against the Company or any Subsidiary or any property of the Company or any Subsidiary in any court or before any arbitrator of any kind or before or by any Governmental Authority that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Neither the Company nor any Subsidiary is (i) in default under any agreement or instrument to which it is a party or by which it is bound, (ii) in violation of any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority or (iii) in violation of any applicable law, ordinance, rule or regulation of any Governmental Authority (including, without limitation, Environmental Laws, the USA PATRIOT Act or any of the other laws and regulations that are referred to in Section 5.16), which default or violation could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.9. **Taxes**. The Company and its Subsidiaries have filed all tax returns that are required to have been filed in any jurisdiction, and have paid all taxes shown to be due and payable on such returns and all other taxes and assessments levied upon them or their properties, assets, income or franchises, to the extent such taxes and assessments have become due and payable and before they have become delinquent, except for any taxes and assessments (i) the failure of which to file or pay would not reasonably be expected to result in a Material Adverse Effect or (ii) the amount, applicability or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which the Company or a Subsidiary, as the case may be, has established adequate reserves in accordance with GAAP. The Company knows of no basis for any other tax or assessment that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The charges, accruals and reserves on the books of the Company and its Subsidiaries in respect of U.S. federal, state or other taxes for all fiscal periods are adequate in all material respects. The U.S. federal income tax liabilities of the Company and its Subsidiaries have been finally determined (whether by reason of completed audits or the statute of limitations having run) for all fiscal years up to and including the fiscal year ended December 31, 2010.

Section 5.10. **Title to Property**. The Company and its Subsidiaries have good and sufficient title to their respective properties that individually or in the aggregate are Material, including all such properties reflected in the most recent audited balance sheet referred to in Section 5.5 or purported to have been acquired by the Company or any Subsidiary after such date (except as sold or otherwise Disposed of in the ordinary course of business), in each case free and clear of Liens other than (i) Permitted Liens and (ii) those defects in title that, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. All leases that individually or in the aggregate are Material are valid and subsisting and are in full force and effect in all material respects.

Section 5.11. **Licenses, Permits, Etc**. (a) The Company and its Subsidiaries own or possess all licenses, permits, franchises, authorizations, patents, copyrights, proprietary software, service marks, trademarks and trade names, or rights thereto, that individually or in the aggregate are Material, without known conflict with the rights of others, except for those conflicts that, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

(b) To the Knowledge of the Company, no product or service of the Company or any of its Subsidiaries infringes any license, permit, franchise, authorization, patent, copyright, proprietary software, service mark, trademark, trade name or other right owned by any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

(c) To the Knowledge of the Company, there is no Material violation by any Person of any right of the Company or any of its Subsidiaries with respect to any patent, copyright, proprietary software, service mark, trademark, trade name or other right owned or used by the Company or any of its Subsidiaries.

Section 5.12. **Compliance with ERISA**. (a) The Company and each ERISA Affiliate have operated and administered each Plan in compliance with all applicable laws except for such instances of noncompliance as have not resulted in and could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any ERISA Affiliate has incurred any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans (as defined in section 3 of ERISA), and no event, transaction or condition has occurred or exists that could, individually or in the aggregate, reasonably be expected to result in the incurrence of any such liability by the Company or any ERISA Affiliate, or in the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate, in either case pursuant to Title I or IV of ERISA or to section 430(k) of the Code or to any such penalty or excise tax provisions under the Code or federal law or section 4068 of ERISA or by the granting of a security interest in connection with the amendment of a Plan, other than such liabilities or Liens as would not be individually or in the aggregate Material.

(b) The present value of the aggregate benefit liabilities under each of the Plans (other than Multiemployer Plans), determined as of the end of such Plan's most recently ended plan year on the basis of the actuarial assumptions specified for funding purposes in such Plan's most

recent actuarial valuation report, did not exceed the aggregate current value of the assets of such Plan allocable to such benefit liabilities by an amount that could reasonably be expected to have a Material Adverse Effect. The term **"benefit liabilities"** has the meaning specified in section 4001 of ERISA and the terms **"current value"** and **"present value"** have the meaning specified in section 3 of ERISA.

(c) The Company and its ERISA Affiliates have not incurred withdrawal liabilities (and are not subject to contingent withdrawal liabilities) under section 4201 or 4204 of ERISA in respect of Multiemployer Plans that individually or in the aggregate are Material.

(d) The expected postretirement benefit obligation (determined as of the last day of the Company's most recently ended fiscal year in accordance with Financial Accounting Standards Board Accounting Standards Codification Topic 715-60, without regard to liabilities attributable to continuation coverage mandated by section 4980B of the Code) of the Company and its Subsidiaries is not Material.

(e) The execution and delivery of this Agreement and the issuance and sale of the Notes hereunder will not involve any transaction that is subject to the prohibitions of section 406 of ERISA or in connection with which a tax could be imposed pursuant to section 4975(c)(1)(A)-(D) of the Code. The representation by the Company to each Purchaser in the first sentence of this Section 5.12(e) is made in reliance upon and subject to the accuracy of such Purchaser's representation in Section 6.2 as to the sources of the funds to be used to pay the purchase price of the Notes to be purchased by such Purchaser.

Section 5.13. **Private Offering by the Company**. Neither the Company nor anyone acting on its behalf has offered the Notes or any similar Securities for sale to, or solicited any offer to buy the Notes or any similar Securities from, or otherwise approached or negotiated in respect thereof with, any Person other than the Purchasers and not more than 34 other Institutional Investors, each of which has been offered the Notes at a private sale for investment. Neither the Company nor anyone acting on its behalf has taken, or will take, any action that would subject the issuance or sale of the Notes to the registration requirements of section 5 of the Securities Act or to the registration requirements of any Securities or blue sky laws of any applicable jurisdiction.

Section 5.14. **Use of Proceeds; Margin Regulations**. The Company will apply the proceeds of the sale of the Notes hereunder as set forth in Section 2 of the Memorandum. No part of the proceeds from the sale of the Notes hereunder will be used, directly or indirectly, for the purpose of buying or

carrying any margin stock within the meaning of Regulation U of the Board of Governors of the Federal Reserve System (12 CFR 221), or for the purpose of buying or carrying or trading in any Securities under such circumstances as to involve the Company in a violation of Regulation X of said Board (12 CFR 224) or to involve any broker or dealer in a violation of Regulation T of said Board (12 CFR 220). Margin stock does not constitute more than 5% of the value of the consolidated assets of the Company and its Subsidiaries and the Company does not have any present intention that margin stock will constitute more than 5% of the value of such assets. As used in this Section, the terms **"margin stock"** and **"purpose of buying or carrying"** shall have the meanings assigned to them in said Regulation U.

Section 5.15. Existing Indebtedness; Future Liens . (a) Except as described therein, Schedule 5.15 sets forth a complete and correct list of all outstanding Indebtedness of the Company and its Subsidiaries with an aggregate outstanding principal amount in excess of $10,000,000 as of September 25, 2014 (including descriptions of the obligors and obligees, principal amounts outstanding, any collateral therefor and any Guaranties thereof), since which date there has been no Material change in the amounts, interest rates, sinking funds, installment payments or maturities of the Indebtedness of the Company or its Subsidiaries. Neither the Company nor any Subsidiary is in default and no waiver of default is currently in effect, in the payment of any principal or interest on any Indebtedness of the Company or such Subsidiary and no event or condition exists with respect to any Indebtedness of the Company or any Subsidiary that would permit (or that with notice or the lapse of time, or both, would permit) one or more Persons to cause such Indebtedness to become due and payable before its stated maturity or before its regularly scheduled dates of payment.

(b) Except as disclosed in Schedule 5.15, neither the Company nor any Subsidiary has agreed or consented to cause or permit any of its property, whether now owned or hereafter acquired, to be subject to a Lien that secures Indebtedness or to cause or permit in the future (upon the happening of a contingency or otherwise) any of its property, whether now owned or hereafter acquired, to be subject to a Lien that secures Indebtedness.

(c) Neither the Company nor any Subsidiary is a party to, or otherwise subject to any provision contained in, any instrument evidencing Indebtedness of the Company or such Subsidiary, any agreement relating thereto or any other agreement (including, but not limited to, its charter or any other organizational document) which limits the amount of, or otherwise imposes restrictions on the incurring of, Indebtedness of the Company, except as disclosed in Schedule 5.15.

Section 5.16. Foreign Assets Control Regulations, Etc. (a) Neither the Company nor any Controlled Entity is (i) a Person whose name appears on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control, United States Department of the Treasury (**"OFAC"**) (an **"OFAC Listed Person"**) (ii) an agent, department, or instrumentality of, or is otherwise beneficially owned by, controlled by or acting on behalf of, directly or indirectly, (x) any OFAC Listed Person or (y) any Person, entity, organization, foreign country or regime that is subject to any OFAC Sanctions Program, or (iii) otherwise blocked, subject to sanctions under or engaged in any activity in violation of other United States economic sanctions, including but not limited to, the Trading with the Enemy Act, the International Emergency Economic Powers Act, the Comprehensive Iran Sanctions, Accountability and Divestment Act ("**CISADA**") or any similar law or regulation with respect to Iran or any other country, the Sudan Accountability and Divestment Act, any OFAC Sanctions Program, or any economic sanctions regulations administered and enforced by the United States or any enabling legislation or executive order relating to any of the foregoing (collectively, **"U.S. Economic Sanctions"**) (each OFAC Listed Person and each other Person, entity, organization and government of a country described in clause (i), clause (ii) or clause (iii), a **"Blocked Person"**). Neither the Company nor any Controlled Entity has been notified that its name appears or may in the future appear on a state list of Persons that engage in investment or other commercial activities in Iran or any other country that is subject to U.S. Economic Sanctions.

(b) No part of the proceeds from the sale of the Notes hereunder constitutes or will constitute funds obtained on behalf of any Blocked Person or will otherwise be used by the Company or any Controlled Entity, directly or indirectly, (i) in connection with any investment in, or any transactions or dealings with, any Blocked Person, or (ii) otherwise in violation of U.S. Economic Sanctions.

(c) Neither the Company nor any Controlled Entity (i) has been found in violation of, charged with, or convicted of, money laundering, drug trafficking, terrorist-related activities or other money laundering predicate crimes under the Currency and Foreign Transactions Reporting Act of 1970 (otherwise known as the Bank Secrecy Act), the USA PATRIOT Act or any other United States law or regulation governing such activities (collectively, **"Anti-Money Laundering Laws"**) or any U.S. Economic Sanctions violations, (ii) to the Company's actual knowledge after making due inquiry, is under investigation by any Governmental Authority for possible violation of Anti-Money Laundering Laws or any U.S. Economic Sanctions violations, (iii) has been assessed civil penalties under any Anti-Money Laundering Laws or any U.S. Economic Sanctions, or (iv) has had any of its funds seized or forfeited in an action under any Anti-Money Laundering Laws. The Company has established procedures and controls which it reasonably believes are adequate (and otherwise comply with applicable law) to ensure that the Company and each Controlled Entity is and will continue to be in compliance with all applicable current and future Anti-Money Laundering Laws and U.S. Economic Sanctions.

(d) (1) Neither the Company nor any Controlled Entity (i) has been charged with, or convicted of bribery or any other anti-corruption related activity under any applicable law or regulation in a U.S. or any non-U.S. country or jurisdiction, including but not limited to, the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act 2010 (collectively, **"Anti-Corruption Laws"**), (ii) to the Company's actual knowledge after making due inquiry, is under investigation by any U.S. or non-U.S. Governmental Authority for possible violation of Anti-Corruption Laws, (iii) has been assessed civil or criminal penalties under any Anti-Corruption Laws or (iv) has been or is the target of sanctions imposed by the United Nations or the European Union;

(2) To the Company's actual knowledge after making due inquiry, neither the Company nor any Controlled Entity has, within the last five years, directly or indirectly offered, promised, given, paid or authorized the offer, promise, giving or payment of anything of value to a Governmental Official or a commercial counterparty for the purposes of: (i) influencing any act, decision or failure to act by such Governmental Official in his or her official capacity or such commercial counterparty, (ii) inducing a Governmental Official to do or omit to do any act in violation of the Governmental Official's lawful duty, or (iii) inducing a Governmental Official or a commercial counterparty to use his or her influence with a government or instrumentality to affect any act or decision of such government or entity; in each case in order to obtain, retain or direct business or to otherwise secure an improper advantage in violation of any applicable law or regulation or which would cause any holder to be in violation of any law or regulation applicable to such holder; and

(3) No part of the proceeds from the sale of the Notes hereunder will be used, directly or indirectly, for any improper payments, including bribes, to any Governmental Official or commercial counterparty in order to obtain, retain or direct business or obtain any improper

advantage. The Company has established procedures and controls which it reasonably believes are adequate (and otherwise comply with applicable law) to ensure that the Company and each Controlled Entity is and will continue to be in compliance with all applicable current and future Anti-Corruption Laws.

Section 5.17. Status under Certain Statutes. Neither the Company nor any Subsidiary is subject to regulation under the Investment Company Act of 1940, as amended.

Section 5.18. Environmental Matters. (a) Neither the Company nor any Subsidiary has Knowledge of any claim or has received any notice of any claim and no proceeding has been instituted asserting any claim against the Company or any of its Subsidiaries or any of their respective real properties or other assets now or formerly owned, leased or operated by any of them, alleging any damage to the environment or violation of any Environmental Laws, except, in each case, such as could not reasonably be expected to result in a Material Adverse Effect.

(b) Neither the Company nor any Subsidiary has Knowledge of any facts which would give rise to any claim, public or private, of violation of Environmental Laws or damage to the environment emanating from, occurring on or in any way related to real properties now or formerly owned, leased or operated by any of them or to other assets or their use, except, in each case, such as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(c) Neither the Company nor any Subsidiary has stored any Hazardous Materials on real properties now or formerly owned, leased or operated by any of them in a manner which is contrary to any Environmental Law that could, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(d) Neither the Company nor any Subsidiary has disposed of any Hazardous Materials in a manner which is contrary to any Environmental Law that could, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(e) All buildings on all real properties now owned, leased or operated by the Company or any Subsidiary are in compliance with applicable Environmental Laws, except where failure to comply could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 5.19. Pledge and Security Agreement. (a) Under the Pledge and Security Agreement, (i) each Purchaser is recognized as a “Secured Party”, (ii) this Agreement and the Notes are recognized as “Note Documents” and (iii) all amounts owing to the holder of a Note under this Agreement and the Notes are recognized as “Secured Obligations”.

(b) The Pledge and Security Agreement creates in favor of the Collateral Agent, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral (to the extent such Lien may be created under the UCC), except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors’ rights generally. In the case of the Pledged Equity Interests, all

certificates representing such Pledged Equity Interests have been delivered to the Collateral Agent, and in the case of all other collateral described in the Pledge and Security Agreement, all financing statements have been filed in the applicable offices and, to the extent required therein, all other actions to perfect the security interest of the Collateral Agent in the collateral described in the Pledge and Security Agreement have been taken. The Pledge and Security Agreement is effective to create a perfected Lien on, and security interest in, all right, title and interest of the Company in the Collateral as security for the obligations hereunder, in each case (to the extent provided therein) prior and superior in right to any other Person (except for Permitted Liens).

Section 5.20. Solvency. The Company is and, immediately after giving effect to the incurrence of all Indebtedness and obligations being incurred under the Notes on the date of Closing, will be Solvent.

SECTION 6. REPRESENTATIONS AND WARRANTIES OF THE PURCHASERS.

Section 6.1. Purchase for Investment.

(a) Each Purchaser severally represents and warrants that it is an institutional investor that is an “accredited investor” within the meaning of subparagraph (a)(1), (2), (3) or (7) of Rule 501 under the Securities Act (Regulation D) or, if it is buying for one or more institutional accounts for which it is acting as fiduciary or agent and it is not a bank (as defined in Section 3(a)(2) of the Securities Act) or a savings and loan association or other institution (as defined in Section 3(a)(5)(A) of the Securities Act), whether acting in its individual or in a fiduciary capacity, each such account is an institutional investor and accredited investor on a like basis. Each Purchaser severally represents and warrants that it is purchasing the Notes for its own account or for one or more separate accounts maintained by such Purchaser or for the account of one or more pension or trust funds and not with a view to the distribution thereof, *provided* that the disposition of such Purchaser’s or their property shall at all times be within such Purchaser’s or their own control. Each Purchaser understands that the Notes have not been registered under the Securities Act and may be resold only if registered pursuant to the provisions of the Securities Act or if an exemption from registration is available, and that the Notes will bear a restrictive legend to the foregoing effect. Each Purchaser understands that the Company is not required to register the Notes. Each Purchaser severally represents and warrants that it has had the opportunity to ask questions and receive answers concerning the Issuer Parties, the Notes and the terms and conditions of the offering of the Notes and to obtain any additional information that the Issuer Parties possess or can acquire without unreasonable effort or expense that is necessary to verify the accuracy of the Disclosure Documents.

(b) Each Purchaser understands that it must bear the economic risks of the investment in the Notes for an indefinite period of time.

Section 6.2. Source of Funds. Each Purchaser severally represents and warrants that at least one of the following statements is an accurate representation and warranty as to each source

of funds (a **"Source"**) to be used by such Purchaser to pay the purchase price of the Notes to be purchased by such Purchaser hereunder:

(a) the Source is an "insurance company general account" (as the term is defined in the United States Department of Labor's Prohibited Transaction Exemption (**"PTE"**) 95-60) in respect of which the reserves and liabilities (as defined by the annual statement for life insurance companies approved by the NAIC (the **"NAIC Annual Statement"**)) for the general account contract(s) held by or on behalf of any employee benefit plan together with the amount of the reserves and liabilities for the general account contract(s) held by or on behalf of any other employee benefit plans maintained by the same employer (or affiliate thereof as defined in PTE 95-60) or by the same employee organization in the general account do not exceed 10% of the total reserves and liabilities of the general account (exclusive of separate account liabilities) plus surplus as set forth in the NAIC Annual Statement filed with such Purchaser's state of domicile; or

(b) the Source is a separate account that is maintained solely in connection with such Purchaser's fixed contractual obligations under which the amounts payable, or credited, to any employee benefit plan (or its related trust) that has any interest in such separate account (or to any participant or beneficiary of such plan (including any annuitant)) are not affected in any manner by the investment performance of the separate account; or

(c) the Source is either (i) an insurance company pooled separate account, within the meaning of PTE 90-1 or (ii) a bank collective investment fund, within the meaning of the PTE 91-38 and, except as disclosed by such Purchaser to the Company in writing pursuant to this clause (c), no employee benefit plan or group of plans maintained by the same employer or employee organization beneficially owns more than 10% of all assets allocated to such pooled separate account or collective investment fund; or

(d) the Source constitutes assets of an "investment fund" (within the meaning of Part VI of PTE 84-14 (the **"QPAM Exemption"**)) managed by a "qualified professional asset manager" or "QPAM" (within the meaning of Part VI of the QPAM Exemption), no employee benefit plan's assets that are managed by the QPAM in such investment fund, when combined with the assets of all other employee benefit plans established or maintained by the same employer or by an affiliate (within the meaning of Part VI(c)(1) of the QPAM Exemption) of such employer or by the same employee organization and managed by such QPAM, represent more than 20% of the total client assets managed by such QPAM, the conditions of Part I(c) and (g) of the QPAM Exemption are satisfied, neither the QPAM nor a person controlling or controlled by the QPAM maintains an ownership interest in the Company that would cause the QPAM and the Company to be "related" within the meaning of Part VI(h) of the QPAM Exemption and (i) the identity of such QPAM and (ii) the names of any employee benefit plans whose assets in the investment fund, when combined with the assets of all other employee benefit plans established or maintained by the same employer or by an affiliate (within the meaning of Part VI(c)(1) of the QPAM Exemption) of such employer or by

the same employee organization, represent 10% or more of the assets of such investment fund, have been disclosed to the Company in writing pursuant to this clause (d);or

(e) the Source constitutes assets of a "plan(s)" (within the meaning of Part IV(h) of PTE 96-23 (the **"INHAM Exemption"**)) managed by an "in-house asset manager" or "INHAM" (within the meaning of Part IV(a) of the INHAM Exemption), the conditions of Part I(a), (g) and (h) of the INHAM Exemption are satisfied, neither the INHAM nor a person controlling or controlled by the INHAM (applying the definition of "control" in Part IV(d)(3) of the INHAM Exemption) owns a 10% or more interest in the Company and (i) the identity of such INHAM and (ii) the name(s) of the employee benefit plan(s) whose assets constitute the Source have been disclosed to the Company in writing pursuant to this clause (e); or

(f) the Source is a governmental plan; or

(g) the Source is one or more employee benefit plans, or a separate account or trust fund comprised of one or more employee benefit plans, each of which has been identified to the Company in writing pursuant to this clause (g); or

(h) the Source does not include assets of any employee benefit plan, other than a plan exempt from the coverage of ERISA.

As used in this Section 6.2, the terms **"employee benefit plan," "governmental plan,"** and **"separate account"** shall have the respective meanings assigned to such terms in section 3 of ERISA.

SECTION 7. INFORMATION AS TO COMPANY.

Section 7.1. Financial and Business Information. The Company shall deliver to each Purchaser and each holder of a Note that is an Institutional Investor:

(a) *Quarterly Statements* — within 60 days (or such shorter period as is the earlier of (x) 15 days greater than the period applicable to the filing of the Company's Quarterly Report on Form 10-Q (the **"Form 10-Q"**) with the SEC regardless of whether the Company is subject to the filing requirements thereof and (y) the date by which such financial statements are required to be delivered under any Material Credit Facility or the date on which such corresponding financial statements are delivered under any Material Credit Facility if such delivery occurs earlier than such required delivery date) after the end of each quarterly fiscal period in each fiscal year of the Company (other than the last quarterly fiscal period of each such fiscal year), duplicate copies of,

(i) a consolidated balance sheet of the Company and its Subsidiaries as at the end of such quarter, and

(ii) consolidated statements of income, retained earnings and cash flows of the Company and its Subsidiaries, for such quarter and (in the case of the

second and third quarters) for the portion of the fiscal year ending with such quarter,

setting forth in each case in comparative form the figures for the corresponding periods in the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP applicable to quarterly financial statements generally, and certified by a Senior Financial Officer as fairly presenting, in all material respects, the financial position of the companies being reported on and their results of operations and cash flows, subject to changes resulting from year-end adjustments, *provided* that delivery within the time period specified above of copies of the Company's Form 10-Q prepared in compliance with the requirements therefor and filed with the SEC shall be deemed to satisfy the requirements of this Section 7.1(a);

(b) *Annual Statements* — within 120 days (or such shorter period as is the earlier of (x) 15 days greater than the period applicable to the filing of the Company's Annual Report on Form 10-K (the **"Form 10-K"**) with the SEC regardless of whether the Company is subject to the filing requirements thereof and (y) the date by which such financial statements are required to be delivered under any Material Credit Facility or the date on which such corresponding financial statements are delivered under any Material Credit Facility if such delivery occurs earlier than such required delivery date) after the end of each fiscal year of the Company, duplicate copies of,

(i) a consolidated balance sheet of the Company and its Subsidiaries as at the end of such year, and

(ii) consolidated statements of income, retained earnings and cash flows of the Company and its Subsidiaries for such year,

setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP, and accompanied by an unqualified opinion thereon of independent public accountants of recognized national standing, which opinion shall state that such financial statements present fairly, in all material respects, the financial position of the companies being reported upon and their results of operations and cash flows and have been prepared in conformity with GAAP, and that the examination of such accountants in connection with such financial statements has been made in accordance with generally accepted auditing standards, and that such audit provides a reasonable basis for such opinion in the circumstances, *provided* that the delivery within the time period specified above of the Company's Form 10-K for such fiscal year (together with the Company's annual report to shareholders, if any, prepared pursuant to Rule 14a-3 under the Securities Exchange Act of 1934) prepared in accordance with the requirements therefor and filed with the SEC, shall be deemed to satisfy the requirements of this Section 7.1(b);

(c) *SEC and Other Reports* — within 5 Business Days after the occurrence thereof, one copy of (i) each financial statement, report, notice or proxy statement sent by the Company or any Subsidiary to its principal lending banks as a whole (excluding

information sent to such banks in the ordinary course of administration of a bank facility, such as information relating to pricing and borrowing availability) or to its Securities holders generally, (ii) each regular or periodic report, each registration statement (without exhibits except as expressly requested by such Purchaser or holder), and each prospectus and all amendments thereto filed by the Company or any Subsidiary with the SEC and (iii) all press releases and other statements made available generally by the Company or any Subsidiary to the public concerning developments that are Material;

(d) *Notice of Default or Event of Default* — within 5 Business Days after the Company obtains Knowledge of the existence of any Default or Event of Default, a written notice specifying the nature and period of existence thereof and what action the Company is taking or proposes to take with respect thereto;

(e) *ERISA Matters* — within 10 Business Days after the Company obtains Knowledge of any of the following, a written notice setting forth the nature thereof and the action, if any, that the Company or an ERISA Affiliate proposes to take with respect thereto:

(i) with respect to any Plan, any reportable event, as defined in section 4043(c) of ERISA and the regulations thereunder, for which notice thereof has not been waived pursuant to such regulations as in effect on the date hereof; or

(ii) the taking by the PBGC of steps to institute, or the threatening by the PBGC of the institution of, proceedings under section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or the receipt by the Company or any ERISA Affiliate of a notice from a Multiemployer Plan that such action has been taken by the PBGC with respect to such Multiemployer Plan; or

(iii) any event, transaction or condition that could result in the incurrence of any liability by the Company or any ERISA Affiliate pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans, or in the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate pursuant to Title I or IV of ERISA or such penalty or excise tax provisions, if such liability or Lien, taken together with any other such liabilities or Liens then existing, could reasonably be expected to have a Material Adverse Effect;

(f) *Notices from Governmental Authority* — within 30 days after receipt thereof, copies of any written notice to the Company or any Subsidiary from any federal or state Governmental Authority relating to any order, ruling, statute or other law or regulation that could reasonably be expected to have a Material Adverse Effect;

(g) *Resignation or Replacement of Auditors* — within 10 days following the date on which the Company's auditors resign or the Company elects to change auditors,

as the case may be, notification thereof, together with such supporting information as the Required Holders may reasonably request;

(h) *Environmental Claims* — within 10 Business Days after the Company obtains Knowledge thereof, a written notice describing in reasonable detail (i) any Release that would reasonably be expected to require any investigation, response or remedial action or give rise to Environmental Claims resulting in the Company or its Subsidiaries incurring liability or expenses in excess of the Materiality Threshold, (ii) any assertion of an Environmental Claim (including any request for information by a Governmental Authority) that would reasonably be expected to result in liability of the Company or its Subsidiaries in excess of the Materiality Threshold, (iii) any occurrence or condition at any of its facilities, or on any real property adjoining or in the vicinity of any of its facilities, that would reasonably be expected to cause such facility or any part thereof to be subject to any Material restrictions on the ownership, occupancy, transferability or use thereof under any Environmental Laws, (iv) any proposed acquisition of stock, assets or property by the Company or any of its Subsidiaries that would reasonably be expected to expose the Company or any of its Subsidiaries to, or result in, Environmental Claims that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (v) any proposed action to be taken by the Company or any of its Subsidiaries to modify current operations in a manner that would subject the Company or any of its Subsidiaries to any additional obligations or requirements under Environmental Laws that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect; and

(i) *Requested Information* — with reasonable promptness, such other data and information relating to the business, operations, affairs, financial condition, assets or properties of the Company or any of its Subsidiaries (including, but without limitation, actual copies of the Company's Form 10-Q and Form 10-K) or relating to the ability of the Company to perform its obligations hereunder, under the Notes and under the other Finance Documents as from time to time may be reasonably requested by any such Purchaser or holder of a Note.

Section 7.2. **Officer's Certificate**. Each set of financial statements delivered to a Purchaser and holder of a Note pursuant to Section 7.1(a) or Section 7.1(b) shall be accompanied by a certificate of a Senior Financial Officer:

(a) *Covenant Compliance* — setting forth the information from such financial statements that is required in order to establish whether the Company was in compliance with the requirements of Section 10.5 through Section 10.9, inclusive, during the quarterly or annual period covered by the statements then being furnished, (including with respect to each such provision that involves mathematical calculations, the information from such financial statements that is required to perform such calculations) and detailed calculations of the maximum or minimum amount, ratio or percentage, as the case may be, permissible under the terms of such Section, and the calculation of the amount, ratio or percentage then in existence. In the event that the Company or any Subsidiary has made an election to measure any financial liability using fair value (which

election is being disregarded for purposes of determining compliance with this Agreement pursuant to Section 22.2) as to the period covered by any such financial statement, such Senior Financial Officer's certificate as to such period shall include a reconciliation from GAAP with respect to such election; and

(b) *Event of Default* — certifying that such Senior Financial Officer has reviewed the relevant terms hereof and has made, or caused to be made, under his or her supervision, a review of the transactions and conditions of the Company and its Subsidiaries from the beginning of the quarterly or annual period covered by the statements then being furnished to the date of the certificate and that such review shall not have disclosed the existence during such period of any condition or event that constitutes a Default or an Event of Default or, if any such condition or event existed or exists (including, without limitation, any such event or condition resulting from the failure of the Company or any Subsidiary to comply with any Environmental Law), specifying the nature and period of existence thereof and what action the Company shall have taken or proposes to take with respect thereto.

Section 7.3. **Visitation**. The Company shall permit the representatives of each Purchaser and each holder of a Note that is an Institutional Investor:

(a) *No Default* — if no Default or Event of Default then exists, at the expense of such Purchaser or such holder and upon reasonable prior notice to the Company, to visit the principal executive office of the Company, to discuss the affairs, finances and accounts of the Company and its Subsidiaries with the Company's officers, and (with the consent of the Company, which consent will not be unreasonably withheld) its independent public accountants, and (with the consent of the Company, which consent will not be unreasonably withheld) to visit the other offices and properties of the Company and each Subsidiary, all at such reasonable times and as often as may be reasonably requested in writing; and

(b) *Default* — if a Default or Event of Default then exists, at the expense of the Company to visit and inspect any of the offices or properties of the Company or any Subsidiary, to examine all their respective books of account, records, reports and other papers, to make copies and extracts therefrom, and to discuss their respective affairs, finances and accounts with their respective officers and independent public accountants (and by this provision the Company authorizes said accountants to discuss the affairs, finances and accounts of the Company and its Subsidiaries), all at such times and as often as may be requested.

Section 7.4. **Electronic Delivery**. Financial statements, opinions of independent certified public accountants, other information and Officer's Certificates that are required to be delivered by the Company pursuant to Sections 7.1(a), (b) or (c) and Section 7.2 shall be deemed to have been delivered if the Company satisfies any of the following requirements with respect thereto:

(i) such financial statements satisfying the requirements of Section 7.1(a) or (b) and related Officer's Certificate satisfying the requirements of Section 7.2 are timely (a) delivered to each Purchaser or holder of a Note by e-mail, (b) made available on the Company's home page on the internet, which is located at http://sourcegas.com as of the date of this Agreement or (c) posted by or on behalf of the Company on SyndTrak or on any other similar website to which each Purchaser and each holder of Notes has free access; or

(ii) the Company shall have timely filed its Form 10—Q or Form 10—K, satisfying the requirements of Section 7.1(a) or Section 7.1(b), as the case may be, with the SEC on EDGAR and shall have timely delivered such form and the related Officer's Certificate satisfying the requirements of Section 7.2 by (a) email to each Purchaser and each holder of a Note, (b) making available such items on its home page on the internet or (c) posting such items on SyndTrak or on any other similar website to which each Purchaser and each holder of Notes has free access; or

(iii) the Company shall have filed any of the items referred to in Section 7.1(c) with the SEC on EDGAR and shall have timely delivered such items by (a) email to each Purchaser and each holder of a Note, (b) making available such items on its home page on the internet or (c) posting such items on SyndTrak or on any other similar website to which each Purchaser and each holder of Notes has free access;

provided however, that in the case of any of the foregoing deliveries which are made available on the Company's home page on the internet or are posted on SyndTrak or any other similar website, the Company shall have given each Purchaser and each holder of a Note prior written notice, which may be by e-mail or in accordance with Section 18, of such posting or availability in connection with each delivery, *provided further,* that upon request of any Purchaser or holder to receive paper copies of such forms, financial statements and Officer's Certificates or to receive them by e-mail, the Company will promptly e-mail them or deliver such paper copies, as the case may be, to such Purchaser or holder.

SECTION 8. PAYMENT AND PREPAYMENT OF THE NOTES.

Section 8.1. Maturity. As provided therein, the entire unpaid principal balance of each Note shall be due and payable on the Maturity Date thereof.

Section 8.2. Optional Prepayments with Make-Whole Amount. The Company may, at its option, upon notice as provided below, prepay at any time all, or from time to time any part of, the Notes, in an amount not less than 5% of the aggregate principal amount of the Notes then outstanding in the case of a partial prepayment, at 100% of the principal amount so prepaid, and the Make-Whole Amount determined for the prepayment date with respect to such principal amount. The Company will give each holder of Notes written notice of each optional prepayment under this Section 8.2 not less than 10 days and not more than 60 days prior to the date fixed for such prepayment unless the Company and the Required Holders agree to another time period pursuant to Section 17. Each such notice shall specify such date (which shall be a Business Day), the aggregate principal amount of the Notes to be prepaid on such date, the

principal amount of each Note held by such holder to be prepaid (determined in accordance with Section 8.5), and the interest to be paid on the prepayment date with respect to such principal amount being prepaid, and shall be accompanied by a certificate of a Senior Financial Officer as to the estimated Make-Whole Amount due in connection with such prepayment (calculated as if the date of such notice were the date of the prepayment), setting forth the details of such computation. Two Business Days prior to such prepayment, the Company shall deliver to each holder of Notes a certificate of a Senior Financial Officer specifying the calculation of such Make-Whole Amount as of the specified prepayment date.

Section 8.3. Prepayment of Notes upon Change of Control.

(a) *Notice of Change of Control.* The Company will, within 15 days after the occurrence of any Change of Control, give written notice of such Change of Control to each holder of the Notes. Such notice shall contain and constitute an offer to prepay the Notes as described in Section 8.3(b) (a **"Change of Control Offer Notice"**) and shall be accompanied by the certificate described in Section 8.3(e).

(b) *Offer to Prepay Notes.* The offer to prepay Notes contemplated by Section 8.3(a) shall be an offer to prepay, in accordance with and subject to this Section 8.3, all, but not less than all, of the Notes held by each holder (in this case only, "holder" in respect of any Note registered in the name of a nominee for a disclosed beneficial owner shall mean such beneficial owner) on the date that is 30 Business Days after the date of the Change of Control Offer Notice (the "**Change of Control Proposed Prepayment Date**").

(c) *Acceptance; Rejection.* A holder of Notes may accept the offer to prepay made pursuant to this Section 8.3 by causing a notice of such acceptance to be delivered to the Company at least ten (10) days prior to the Change of Control Proposed Prepayment Date. A failure by a holder of Notes to respond to an offer to prepay made pursuant to this Section 8.3 shall be deemed to constitute a rejection of such offer by such holder.

(d) *Prepayment.* Prepayment of the Notes to be prepaid pursuant to this Section 8.3 shall be at 100% of the outstanding principal amount of such Notes, together with interest on such Notes accrued to the date of prepayment (but, for the avoidance of doubt, without any premium, penalty or Make-Whole Amount). The prepayment shall be made on the Change of Control Proposed Prepayment Date.

(e) *Officer's Certificate.* Each Change of Control Offer Notice shall be accompanied by a certificate, executed by a Senior Financial Officer of the Company and dated the date of such offer, specifying: (i) the Change of Control Proposed Prepayment Date; (ii) that such offer is made pursuant to this Section 8.3; (iii) the principal amount of each Note offered to be prepaid; (iv) the interest that would be due on each Note offered to be prepaid, accrued to the Change of Control Proposed Prepayment Date; (v) that the conditions of this Section 8.3 have been fulfilled; and (vi) in reasonable detail, the nature and date of the Change of Control.

Section 8.4. Prepayment of Notes in Connection with Asset Dispositions .

(a) *Notice and Offer*. If the Company is required to offer to prepay Notes in accordance with Section 10.7, the Company will give written notice thereof to the holders of all Notes then outstanding. Such written notice shall contain, and such written notice shall constitute, an irrevocable offer to prepay, at the election of each holder, each outstanding Note held by such holder in a principal amount which equals the Ratable Portion of such Note on a date specified in such notice (which date shall be a Business Day) that is not less than 30 days and not more than 60 days after the date of such notice (the "**Disposition Prepayment Date**"), together with interest on the amount to be so prepaid accrued to the prepayment

date (but, for the avoidance of doubt, without any premium, penalty or Make-Whole Amount). If the Disposition Prepayment Date shall not be specified in such offer, the Disposition Prepayment Date shall be the first Business Day which is at least 45 days after the date of such offer.

(b) *Acceptance and Payment*. A failure of a holder of Notes to respond to a prepayment offer pursuant to this Section 8.4 in writing on or prior to a date at least ten (10) Business Days prior to the Disposition Prepayment Date (such date ten (10) Business Days prior to the Disposition Prepayment Date being the "**Disposition Response Date**") shall be deemed to constitute a rejection of the offer. To accept such offer, a holder of Notes shall cause a notice of such acceptance to be delivered to the Company not later than the Disposition Response Date. Prepayment of the Notes to be made pursuant to this Section 8.4 shall be made at 100% of the principal amount of such Notes being so prepaid, together with interest on such principal amount then being prepaid accrued to the date of prepayment (but, for the avoidance of doubt, without any premium, penalty or Make-Whole Amount). The prepayment shall be made on the Disposition Prepayment Date determined for prepayment pursuant to Section 8.4(a).

(c) *Officer's Certificate*. Each offer to prepay the Notes pursuant to this Section 8.4 shall be accompanied by a certificate, executed by a Responsible Officer of the Company and dated the date of such offer, specifying (i) the Disposition Prepayment Date and the Disposition Response Date, (ii) the Net Available Amount in respect of the applicable Disposition, (iii) that such offer is being made pursuant to this Section 8.4 and the last paragraph of Section 10.7, (iv) the Ratable Portion of each Note offered to be prepaid, (v) the interest that would be due on each Note offered to be prepaid, accrued to the prepayment date and (vi) in reasonable detail, the nature of such Disposition.

Section 8.5. Allocation of Partial Prepayments. In the case of each partial prepayment of the Notes pursuant to Section 8.2, the principal amount of the Notes to be prepaid shall be allocated among all of the Notes at the time outstanding in proportion, as nearly as practicable, to the respective unpaid principal amounts thereof not theretofore called for prepayment.

Section 8.6. Maturity; Surrender, Etc. In the case of each optional prepayment of Notes pursuant to this Section 8, the principal amount of each Note to be prepaid shall mature and become due and payable on the date fixed for such prepayment, together with interest on such principal amount accrued to such date and the applicable Make-Whole Amount, if any.

From and after such date, unless the Company shall fail to pay such principal amount when so due and payable, together with the interest and Make-Whole Amount, if any, as aforesaid, interest on such principal amount shall cease to accrue. Any Note paid or prepaid in full shall be surrendered to the Company and cancelled and shall not be reissued, and no Note shall be issued in lieu of any prepaid principal amount of any Note.

Section 8.7. Purchase of Notes. The Company will not and will not permit any Affiliate to purchase, redeem, prepay or otherwise acquire, directly or indirectly, any of the outstanding Notes except (a) upon the payment or prepayment of the Notes in accordance with this Agreement and the Notes or (b) pursuant to an offer to purchase made by the Company or an Affiliate pro rata to the holders of all Notes at the time outstanding upon the same terms and conditions. Any such offer shall provide each holder with sufficient information to enable it to make an informed decision with respect to such offer, and shall remain open for at least 20 Business Days. If the holders of more than 50% of the principal amount of the Notes then outstanding accept such offer, the Company shall promptly notify the remaining holders of such fact and the expiration date for the acceptance by holders of Notes of such offer shall be extended by the number of days necessary to give each such remaining holder at least 10 Business Days from its receipt of such notice to accept such offer. The Company will promptly cancel all Notes acquired by it or any Affiliate pursuant to any payment, prepayment or purchase of Notes pursuant to this Agreement and no Notes may be issued in substitution or exchange for any such Notes.

Section 8.8. Make-Whole Amount.

"Make-Whole Amount" means, with respect to any Note, an amount equal to the excess, if any, of the Discounted Value of the Remaining Scheduled Payments with respect to the Called Principal of such Note over the amount of such Called Principal, *provided* that the Make-Whole Amount may in no event be less than zero. For the purposes of determining the Make-Whole Amount, the following terms have the following meanings:

"Called Principal" means, with respect to any Note, the principal of such Note that is to be prepaid pursuant to Section 8.2 or has become or is declared to be immediately due and payable pursuant to Section 12.1, as the context requires.

"Discounted Value" means, with respect to the Called Principal of any Note, the amount obtained by discounting all Remaining Scheduled Payments with respect to such Called Principal from their respective scheduled due dates to the Settlement Date with respect to such Called Principal, in accordance with accepted financial practice and at a discount factor (applied on the same periodic basis as that on which interest on the Notes is payable) equal to the Reinvestment Yield with respect to such Called Principal.

"Reinvestment Yield" means, with respect to the Called Principal of any Note, 0.50% over the yield to maturity implied by the ask-side yield(s) reported as of 10:00 a.m. (New York City time) on the second Business Day preceding the Settlement Date with respect to such Called Principal, on the display designated as "Page PX1" (or such other display as may replace Page PX1) on Bloomberg Financial Markets for the most recently issued actively traded on-the-run

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U.S. Treasury securities **("Reported")** having a maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date. If there are no such U.S. Treasury securities Reported having a maturity equal to such Remaining Average Life, then such implied yield to maturity will be determined by (a) converting U.S. Treasury bill quotations to bond equivalent yields in accordance with accepted financial practice and (b) interpolating linearly between the yields Reported for the applicable most recently issued actively traded on-the-run U.S. Treasury securities with the maturities (1) closest to and greater than such Remaining Average Life and (2) closest to and less than such Remaining Average Life. The Reinvestment Yield shall be rounded to the number of decimal places as appears in the interest rate of the applicable Note.

If such ask-side yields are not Reported or the ask-side yields Reported as of such time are not ascertainable (including by way of interpolation), then **"Reinvestment Yield"** means, with respect to the Called Principal of any Note, 0.50% over the yield to maturity implied by the U.S. Treasury constant maturity yields reported, for the latest day for which such yields have been so reported as of the second Business Day preceding the Settlement Date with

respect to such Called Principal, in Federal Reserve Statistical Release H.15 (or any comparable successor publication) for the U.S. Treasury constant maturity having a term equal to the Remaining Average Life of such Called Principal as of such Settlement Date. If there is no such U.S. Treasury constant maturity having a term equal to such Remaining Average Life, such implied yield to maturity will be determined by interpolating linearly between (1) the U.S. Treasury constant maturity so reported with the term closest to and greater than such Remaining Average Life and (2) the U.S. Treasury constant maturity so reported with the term closest to and less than such Remaining Average Life. The Reinvestment Yield shall be rounded to the number of decimal places as appears in the interest rate of the applicable Note.

"Remaining Average Life" means, with respect to any Called Principal, the number of years obtained by dividing (i) such Called Principal into (ii) the sum of the products obtained by multiplying (a) the principal component of each Remaining Scheduled Payment with respect to such Called Principal by (b) the number of years, computed on the basis of a 360-day year composed of twelve 30-day months and calculated to two decimal places, that will elapse between the Settlement Date with respect to such Called Principal and the scheduled due date of such Remaining Scheduled Payment.

"Remaining Scheduled Payments" means, with respect to the Called Principal of any Note, all payments of such Called Principal and interest thereon that would be due after the Settlement Date with respect to such Called Principal if no payment of such Called Principal were made prior to its scheduled due date, *provided* that if such Settlement Date is not a date on which interest payments are due to be made under the Notes, then the amount of the next succeeding scheduled interest payment will be reduced by the amount of interest accrued to such Settlement Date and required to be paid on such Settlement Date pursuant to Section 8.6 or Section 12.1.

"Settlement Date" means, with respect to the Called Principal of any Note, the date on which such Called Principal is to be prepaid pursuant to Section 8.2 or has become or is declared to be immediately due and payable pursuant to Section 12.1, as the context requires.

Section 8.9. Payments Due on Non-Business Days. Anything in this Agreement or the Notes to the contrary notwithstanding, (x) subject to clause (y), any payment of interest on any Note that is due on a date that is not a Business Day shall be made on the next succeeding Business Day without including the additional days elapsed in the computation of the interest payable on such next succeeding Business Day; and (y) any payment of principal of or Make-Whole Amount on any Note (including principal due on the Maturity Date of such Note) that is due on a date that is not a Business Day shall be made on the next succeeding Business Day and shall include the additional days elapsed in the computation of interest payable on such next succeeding Business Day.

SECTION 9. AFFIRMATIVE COVENANTS.

The Company covenants that so long as any of the Notes are outstanding:

Section 9.1. Compliance with Laws. Without limiting Section 10.4, the Company will, and will cause each other Issuer Party to, comply with all laws, ordinances or governmental rules or regulations to which each of them is subject (including, without limitation, ERISA, Environmental Laws, the USA PATRIOT Act and the other laws and regulations that are referred to in Section 5.16), and will obtain and maintain in effect all licenses, certificates, permits, franchises and other governmental authorizations necessary to the ownership of their respective properties or to the conduct of their respective businesses, in each case to the extent necessary to ensure that non-compliance with such laws, ordinances or governmental rules or regulations or failures to obtain or maintain in effect such licenses, certificates, permits, franchises and other governmental authorizations could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 9.2. Insurance. The Company will, and will cause each other Issuer Party to, maintain, with financially sound and reputable insurers, insurance with respect to their respective properties and businesses against such casualties and contingencies, of such types, on such terms and in such amounts (including deductibles, co-insurance and self-insurance, if adequate reserves are maintained with respect thereto) in accordance with prudent industry practice in all material respects.

Section 9.3. Maintenance of Properties. The Company will, and will cause each other Issuer Party to, maintain and keep, or cause to be maintained and kept, their respective properties in good repair, working order and condition (other than ordinary wear and tear), so that the business carried on in connection therewith may be properly conducted at all times, *provided* that this Section shall not prevent the Company or any Subsidiary from discontinuing the operation and the maintenance of any of its properties if such discontinuance is desirable in the conduct of its business and the Company has concluded that such discontinuance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 9.4. Payment of Taxes and Claims. The Company will, and will cause each other Issuer Party to, file all tax returns required to be filed in any jurisdiction and to pay and discharge all taxes shown to be due and payable on such returns and all other taxes, assessments, governmental charges, or levies imposed on them or any of their properties, assets, income or

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franchises, to the extent the same have become due and payable and before they have become delinquent and all claims for which sums have become due and payable that have or might become a Lien on properties or assets of the Company or any other Issuer Party; *provided* that neither the Company nor any other Issuer Party need file any such tax return or pay any such tax, assessment, charge, levy or claim if (i) the amount, applicability or validity thereof is contested by the Company or such Subsidiary on a timely basis in good faith and in appropriate proceedings, and the Company or a Subsidiary has established adequate reserves therefor in accordance with GAAP on the books of the Company or such Subsidiary or (ii) the non-filing of such tax return or nonpayment of all such taxes, assessments, charges, levies and claims could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 9.5. Corporate Existence, Etc. Subject to Section 10.2, the Company will at all times preserve and keep its corporate existence in full force and effect. Subject to Sections 10.2 and 10.7, the Company will at all times preserve and keep in full force and effect the corporate existence of each of its Significant Subsidiaries (unless merged into the Company or a Wholly-Owned Subsidiary) and all rights and franchises of the Company and its Subsidiaries unless, in the good faith judgment of the Company, the termination of or failure to preserve and keep in full force and effect such corporate existence, right or franchise could not, individually or in the aggregate, have a Material Adverse Effect.

Section 9.6. **Books and Records**. The Company will, and will cause each other Issuer Party to, maintain proper books of record and account in conformity, in all material respects, with GAAP and all applicable requirements of any Governmental Authority having legal or regulatory jurisdiction over the Company or such other Issuer Party, as the case may be. The Company will, and will cause each other Issuer Party to, keep books, records and accounts which, in reasonable detail, accurately reflect, in all material respects, all transactions and Dispositions of assets. The Company and its Subsidiaries have devised a system of internal accounting controls sufficient to provide reasonable assurances that their respective books, records, and accounts accurately reflect, in all material respects, all transactions and Dispositions of assets and the Company will, and will cause each of its Subsidiaries to, continue to maintain such system.

Section 9.7 **Subsidiary Guarantors.** (a) The Company will cause each of its Subsidiaries that guarantees or otherwise becomes liable at any time, whether as a borrower or an additional or co-borrower or otherwise, for or in respect of any Indebtedness under any Material Credit Facility to concurrently therewith:

(i) enter into an agreement in form and substance satisfactory to the Required Holders providing for the guaranty by such Subsidiary, on a joint and several basis with all other such Subsidiaries, of (x) the prompt payment in full when due of all amounts payable by the Company pursuant to the Notes (whether for principal, interest, Make-Whole Amount or otherwise), this Agreement and the other Finance Documents, including all indemnities, fees and expenses payable by the Company thereunder and (y) the prompt, full and faithful performance, observance and discharge by the Company of each and every covenant, agreement, undertaking and provision required pursuant to the

Notes, this Agreement and the other Finance Documents to be performed, observed or discharged by it (a **"Subsidiary Guaranty"**); and

(ii) deliver the following to each holder of a Note:

(A) an executed counterpart of such Subsidiary Guaranty;

(B) a certificate signed by an authorized responsible officer of such Subsidiary containing representations and warranties on behalf of such Subsidiary to the same effect, *mutatis mutandis*, as those contained in Sections 5.1, 5.2, 5.6 and 5.7 of this Agreement (but with respect to such Subsidiary and such Subsidiary Guaranty rather than the Company);

(C) all documents as may be reasonably requested by the Required Holders to evidence the due organization, continuing existence and good standing of such Subsidiary and the due authorization by all requisite action on the part of such Subsidiary of the execution and delivery of such Subsidiary Guaranty and the performance by such Subsidiary of its obligations thereunder; and

(D) an opinion of counsel reasonably satisfactory to the Required Holders covering such matters relating to such Subsidiary and such Subsidiary Guaranty as the Required Holders may reasonably request.

(b) At the election of the Company and by written notice to each holder of Notes, any Subsidiary Guarantor may be discharged from all of its obligations and liabilities under its Subsidiary Guaranty and shall be automatically released from its obligations thereunder without the need for the execution or delivery of any other document by the holders, *provided* that (i) if such Subsidiary Guarantor is a guarantor or is otherwise liable for or in respect of any Material Credit Facility, then such Subsidiary Guarantor has been released and discharged (or will be released and discharged concurrently with the release of such Subsidiary Guarantor under its Subsidiary Guaranty) under such Material Credit Facility, (ii) at the time of, and after giving effect to, such release and discharge, no Default or Event of Default shall be existing and the Company shall be in Pro Forma Compliance, (iii) no amount is then due and payable under such Subsidiary Guaranty, (iv) if in connection with such Subsidiary Guarantor being released and discharged under any Material Credit Facility, any fee or other form of consideration is given to any holder of Indebtedness under such Material Credit Facility for such release, the holders of the Notes shall receive equivalent consideration substantially concurrently therewith and (v) each holder shall have received a certificate of a Responsible Officer certifying as to the matters set forth in clauses (i) through (iv).

Section 9.8. **Ownership.** The Company shall own, at all times, 100% of the Capital Stock having voting rights of the Opco free and clear of all Liens (other than Permitted Liens).

Section 9.9. **Further Assurances.** At the expense of the Company, the Company shall promptly execute and deliver, or cause to be promptly executed and delivered, all further instruments and documents, and take and cause to be taken all further actions, that may be

reasonably necessary or that the Collateral Agent or the Required Holders may reasonably request, to enable the Collateral Agent and/or the holders, as applicable, to enforce the terms and provisions of the Finance Documents and to exercise their rights and remedies thereunder. In addition, the Company will use all reasonable efforts to duly obtain any Governmental Action required from time to time on or prior to such date as the same may become legally required, and thereafter to maintain all such Governmental Actions in full force and effect, except where such failure would not, individually or in the aggregate, result in, or would not reasonably be expected to have, a Material Adverse Effect.

Section 9.10. **Collateral.** (a) The Company hereby covenants and agrees that if at any time it or any Subsidiary grants a security interest and Lien in any property as security for the Company's obligations under a Material Credit Facility, it will, concurrently therewith, (i) grant to the holders of the Notes or the Collateral Agent, for the ratable benefit of the holders of the Notes and the other Secured Parties, a security interest in such property pursuant to the Security Documents, on a *pari passu* basis with the lenders under such Material Credit Facility and (ii) deliver appropriate corporate resolutions, other corporate documentation and legal opinions, all in form and substance reasonably satisfactory to the Required Holders and their counsel. The Company further agrees to deliver to the Collateral Agent (with a copy to each holder of the Notes) or directly to the holders of the Notes, as the case may be, all such Security Documents, together with appropriate corporate documentation, in each case in form and substance reasonably satisfactory to the Required Holders and their counsel, and in a manner that the Required Holders shall be satisfied that the holders have a first priority perfected security interest and Lien in such property. The Company shall ensure that at the time that it grants a security interest and Lien in any property as security for the Company's obligations under

a Material Credit Facility, such security interest and Lien is subject to the Intercreditor Agreement, the Intercreditor Agreement is in full force and effect and that the lenders under such Material Credit Facility are a party thereto.

(b) At the election of the Company and by written notice to each holder of Notes, the Company may release any Collateral from the Security Documents and such Collateral shall be automatically released from the Security Documents without the need for the execution or delivery of any other document by the holders, *provided* that (i) such Collateral has been released (or will be released concurrently with the release of the Collateral benefitting the holders of Notes) under each Material Credit Facility benefitting from such Collateral, (ii) at the time of, and after giving effect to, such release and discharge, no Default or Event of Default shall be existing and the Company shall be in Pro Forma Compliance, (iii) no amount is then due and payable under the Finance Documents, (iv) if in connection with such Collateral being released and discharged under any Material Credit Facility, any fee or other form of consideration is given to any holder of Indebtedness under such Material Credit Facility for such release, the holders of the Notes shall receive equivalent consideration substantially concurrently therewith and (v) each holder shall have received a certificate of a Responsible Officer certifying as to the matters set forth in clauses (i) through (iv). In connection with any proposed release of Collateral pursuant to this clause (b), subject to the foregoing conditions being satisfied, the holders agree to provide to the Collateral Agent all such signed consents, instruments and other documents reasonably requested by, and at the sole expense of, the Company.

SECTION 10. NEGATIVE COVENANTS.

The Company covenants that so long as any of the Notes are outstanding:

Section 10.1. Transactions with Affiliates. The Company will not and will not permit any other Issuer Party to enter into directly or indirectly any Material transaction or Material group of related transactions (including without limitation the purchase, lease, sale or exchange of properties of any kind or the rendering of any service) with any Affiliate (other than (i) transactions among the Issuer Parties, (ii) equity contributions and other investments made in the Company or its Subsidiaries, (iii) distributions permitted under Section 10.8, (iv) transactions pursuant to the reasonable requirements of the Company's or such other Issuer Party's business and upon fair and reasonable terms no less favorable to the Company or such other Issuer Party than would be obtainable in a comparable arm's-length transaction with a Person not an Affiliate and (v) transactions in existence at Closing and set forth on Schedule 10.1 and any replacements, extensions, amendments, renewals or other modifications thereto).

Section 10.2. Merger, Consolidation, Etc. The Company will not, and will not permit any other Issuer Party to, consolidate with or merge with any other Person or convey, transfer or lease all or substantially all of its assets in a single transaction or series of related transactions to any Person unless:

(a) in the case of any such transaction involving the Company, the successor formed by such consolidation or the survivor of such merger or the Person that acquires by conveyance, transfer or lease all or substantially all of the assets of the Company as an entirety, as the case may be, shall be a solvent corporation or limited liability company organized and existing under the laws of the United States or any State thereof (including the District of Columbia), and, if the Company is not such corporation or limited liability company, (i) such corporation or limited liability company shall have executed and delivered to each holder of any Notes, its assumption of the due and punctual performance and observance of each covenant and condition of this Agreement, the Notes and all other Finance Documents, (ii) such corporation or limited liability company shall have caused to be delivered to each holder of any Notes an opinion of nationally recognized independent counsel, or other independent counsel reasonably satisfactory to the Required Holders, to the effect that all agreements or instruments effecting such assumption are enforceable in accordance with their terms and comply with the terms hereof and (iii) the Collateral Agent shall continue to have a first priority perfected security interest in the Collateral, and all actions necessary in order to give effect thereto shall have been performed;

(b) in the case of any such transaction involving a Subsidiary Guarantor, the successor formed by such consolidation or the survivor of such merger or the Person that acquires by conveyance, transfer or lease all or substantially all of the assets of such Subsidiary Guarantor as an entirety, as the case may be, shall be (1) the Company, such Subsidiary Guarantor or another Subsidiary Guarantor, (2) a solvent corporation or limited liability company (other than the Company or another Subsidiary Guarantor) that is organized and existing under the laws of the United States or any State thereof

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(including the District of Columbia), and, if such Subsidiary Guarantor is not such corporation or limited liability company, (x) such corporation or limited liability company shall have executed and delivered to each holder of Notes its assumption of the due and punctual performance and observance of each covenant and condition of the Subsidiary Guaranty of such Subsidiary Guarantor and (y) the Company shall have caused to be delivered to each holder of Notes an opinion of nationally recognized independent counsel, or other independent counsel reasonably satisfactory to the Required Holders, to the effect that all agreements or instruments effecting such assumption are enforceable in accordance with their terms and comply with the terms hereof or (3) any other Person so long as the transaction is treated as a Disposition of all of the assets of such Subsidiary Guarantor for purposes of Section 10.7;

(c) in the case of any such transaction involving a Subsidiary (other than a Subsidiary Guarantor), the successor formed by such consolidation or the survivor of such merger or the Person that acquires by conveyance, transfer or lease all or substantially all of the assets of such Subsidiary as an entirety, as the case may be, shall be (i) such Subsidiary, the Company or any other Subsidiary or (ii) any other Person so long as the transaction is treated as a Disposition of all of the assets of such Subsidiary for purposes of Section 10.7;

(d) each Subsidiary Guarantor under any Subsidiary Guaranty that is outstanding at the time such transaction or each transaction in such a series of transactions occurs reaffirms its obligations under such Subsidiary Guaranty in writing at such time pursuant to documentation that is reasonably acceptable to the Required Holders; and

(e) immediately before and immediately after giving effect to such transaction or each transaction in any such series of transactions, no Default or Event of Default shall have occurred and be continuing and the Company shall be in Pro Forma Compliance as evidenced in an Officer's Certificate delivered to each holder of a Note at the time of such transaction.

No such conveyance, transfer or lease of substantially all of the assets of the Company or any Subsidiary Guarantor shall have the effect of releasing the Company or such Subsidiary Guarantor, as the case may be, or any successor corporation or limited liability company that shall theretofore have become such in the manner prescribed in this Section 10.2, from its liability under (x) this Agreement, the Notes or any other Finance Document (in the case of the Company) or (y) the applicable Subsidiary Guaranty (in the case of any Subsidiary Guarantor). To the extent that Section 8.3 would otherwise be applicable with respect to any transaction involving the Company, compliance by the Company with the provisions of this Section 10.2 shall not be deemed to excuse compliance with or otherwise prejudice Section 8.3.

Section 10.3. Line of Business. The Company will not and will not permit any other Issuer Party to engage in any business if, as a result, the general nature of the business in which the Issuer Parties, 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 as described in the Memorandum.

Section 10.4. Terrorism Sanctions Regulations. The Company will not and will not permit any Controlled Entity (a) to become (including by virtue of being owned or controlled by a Blocked Person), own or control a Blocked Person or any Person that is the target of sanctions imposed by the United Nations or by the European Union, or (b) directly or indirectly to have any investment in or engage in any dealing or transaction (including, without limitation, any investment, dealing or transaction involving the proceeds of the Notes) with any Person if such investment, dealing or transaction (i) would cause any holder to be in violation of any law or regulation applicable to such holder, or (ii) is prohibited by or subject to sanctions under any U.S. Economic Sanctions, or (c) to engage, nor shall any Affiliate of either engage, in any activity that could subject such Person or any holder to sanctions under CISADA or any similar law or regulation with respect to Iran or any other country that is subject to U.S. Economic Sanctions.

Section 10.5. Liens. The Company will not and will not permit any of its Subsidiaries to directly or indirectly create, incur, assume or permit to exist (upon the happening of a contingency or otherwise) any Lien on or with respect to any property or asset (including, without limitation, any document or instrument in respect of goods or accounts receivable) of the Company or any such Subsidiary, whether now owned or held or hereafter acquired, or any income or profits therefrom, or assign or otherwise convey any right to receive income or profits, except the following ("**Permitted Liens**"):

(a) Liens for taxes, assessments or governmental charges either (i) not required to be paid pursuant to Section 9.4 or (ii) otherwise not delinquent or being contested in good faith and by appropriate proceedings and for which adequate reserves in accordance with GAAP are maintained on such Person's books;

(b) Liens arising out of deposits in connection with workers' compensation, unemployment insurance, old age pensions or other social security or retirement benefits legislation (excluding, however, any Liens incurred in connection with Plans under ERISA);

(c) deposits or pledges to secure bids, tenders, contracts (other than contracts for the payment of money), leases, statutory obligations, surety and appeal bonds, and other obligations of like nature arising in the ordinary course of such Person's business;

(d) Liens imposed by law, such as mechanics', workers', materialmen's, carriers' or other like liens arising in the ordinary course of such Person's business which secure the payment of obligations which are not past due or which are being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP are maintained on such Person's books;

(e) rights of way, zoning restrictions, easements and similar encumbrances affecting such Person's real property which do not materially interfere with the use of such property;

(f) Liens in respect of Purchase Money Obligations and Capital Lease Obligations to the extent constituting Permitted Indebtedness; *provided*, that such Liens shall not extend to any property other than the property acquired in connection with which such obligation was created or assumed and fixed improvements, if any, erected or constructed thereon and the proceeds thereof; and *provided, further*, that the principal amount of such obligation secured by such Liens shall not exceed the lesser of the cost of acquisition, construction or improvement, as the case may be, or the fair market value of such property;

(g) any interest or title of a licensor, lessor or sublessor under any lease permitted by this Agreement;

(h) Liens arising from judgments, decrees or attachments to the extent not constituting an Event of Default under Section 11(i);

(i) licenses, leases or subleases granted to third parties in the ordinary course of business not interfering in any material respect with the business of the Company or any Subsidiary;

(j) Liens of sellers of goods, gas or oil to the Opco or any Subsidiary arising under Article 2 of the UCC or under other state statutes in the ordinary course of business, covering only the goods, gas or oil sold and covering only the unpaid purchase price for such goods, gas or oil and related expenses;

(k) banker's liens and similar liens (including rights of set-off) in respect of bank deposits in the ordinary course of business;

(l) Liens on the property or assets of any Subsidiary in favor of the Company or any other Subsidiary of the Company;

(m) Liens arising in the ordinary course of business to secure liability (in an amount not in excess of the premium for such insurance) for premiums to insurance carriers;

(n) any Lien existing on any property or asset prior to the acquisition thereof (or the acquisition of, or merger or consolidation with, the Person owning such property or asset) by the Company or any Subsidiary, and any Lien securing obligations incurred to refinance, replace, refund, renew or extend the obligations secured by such Liens, provided that in each case (i) such Lien is not created in contemplation or in connection with such acquisition, (ii) such Lien does not apply to any other property or assets of the Company or any Subsidiary (other than fixtures and improvements on any such real property), and (iii) the principal

amount of any Indebtedness secured by such Liens shall not be increased (except as permitted as Permitted Refinancing Indebtedness);

(o) all presently recorded restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances, and other instruments, other than liens and conveyances that affect the property;

(p) any other matters which may be disclosed by a current and accurate survey of the assets and properties of the Company or any Subsidiary and which do not materially and adversely affect the ability of the Company and its Subsidiaries taken as a whole, directly or indirectly, to conduct the business as presently conducted;

(q) the Liens granted to the Collateral Agent pursuant to the Pledge and Security Agreement for the benefit of the Secured Parties on a *pari passu* basis pursuant to the terms of the Intercreditor Agreement; and

(r) other Liens (other than on the Collateral) securing Indebtedness of the Company or any Subsidiary not otherwise permitted by clauses (a) through (q) above, *provided* that upon the incurrence thereof and immediately after giving effect thereto, the aggregate principal amount of Indebtedness secured by Liens pursuant to this Section 10.5(r) shall not exceed an amount equal to 10% of Consolidated Net Tangible Assets at such time, and *provided, further*, that notwithstanding the foregoing, the Company shall not, and shall not permit any of its Subsidiaries to, secure pursuant to this Section 10.5(r) any Indebtedness outstanding under or pursuant to any Material Credit Facility unless and until the Notes (and any guaranty delivered in connection therewith) shall concurrently be secured equally and ratably with such Indebtedness pursuant to substantially similar security documentation and an intercreditor agreement reasonably acceptable to the Required Holders in substance and in form, and opinions of counsel to the Company and/or any such Subsidiary, as the case may be, from counsel that is reasonably acceptable to the Required Holders.

Section 10.6. Indebtedness. The Company will not and will not permit any of its Subsidiaries to directly or indirectly create or permit to exist (upon the happening of a contingency or otherwise), any Indebtedness except the following (**"Permitted Indebtedness"**):

(a) Indebtedness under this Agreement and the Notes;

(b) Indebtedness of the Company under the Loan Documents and any lending commitments in effect thereunder, in each case outstanding on the date of Closing, and any Permitted Refinancing Indebtedness incurred to refinance, renew, replace, defease or refund such Indebtedness;

(c) Indebtedness of the Opco under the Opco Senior Notes and the Opco Senior Note Indenture outstanding on the date of Closing, and any Permitted Refinancing

Indebtedness incurred to refinance, renew, replace, defease or refund such Indebtedness;

(d) Indebtedness of the Opco under the Opco Credit Agreements and any lending commitments in effect thereunder, in each case outstanding on the date of Closing, and any Permitted Refinancing Indebtedness incurred to refinance, renew, replace, defease or refund such Indebtedness;

(e) Indebtedness of the Company and any Subsidiary under Hedging Obligations, which in the case of an interest rate hedge shall cover a notional amount not to exceed the face amount of outstanding Indebtedness of the Company or such Subsidiary, as the case may be;

(f) additional Indebtedness of the Company and its Subsidiaries so long as before and immediately after the incurrence of such Indebtedness, the Company is in Pro Forma Compliance with Section 10.9;

(g) Indebtedness owed to any financial institution in respect of overdrafts and related liabilities arising from ordinary course treasury, depository or cash management services or in connection with any automated clearing house transfers of funds; provided that such Indebtedness is promptly covered by the Company or a Subsidiary;

(h) Indebtedness arising from intercompany loans (i) from any Subsidiary of the Company to the Company, or (ii) from any Subsidiary of the Company to any other Subsidiary of the Company; *provided, however*, that in the case of any intercompany loans pursuant to clause (i) above, such Indebtedness is subordinated to the obligations hereunder and under the Notes pursuant to an agreement that is reasonably satisfactory to the Required Holders;

(i) endorsements of instruments in the ordinary course of business and consistent with past practices of the Company and its Subsidiaries;

(j) Indebtedness of the Company and any Subsidiary arising in the ordinary course of business (and consistent with past practice of the Company and its Subsidiaries) and owing to a financial institution providing netting services to such Person not related to borrowing of funds, provided that such Indebtedness is promptly repaid or otherwise extinguished by such Person;

(k) Indebtedness of the Company and any Subsidiary consisting of take-or-pay obligations contained in supply agreements entered into in the ordinary course of business of the Company and its Subsidiaries; and

(l) Indebtedness of the Company and any Subsidiary represented by appeal, bid, performance, surety or similar bonds, workers' compensation claims, self-insurance obligations and bankers acceptances issued for the account of the

Company and its Subsidiaries, in each case to the extent incurred in the ordinary course of business.

Section 10.7. Disposition of Assets. Except as permitted under Section 10.2, the Company will not, nor will it permit any of its Subsidiaries to, sell, lease, transfer or otherwise dispose of (including, with respect to non-cash assets, by way of a dividend or capital contribution) (collectively a **"Disposition"**) any of its properties or assets unless:

(a) in the good faith opinion of the Company, the Disposition is in exchange for consideration having a fair value substantially equivalent to or better than that of the property exchanged and is in the reasonable best interest of the Company and its Subsidiaries, taken as a whole;

(b) immediately before and after giving effect to the Disposition, no Default or Event of Default would exist and the Company is in Pro Forma Compliance; and

(c) immediately after giving effect to the Disposition, the aggregate book value of all the property that was the subject of any Disposition occurring in the then-current fiscal year of the Company would not exceed 10% of the Consolidated Net Tangible Assets as of the end of the then most recently ended fiscal year of the Company.

Notwithstanding the foregoing, the following Dispositions shall not be taken into account under this Section 10.7:

(i) any Disposition of inventory, equipment, fixtures, supplies or materials made in the ordinary course of business;

(ii) any Disposition of assets determined by the Company to be obsolete, redundant or otherwise no longer used or useful for the purpose of the Company's or Subsidiary's business or operations;

(iii) Dispositions of cash equivalents or Hedging Obligations in the ordinary course of business;

(iv) distributions and dividends permitted under Section 10.8;

(v) any Disposition by (A) a Subsidiary to the Company or to another Subsidiary or (B) by the Company to a Subsidiary Guarantor;

(vi) issuances of Capital Stock or other equity interests by (A) the Company to any Person or (B) by a Subsidiary to another Subsidiary or the Company;

(vii) a Qualified IPO;

(viii) the creation or perfection of any Permitted Lien; and

(ix) any Disposition for fair value the Net Available Amount of which is applied within 365 days of the date of such Disposition to (A) the permanent repayment of senior Indebtedness of the Company or any Subsidiary, other than Indebtedness between or among the Company and its Subsidiaries or Affiliates or (B) the acquisition of fixed assets to be used in the ordinary course of business of the Company or any Subsidiary; *provided* that in connection with any such repayment of senior Indebtedness, the Company shall offer to apply a pro rata amount of the Net Available Amount to the prepayment of the Notes, pro rata with all other such Indebtedness then being repaid, in accordance with Section 8.4.

Section 10.8. Distributions. The Company will not, and will not permit any Subsidiary to, pay any dividends on or make any other distributions in respect of any Capital Stock or redeem or otherwise acquire any such Capital Stock without in each instance obtaining the prior written consent of the Required Holders; *provided*, that (i) any Subsidiary of the Company may pay regularly scheduled dividends or make other distributions to the Company; and (ii) if no Default or Event of Default exists or would result therefrom and the Company is in Pro Forma Compliance, the Company may pay distributions or dividends in either cash or Capital Stock or may redeem or otherwise acquire Capital Stock.

Section 10.9. Financial Covenants.

(a) *Indebtedness to Capitalization*. The Company will maintain at the end of each fiscal quarter a ratio of Consolidated Total Indebtedness to Consolidated Total Capitalization of not more than 0.75 to 1.0.

(b) *Interest Coverage Ratio*. The Company will maintain at the end of each fiscal quarter, commencing with the fiscal quarter ended December 31, 2014, an Interest Coverage Ratio of not less than 2.00 to 1.00 (the **"ICR Test"**).

If at any time the ICR Test is modified to be more or less restrictive in the Credit Agreement than as set forth in this Agreement, then in each such case, the ICR Test shall be deemed to be so modified; *provided* that in no event shall the ratio in the ICR Test be less than 1.50 to 1.00; *provided further* that with respect to any such provision for making it less restrictive, no Default or Event of Default shall have occurred and be continuing at such time (any such modification being referred to herein as an **"ICR Test Modification"**).

Upon the request of the Company or the Required Holders, the Company and the holders of the Notes shall enter into an additional agreement or an amendment to this Agreement evidencing any ICR Test Modification.

Section 11. **Events of Default**.

An **“Event of Default”** shall exist if any of the following conditions or events shall occur and be continuing:

(a) the Company defaults in the payment of any principal or Make-Whole Amount, if any, on any Note when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise; or

(b) the Company defaults in the payment of any interest on any Note for more than five Business Days after the same becomes due and payable; or

(c) the Company defaults in the performance of or compliance with any term contained in Section 7.1(d), Section 9.5, Section 9.8, Section 9.10 or Section 10; or

(d) the Company or any Subsidiary Guarantor defaults in the performance of or compliance with any term contained herein (other than those referred to in Sections 11(a), (b) and (c)) or in any other Finance Document to which they are a party and such default is not remedied within 30 days after the earlier of (i) a Responsible Officer obtaining actual knowledge of such default and (ii) the Company receiving written notice of such default from any holder of a Note (any such written notice to be identified as a “notice of default” and to refer specifically to this Section 11(d)); or

(e) (i) any representation or warranty made in writing by or on behalf of the Company or by any officer of the Company in this Agreement or in any other Finance Document or in any writing furnished in connection with the transactions contemplated hereby proves to have been false or incorrect in any material respect on the date as of which made, or (ii) any representation or warranty made in writing by or on behalf of any Subsidiary Guarantor or by any officer of such Subsidiary Guarantor in any Subsidiary Guaranty or any writing furnished in connection with such Subsidiary Guaranty proves to have been false or incorrect in any material respect on the date as of which made; or

(f) (i) the Company or any Significant Subsidiary is in default (as principal or as guarantor or other surety) in the payment of any principal of or premium or make-whole amount or interest on any Indebtedness (other than the Notes) that is outstanding in an aggregate principal amount greater than the Materiality Threshold beyond any period of grace provided with respect thereto and after giving effect to all applicable cure periods and unless waived by the applicable lender or counterparty , or (ii) the Company or any Significant Subsidiary is in default in the performance of or compliance with any term of any evidence of any Indebtedness in an aggregate outstanding principal amount greater than the Materiality Threshold or of any mortgage, indenture or other agreement relating thereto or any other condition exists, and as a consequence of such default or condition such Indebtedness has become, or has been declared (or one or more Persons are entitled to declare such Indebtedness to be), due and payable before its stated maturity or before its regularly scheduled dates of payment (excluding from this clause (ii) any event or condition which is a Change of Control, in which event the terms and provisions of Section 8.3 shall govern); or

(g) the Company or any Significant Subsidiary (i) is generally not paying, or admits in writing its inability to pay, its debts as they become due, (ii) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or

arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy, insolvency, reorganization, moratorium or other similar law of any jurisdiction, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, (v) is adjudicated as insolvent or to be liquidated, or (vi) takes corporate action for the purpose of any of the foregoing; or

(h) a court or other Governmental Authority of competent jurisdiction enters an order appointing, without consent by the Company or any of its Significant Subsidiaries, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Company or any of its Significant Subsidiaries, or any such petition shall be filed against the Company or any of its Significant Subsidiaries and such petition shall not be dismissed within 45 days; or

(i) one or more final judgments or orders for the payment of money aggregating in excess of the Materiality Threshold (to the extent not covered by insurance), including, without limitation, any such final order enforcing a binding arbitration decision, are rendered against one or more of the Company and its Significant Subsidiaries and which judgments are not, within 10 days after entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within 60 days after the expiration of such stay; or

(j) if (i) any Plan shall fail to satisfy the minimum funding standards of ERISA or the Code for any plan year or part thereof or a waiver of such standards or extension of any amortization period is sought or granted under section 412 of the Code, (ii) a notice of intent to terminate any Plan shall have been or is reasonably expected to be filed with the PBGC or the PBGC shall have instituted proceedings under ERISA section 4042 to terminate or appoint a trustee to administer any Plan or the PBGC shall have notified the Company or any ERISA Affiliate that a Plan may become a subject of any such proceedings, (iii) the aggregate “amount of unfunded benefit liabilities” (within the meaning of section 4001(a)(18) of ERISA) under all Plans, determined in accordance with Title IV of ERISA, shall exceed an amount that could reasonably be expected to have a Material Adverse Effect, (iv) the Company or any ERISA Affiliate shall have incurred or is reasonably expected to incur any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans, (v) the Company or any ERISA Affiliate withdraws from any Multiemployer Plan, or (vi) the Company or any Subsidiary establishes or amends any employee welfare benefit plan that provides post-employment welfare benefits in a manner that would increase the liability of the Company or any Subsidiary thereunder; and any such event or events described in clauses (i) through (vi) above, either individually or together with any other such event or events, could reasonably be expected to have a Material Adverse

Effect. As used in this Section 11(j), the terms **"employee benefit plan"** and **"employee welfare benefit plan"** shall have the respective meanings assigned to such terms in section 3 of ERISA; or

(k) any Subsidiary Guaranty shall cease to be in full force and effect, any Subsidiary Guarantor or any Person acting on behalf of any Subsidiary Guarantor shall contest in any manner the validity, binding nature or enforceability of any Subsidiary Guaranty, or the obligations of any Subsidiary Guarantor under any Subsidiary Guaranty are not or cease to be legal, valid, binding and enforceable in accordance with the terms of such Subsidiary Guaranty; or

(l) any of the provisions of the Security Documents shall cease, for any reason other than the termination of this Agreement and the Notes and all obligations hereunder and thereunder, to be in full force and effect, or the Company shall so assert, or any Lien created by the Pledge and Security Agreement shall cease to be enforceable or (except as expressly set forth therein or as a result of the actions by the Collateral Agent) perfected as to any property of the Company having an aggregate value exceeding $5,000,000.

SECTION 12. REMEDIES ON DEFAULT, ETC.

Section 12.1. Acceleration. (a) If an Event of Default with respect to the Company described in Section 11(g) or (h) (other than an Event of Default described in clause (i) of Section 11(g) or described in clause (vi) of Section 11(g) by virtue of the fact that such clause encompasses clause (i) of Section 11(g)) has occurred, all the Notes then outstanding shall automatically become immediately due and payable.

(b) If any other Event of Default has occurred and is continuing, the Required Holders may at any time at its or their option, by notice or notices to the Company, declare all the Notes then outstanding to be immediately due and payable.

(c) If any Event of Default described in Section 11(a) or (b) has occurred and is continuing, any holder or holders of Notes at the time outstanding affected by such Event of Default may at any time, at its or their option, by notice or notices to the Company, declare all the Notes held by it or them to be immediately due and payable.

Upon any Notes becoming due and payable under this Section 12.1, whether automatically or by declaration, such Notes will forthwith mature and the entire unpaid principal amount of such Notes, plus (x) all accrued and unpaid interest thereon (including, but not limited to, interest accrued thereon at the Default Rate) and (y) the Make-Whole Amount determined in respect of such principal amount (to the full extent permitted by applicable law), shall all be immediately due and payable, in each and every case without presentment, demand, protest or further notice, all of which are hereby waived. The Company acknowledges, and the parties hereto agree, that each holder of a Note has the right to maintain its investment in the Notes free from repayment by the Company (except as herein specifically provided for) and that the provision for payment of a Make-Whole Amount by the Company, in the event that the Notes

are prepaid or are accelerated as a result of an Event of Default, is intended to provide compensation for the deprivation of such right under such circumstances.

Section 12.2. Other Remedies. If any Default or Event of Default has occurred and is continuing, and irrespective of whether any Notes have become or have been declared immediately due and payable under Section 12.1, the holder of any Note at the time outstanding may proceed to protect and enforce the rights of such holder by an action at law, suit in equity or other appropriate proceeding, whether for the specific performance of any agreement contained herein or in any Note or Subsidiary Guaranty, or for an injunction against a violation of any of the terms hereof or thereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise.

Section 12.3. Rescission. At any time after any Notes have been declared due and payable pursuant to Section 12.1(b) or (c), the Required Holders, by written notice to the Company, may rescind and annul any such declaration and its consequences if (a) the Company has paid all overdue interest on the Notes, all principal of and Make-Whole Amount, if any, on any Notes that are due and payable and are unpaid other than by reason of such declaration, and all interest on such overdue principal and Make-Whole Amount, if any, and (to the extent permitted by applicable law) any overdue interest in respect of the Notes, at the Default Rate, (b) neither the Company nor any other Person shall have paid any amounts which have become due solely by reason of such declaration, (c) all Events of Default and Defaults, other than non-payment of amounts that have become due solely by reason of such declaration, have been cured or have been waived pursuant to Section 17, and (d) no judgment or decree has been entered for the payment of any monies due pursuant hereto or to the Notes. No rescission and annulment under this Section 12.3 will extend to or affect any subsequent Event of Default or Default or impair any right consequent thereon.

Section 12.4. No Waivers or Election of Remedies, Expenses, Etc. No course of dealing and no delay on the part of any holder of any Note in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice such holder's rights, powers or remedies. No right, power or remedy conferred by this Agreement, any Subsidiary Guaranty or any Note upon any holder thereof shall be exclusive of any other right, power or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise. Without limiting the obligations of the Company under Section 15, the Company will pay to the holder of each Note on demand such further amount as shall be sufficient to cover all costs and expenses of such holder incurred in any enforcement or collection under this Section 12, including, without limitation, reasonable attorneys' fees, expenses and disbursements.

SECTION 13. REGISTRATION; EXCHANGE; SUBSTITUTION OF NOTES.

Section 13.1. Registration of Notes. The Company shall keep at its principal executive office a register for the registration and registration of transfers of Notes. The name and address of each holder of one or more Notes, each transfer thereof and the name and address of each transferee of one or more Notes shall be registered in such register. If any holder of one or more Notes is a nominee, then (a) the name and address of the beneficial owner of such Note or Notes shall also be registered in such register as an owner and holder thereof and (b) at any such

beneficial owner's option, either such beneficial owner or its nominee may execute any amendment, waiver or consent pursuant to this Agreement. Prior to due presentment for registration of transfer, the Person(s) in whose name any Note(s) shall be registered shall be deemed and treated as the owner and holder thereof for all purposes hereof, and the Company shall not be affected by any notice or knowledge to the contrary. The Company shall give to any holder of a Note that is an Institutional Investor, promptly upon request therefor, a complete and correct copy of the names and addresses of all registered holders of Notes.

Section 13.2. Transfer and Exchange of Notes. Upon surrender of any Note to the Company at the address and to the attention of the designated officer (all as specified in Section 18(iii)), for registration of transfer or exchange (and in the case of a surrender for registration of transfer accompanied by a written instrument of transfer duly executed by the registered holder of such Note or such holder's attorney duly authorized in writing and accompanied by the relevant name, address and other information for notices of each transferee of such Note or part thereof), within ten Business Days thereafter, the Company shall execute and deliver, at the Company's expense (except as provided below), one or more new Notes (as requested by the holder thereof) in exchange therefor, in an aggregate principal amount equal to the unpaid principal amount of the surrendered Note. Each such new Note shall be payable to such Person as such holder may request and shall be substantially in the form of Schedule 1. Each such new Note shall be dated and bear interest from the date to which interest shall have been paid on the surrendered Note or dated the date of the surrendered Note if no interest shall have been paid thereon. The Company may require payment of a sum sufficient to cover any stamp tax or governmental charge imposed in respect of any such transfer of Notes. Notes shall not be transferred in denominations of less than $100,000, provided that if necessary to enable the registration of transfer by a holder of its entire holding of Notes, one Note may be in a denomination of less than $100,000. Any transferee, by its acceptance of a Note registered in its name (or the name of its nominee), shall be deemed to have made the representations, warranties and acknowledgments set forth in Section 6.

Section 13.3. Replacement of Notes. Upon receipt by the Company at the address and to the attention of the designated officer (all as specified in Section 18(iii)) of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of any Note (which evidence shall be, in the case of an Institutional Investor, notice from such Institutional Investor of such ownership and such loss, theft, destruction or mutilation), and

(a) in the case of loss, theft or destruction, of indemnity reasonably satisfactory to it (provided that if the holder of such Note is, or is a nominee for, an original Purchaser or another holder of a Note with a minimum net worth of at least $50,000,000 or a Qualified Institutional Buyer, such Person's own unsecured agreement of indemnity shall be deemed to be satisfactory), or

(b) in the case of mutilation, upon surrender and cancellation thereof,

within ten Business Days thereafter, the Company at its own expense shall execute and deliver, in lieu thereof, a new Note, dated and bearing interest from the date to which interest shall have

been paid on such lost, stolen, destroyed or mutilated Note or dated the date of such lost, stolen, destroyed or mutilated Note if no interest shall have been paid thereon.

SECTION 14. PAYMENTS ON NOTES.

Section 14.1. Place of Payment. Subject to Section 14.2, payments of principal, Make-Whole Amount, if any, and interest becoming due and payable on the Notes shall be made in New York, New York at the principal office of Wells Fargo Bank NA in such jurisdiction. The Company may at any time, by notice to each holder of a Note, change the place of payment of the Notes so long as such place of payment shall be either the principal office of the Company in such jurisdiction or the principal office of a bank or trust company in such jurisdiction.

Section 14.2. Home Office Payment. So long as any Purchaser or its nominee shall be the holder of any Note, and notwithstanding anything contained in Section 14.1 or in such Note to the contrary, the Company will pay all sums becoming due on such Note for principal, Make-Whole Amount, if any, interest and all other amounts becoming due hereunder by the method and at the address specified for such purpose below such Purchaser's name in Schedule B, or by such other method or at such other address as such Purchaser shall have from time to time specified to the Company in writing for such purpose, without the presentation or surrender of such Note or the making of any notation thereon, except that upon written request of the Company made concurrently with or reasonably promptly after payment or prepayment in full of any Note, such Purchaser shall surrender such Note for cancellation, reasonably promptly after any such request, to the Company at its principal executive office or at the place of payment most recently designated by the Company pursuant to Section 14.1. Prior to any sale or other disposition of any Note held by a Purchaser or its nominee, such Purchaser will, at its election, either endorse thereon the amount of principal paid thereon and the last date to which interest has been paid thereon or surrender such Note to the Company in exchange for a new Note or Notes pursuant to Section 13.2. The Company will afford the benefits of this Section 14.2 to any Institutional Investor that is the direct or indirect transferee of any Note purchased by a Purchaser under this Agreement and that has made the same agreement relating to such Note as the Purchasers have made in this Section 14.2.

SECTION 15. EXPENSES, ETC.

Section 15.1. Transaction Expenses. Whether or not the transactions contemplated hereby are consummated, the Company will pay all costs and expenses (including reasonable attorneys' fees of a special counsel for all of the holders of the Notes and, if reasonably required by the Required Holders, a local or other counsel for all of the holders of the Notes) incurred by the Purchasers and each other holder of a Note in connection with such transactions and in connection with any amendments, waivers or consents under or in respect of this Agreement, the Notes or any other Finance Document (whether or not such amendment, waiver or consent becomes effective), including, without limitation: (a) the costs and expenses incurred in enforcing or defending (or determining whether or how to enforce or defend) any rights under this Agreement, the Notes or any other Finance Document or in responding to any subpoena or other legal process or informal investigative demand issued in connection with this Agreement, the Notes or any other Finance Document, or by reason of being a holder of any Note, (b) the

costs and expenses, including financial advisor's fees of one financial advisor acting for all of the holders of the Notes, incurred in connection with the insolvency or bankruptcy of the Company or any Subsidiary or in connection with any work-out or restructuring of the transactions contemplated hereby, by the Notes and by any other Finance Document and (c) the costs and expenses incurred in connection with the initial filing of this Agreement and all related documents and financial information with the SVO *provided*, that such costs and expenses under this clause (c) shall not exceed $3,500. The Company will pay, and will save each Purchaser and each other holder of a Note harmless from, (i) all claims in respect of any fees, costs or expenses, if any, of brokers and finders (other than those, if any, retained by a Purchaser or other holder in connection with its purchase of the Notes) and (ii) any and all wire transfer fees that any bank deducts from any payment under such Note to such holder or otherwise charges to a holder of a Note with respect to a payment under such Note.

Section 15.2. Survival. The obligations of the Company under this Section 15 will survive the payment or transfer of any Note, the enforcement, amendment or waiver of any provision of this Agreement, the Notes or any other Finance Document, and the termination of this Agreement.

SECTION 16. SURVIVAL OF REPRESENTATIONS AND WARRANTIES; ENTIRE AGREEMENT.

All representations and warranties contained herein shall survive the execution and delivery of this Agreement, the Notes and the other Finance Documents, the purchase or transfer by any Purchaser of any Note or portion thereof or interest therein and the payment of any Note, and may be relied upon by any subsequent holder of a Note, regardless of any investigation made at any time by or on behalf of such Purchaser or any other holder of a Note. All statements contained in any certificate or other instrument delivered by or on behalf of the Company pursuant to this Agreement shall be deemed representations and warranties of the Company under this Agreement. Subject to the preceding sentence, this Agreement, the Notes and the other Finance Documents embody the entire agreement and understanding between each Purchaser and the Company and supersede all prior agreements and understandings relating to the subject matter hereof.

SECTION 17. AMENDMENT AND WAIVER.

Section 17.1. Requirements. This Agreement and the Notes may be amended, and the observance of any term hereof or of the Notes may be waived (either retroactively or prospectively), only with the written consent of the Company and the Required Holders, except that:

(a) no amendment or waiver of any of Sections 1, 2, 3, 4, 5, 6 or 21 hereof, or any defined term (as it is used therein), will be effective as to any Purchaser unless consented to by such Purchaser in writing; and

(b) no amendment or waiver may, without the written consent of each Purchaser and the holder of each Note at the time outstanding, (i) subject to Section 12 relating to acceleration or rescission, change the amount or time of any prepayment or payment of principal of, or reduce

the rate or change the time of payment or method of computation of (x) interest on the Notes or (y) the Make-Whole Amount, (ii) change the percentage of the principal amount of the Notes the holders of which are required to consent to any amendment or waiver, or (iii) amend any of Sections 8 **(**except as set forth in the second sentence of Section 8.2), 11(a), 11(b), 12, 17 or 20.

Section 17.2. Solicitation of Holders of Notes.

(a) *Solicitation.* The Company will provide each Purchaser and each holder of a Note with sufficient information, sufficiently far in advance of the date a decision is required, to enable such Purchaser and such holder to make an informed and considered decision with respect to any proposed amendment, waiver or consent in respect of any of the provisions hereof or of the Notes or any other Finance Document. The Company will deliver executed or true and correct copies of each amendment, waiver or consent effected pursuant to this Section 17 or any other Finance Document to each Purchaser and each holder of a Note promptly following the date on which it is executed and delivered by, or receives the consent or approval of, the requisite holders of Notes.

(b) *Payment.* The Company will not directly or indirectly pay or cause to be paid any remuneration, whether by way of supplemental or additional interest, fee or otherwise, or grant any security or provide other credit support, to any Purchaser or any holder of a Note as consideration for or as an inducement to the entering into by such Purchaser or such holder of any waiver or amendment of any of the terms and provisions hereof or of any Note or any other Finance Document unless such remuneration is concurrently paid, or security is concurrently granted or other credit support concurrently provided, on the same terms, ratably to each holder of a Note even if such holder did not consent to such waiver or amendment.

(c) *Consent in Contemplation of Transfer*. Any consent given pursuant to this Section 17 or any Finance Document by a holder of a Note that has transferred or has agreed to transfer its Note to the Company, any Subsidiary or any Affiliate of the Company in connection with such consent shall be void and of no force or effect except solely as to such holder, and any amendments effected or waivers granted or to be effected or granted that would not have been or would not be so effected or granted but for such consent (and the consents of all other holders of Notes that were acquired under the same or similar conditions) shall be void and of no force or effect except solely as to such holder.

Section 17.3. Binding Effect, etc. Any amendment or waiver consented to as provided in this Section 17 or any other Finance Document applies equally to all holders of Notes and is binding upon them and upon each future holder of any Note and upon the Company without regard to whether such Note has been marked to indicate such amendment or waiver. No such amendment or waiver will extend to or affect any obligation, covenant, agreement, Default or Event of Default not expressly amended or waived or impair any right consequent thereon. No course of dealing between the Company and any holder of a Note and no delay in exercising any rights hereunder or under any Note or under any other Finance Document shall operate as a waiver of any rights of any holder of such Note.

Section 17.4. Notes Held by Company, etc. Solely for the purpose of determining whether the holders of the requisite percentage of the aggregate principal amount of Notes then outstanding approved or consented to any amendment, waiver or consent to be given under this Agreement, the Notes or any other Finance Document, or have directed the taking of any action provided herein, in the Notes or in any other Finance Document to be taken upon the direction of the holders of a specified percentage of the aggregate principal amount of Notes then outstanding, Notes directly or indirectly owned by the Company or any of its Affiliates shall be deemed not to be outstanding.

SECTION 18. NOTICES.

Except to the extent otherwise provided in Section 7.4, all notices and communications provided for hereunder shall be in writing and sent (a) by telecopy if the sender on the same day sends a confirming copy of such notice by an internationally recognized overnight delivery service (charges prepaid), or (b) by registered or certified mail with return receipt requested (postage prepaid), or (c) by an internationally recognized overnight delivery service (with charges prepaid). Any such notice must be sent:

(i) if to any Purchaser or its nominee, to such Purchaser or nominee at the address specified for such communications in Schedule B, or at such other address as such Purchaser or nominee shall have specified to the Company in writing,

(ii) if to any other holder of any Note, to such holder at such address as such other holder shall have specified to the Company in writing, or

(iii) if to the Company, to the Company at the following address, or at such other address as the Company shall have specified to the holder of each Note in writing:

SourceGas Holdings LLC
c/o SourceGas, Inc.
600 12th Street, Suite 300
Golden, CO 80401
Attention of: General Counsel
Facsimile No.: 303-243-3608

With copies to:

SourceGas Holdings LLC
c/o SourceGas, Inc.
600 12th Street, Suite 300
Golden, CO 80401
Attention of: Treasury
Facsimile No.: 303-243-3603

GE Energy Financial Services, Inc.
120 Long Ridge Road

Stamford, CT 06927
Attention: General Counsel
Facsimile No.: 203-357-6632

GE Energy Financial Services, Inc.
120 Long Ridge Road
Stamford, CT 06927
Attention: Manager Portfolio
Facsimile No.: 203-357-4890 - SourceGas

Alinda Investments LLC
c/o Alinda Capital Partners LLC
100 West Putnam
Greenwich, CT 06830
Attention: General Counsel
Facsimile No.: 203-724-1544

Vinson & Elkins LLP
606 Fifth Avenue, 26th Floor
New York, NY 10103-0040
Attention of: Karen A. Smith
Telephone No.: 212-237-0100
Facsimile No.: 917-849-5302
Email: ksmith@velaw.com

Notices under this Section 18 will be deemed given only when actually received.

SECTION 19. REPRODUCTION OF DOCUMENTS.

This Agreement and all documents relating thereto, including, without limitation, (a) consents, waivers and modifications that may hereafter be executed, (b) documents received by any Purchaser at the Closing (except the Notes themselves), and (c) financial statements, certificates and other

information previously or hereafter furnished to any Purchaser, may be reproduced by such Purchaser by any photographic, photostatic, electronic, digital, or other similar process and such Purchaser may destroy any original document so reproduced. The Company agrees and stipulates that, to the extent permitted by applicable law, any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by such Purchaser in the regular course of business) and any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence. This Section 19 shall not prohibit the Company or any other holder of Notes from contesting any such reproduction to the same extent that it could contest the original, or from introducing evidence to demonstrate the inaccuracy of any such reproduction.

SECTION 20. CONFIDENTIAL INFORMATION.

For the purposes of this Section 20, **"Confidential Information"** means information delivered to any Purchaser by or on behalf of the Company or any Subsidiary in connection with the transactions contemplated by or otherwise pursuant to this Agreement that is proprietary in nature and that was clearly marked or labeled or otherwise adequately identified when received by such Purchaser as being confidential information of the Company or such Subsidiary, provided that such term does not include information that (a) was publicly known or otherwise known to such Purchaser prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by such Purchaser or any Person acting on such Purchaser's behalf, (c) otherwise becomes known to such Purchaser other than through disclosure by the Company or any Subsidiary or (d) constitutes financial statements delivered to such Purchaser under Section 7.1 that are otherwise publicly available. Each Purchaser will maintain the confidentiality of such Confidential Information in accordance with procedures adopted by such Purchaser in good faith to protect confidential information of third parties delivered to such Purchaser, provided that such Purchaser may deliver or disclose Confidential Information to (i) its directors, officers, employees, agents, attorneys, trustees and affiliates (to the extent such disclosure reasonably relates to the administration of the investment represented by its Notes), (ii) its auditors, financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with this Section 20, (iii) any other holder of any Note, (iv) any Institutional Investor to which it sells or offers to sell such Note or any part thereof or any participation therein (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by this Section 20), (v) any Person from which it offers to purchase any Security of the Company (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by this Section 20), (vi) any federal or state regulatory authority having jurisdiction over such Purchaser, (vii) the NAIC or the SVO or, in each case, any similar organization, or any nationally recognized rating agency that requires access to information about such Purchaser's investment portfolio, or (viii) any other Person to which such delivery or disclosure may be necessary or appropriate (w) to effect compliance with any law, rule, regulation or order applicable to such Purchaser, (x) in response to any subpoena or other legal process, (y) in connection with any litigation to which such Purchaser is a party or (z) if an Event of Default has occurred and is continuing, to the extent such Purchaser may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under such Purchaser's Notes, this Agreement or any Subsidiary Guaranty. Each holder of a Note, by its acceptance of a Note, will be deemed to have agreed to be bound by and to be entitled to the benefits of this Section 20 as though it were a party to this Agreement. On reasonable request by the Company in connection with the delivery to any holder of a Note of information required to be delivered to such holder under this Agreement or requested by such holder (other than a holder that is a party to this Agreement or its nominee), such holder will enter into an agreement with the Company embodying this Section 20.

In the event that as a condition to receiving access to information relating to the Company or its Subsidiaries in connection with the transactions contemplated by or otherwise pursuant to this Agreement, any Purchaser or holder of a Note is required to agree to a confidentiality undertaking (whether through SyndTrak, another secure website, a secure virtual

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workspace or otherwise) which is different from this Section 20, this Section 20 shall not be amended thereby and, as between such Purchaser or such holder and the Company, this Section 20 shall supersede any such other confidentiality undertaking.

SECTION 21. SUBSTITUTION OF PURCHASER.

Each Purchaser shall have the right to substitute any one of its Affiliates or another Purchaser or any one of such other Purchaser's Affiliates (a **"Substitute Purchaser"**) as the purchaser of the Notes that it has agreed to purchase hereunder, by written notice to the Company, which notice shall be signed by both such Purchaser and such Substitute Purchaser, shall contain such Substitute Purchaser's agreement to be bound by this Agreement and shall contain a confirmation by such Substitute Purchaser of the accuracy with respect to it of the representations, warranties and acknowledgments set forth in Section 6. Upon receipt of such notice, any reference to such Purchaser in this Agreement (other than in this Section 21) shall be deemed to refer to such Substitute Purchaser in lieu of such original Purchaser. In the event that such Substitute Purchaser is so substituted as a Purchaser hereunder and such Substitute Purchaser thereafter transfers to such original Purchaser all of the Notes then held by such Substitute Purchaser, upon receipt by the Company of notice of such transfer, any reference to such Substitute Purchaser as a "Purchaser" in this Agreement (other than in this Section 21) shall no longer be deemed to refer to such Substitute Purchaser, but shall refer to such original Purchaser, and such original Purchaser shall again have all the rights of an original holder of the Notes under this Agreement.

SECTION 22. MISCELLANEOUS.

Section 22.1. Successors and Assigns. All covenants and other agreements contained in this Agreement by or on behalf of any of the parties hereto bind and inure to the benefit of their respective successors and assigns (including, without limitation, any subsequent holder of a Note) whether so expressed or not.

Section 22.2. Accounting Terms. All accounting terms used herein which are not expressly defined in this Agreement have the meanings respectively given to them in accordance with GAAP. Except as otherwise specifically provided herein, (i) all computations made pursuant to this Agreement shall be made in accordance with GAAP, and (ii) all financial statements shall be prepared in accordance with GAAP. For purposes of determining compliance with this Agreement (including, without limitation, Section 9, Section 10 and the definition of "Indebtedness"), any election by the Company to measure any financial liability using fair value (as permitted by Financial Accounting Standards Board Accounting Standards Codification Topic No. 825-10-25 — *Fair Value Option*, International Accounting Standard 39 — *Financial Instruments: Recognition and Measurement* or any similar accounting standard) shall be disregarded and such determination shall be made as if such election had not been made.

If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in this Agreement and the Company or the Required Holders shall so request, the Company and the Required Holders shall, at no cost to the Company (other than payment obligations arising pursuant to Section 15.1), negotiate in good faith to amend such

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ratio or requirement to preserve the original intent thereof in light of such change in GAAP; *provided* that, until so amended (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Company shall provide to the holders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

Section 22.3. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

Section 22.4. Construction, etc. Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

Section 22.5. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

Section 22.6. Governing Law. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State that would permit the application of the laws of a jurisdiction other than such State.

Section 22.7. Jurisdiction and Process; Waiver of Jury Trial. (a) The Company irrevocably submits to the non-exclusive jurisdiction of any New York State or federal court sitting in the Borough of Manhattan, The City of New York, over any suit, action or proceeding arising out of or relating to this Agreement, the Notes or any other Finance Document. To the fullest extent permitted by applicable law, the Company irrevocably waives and agrees not to assert, by way of motion, as a defense or otherwise, any claim that it is not subject to the jurisdiction of any such court, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

(b) The Company consents to process being served by or on behalf of any holder of Notes in any suit, action or proceeding of the nature referred to in Section 22.7(a) by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, return receipt requested, to it at its address specified in Section 18 or at such other

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address of which such holder shall then have been notified pursuant to said Section. The Company agrees that such service upon receipt (i) shall be deemed in every respect effective service of process upon it in any such suit, action or proceeding and (ii) shall, to the fullest extent permitted by applicable law, be taken and held to be valid personal service upon and personal delivery to it. Notices hereunder shall be conclusively presumed received as evidenced by a delivery receipt furnished by the United States Postal Service or any reputable commercial delivery service.

(c) Nothing in this Section 22.7 shall affect the right of any holder of a Note to serve process in any manner permitted by law, or limit any right that the holders of any of the Notes may have to bring proceedings against the Company in the courts of any appropriate jurisdiction or to enforce in any lawful manner a judgment obtained in one jurisdiction in any other jurisdiction.

(d) THE PARTIES HERETO HEREBY WAIVE TRIAL BY JURY IN ANY ACTION BROUGHT ON OR WITH RESPECT TO THIS AGREEMENT, THE NOTES OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION HEREWITH OR THEREWITH.

* * * * *

If you are in agreement with the foregoing, please sign the form of agreement on a counterpart of this Agreement and return it to the Company, whereupon this Agreement shall become a binding agreement between you and the Company.

Very truly yours,

SOURCEGAS HOLDINGS LLC

By /s/ Andrew J. Walls
Andrew J. Walls
Treasurer

This Agreement is hereby
accepted and agreed to as
of the date hereof.

METROPOLITAN TOWER LIFE INSURANCE COMPANY
By: Metropolitan Life Insurance Company, its Investment Manager

METLIFE INSURANCE COMPANY OF CONNECTICUT
By: Metropolitan Life Insurance Company, its Investment Manager

METROPOLITAN TOWER LIFE INSURANCE COMPANY
By: /s/ John A. Wills
Name: John A. Wills
Title: Managing Director

This Agreement is hereby
accepted and agreed to as
of the date hereof.

COBANK, ACB
By: /s/ Michael Gee
Name: Michael Gee
Title: Vice President

This Agreement is hereby
accepted and agreed to as
of the date hereof.

PRINCIPAL LIFE INSURANCE COMPANY
By: Principal Global Investors, LLC
a Delaware limited liability company,
its authorized signatory

By: /s/ Alan P. Kress
Name: Alan P. Kress
Title: Counsel

By: /s/ Colin Pennycooke
Name: Colin Pennycooke
Title: Counsel

This Agreement is hereby
accepted and agreed to as
of the date hereof.

THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA

By: /s/ Timothy Powell
Name: Timothy Powell
Title: Senior Director

This Agreement is hereby
accepted and agreed to as
of the date hereof.

AGFIRST FARM CREDIT BANK

By: /s/ Neda Beal
Name: Neda Beal
Title: Vice President

DEFINED TERMS

As used herein, the following terms have the respective meanings set forth below or set forth in the Section hereof following such term:

"Acquisition" means any acquisition by the Company or any of its Subsidiaries, whether by purchase, merger or otherwise, of (x) more than 50% of the assets of, more than 50% of the Capital Stock of, or a business line or unit or a division of, any Person organized under the laws of, and domiciled in, the United States or any state thereof or (y) any interest in a Joint Venture.

"Administrative Agent" means CoBank, ACB, as administrative agent under the Credit Agreement, together with its successors and permitted assigns in such capacity.

"Affiliate" means, at any time, and with respect to any Person, any other Person that at such time directly or indirectly through one or more intermediaries Controls, or is Controlled by, or is under common Control with, such first Person, and, with respect to the Company, shall include any Person beneficially owning or holding, directly or indirectly, 10% or more of any class of voting or equity interests of the Company or any Subsidiary or any Person of which the Company and its Subsidiaries beneficially own or hold, in the aggregate, directly or indirectly, 10% or more of any class of voting or equity interests. As used in this definition, **"Control"** means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Unless the context otherwise clearly requires, any reference to an "Affiliate" is a reference to an Affiliate of the Company.

"Agreement" means this Agreement, including all Schedules attached to this Agreement, as it may be amended, restated, supplemented or otherwise modified from time to time.

"Anti-Corruption Laws" is defined in Section 5.16(d)(1).

"Anti-Money Laundering Laws" is defined in Section 5.16(c).

"**Blocked Person**" is defined in Section 5.16(a).

"Business Day" means (a) for the purposes of Section 8.8 only, any day other than a Saturday, a Sunday or a day on which commercial banks in New York City are required or authorized to be closed, and (b) for the purposes of any other provision of this Agreement, any day other than a Saturday, a Sunday or a day on which commercial banks in New York, New York or Denver, Colorado are required or authorized to be closed.

"Capital Lease" means, at any time, a lease with respect to which the lessee is required concurrently to recognize the acquisition of an asset and the incurrence of a liability in accordance with GAAP.

"**Capital Lease Obligations**" of any Person shall mean the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

"Capital Stock" means, with respect to any Person, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such Person, including any preferred interest, any limited or general partnership interest and any limited liability company membership interest.

"Change of Control" means, an event or series of events by which:

(a) (i) at any time prior to a Qualified IPO, General Electric Capital Corporation and/or Alinda Capital Partners Ltd. and/or their respective Control Investment Affiliates, collectively, shall fail to own directly or indirectly, beneficially and of record, Capital Stock representing at least 50.0% of the aggregate ordinary voting power and aggregate equity value of the Company and (ii) after a Qualified IPO, a "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such Person or its subsidiaries, and any Person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) other than the Permitted Holders becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an "***option right***")), directly or indirectly, of 35% of the Capital Stock of the Company entitled to vote for members of the board of directors or equivalent governing body of such Person on a fully-diluted basis (and

taking into account all such securities that such person or group has the right to acquire pursuant to any option right) and such percentage of such Capital Stock so owned by such person or group shall be greater than the percentage of such Capital Stock of the Company then owned, directly or indirectly, beneficially and of record, by the Permitted Holders;

(b) during any period of 12 consecutive months, a majority of the seats (other than vacant seats) on the board of directors of the Company shall at any time be occupied by persons who are not Continuing Directors, or

(c) any change of control (or similar event, however denominated) with respect to the Company or any Subsidiary shall occur under any indenture or agreement in respect of Indebtedness having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) in excess of the Materiality Threshold to which the Company or any Subsidiary is a party.

"CISADA" means the Comprehensive Iran Sanctions, Accountability and Divestment Act.

"Closing" is defined in Section 3.

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

"Collateral" shall have the meaning under the Pledge and Security Agreement.

"Collateral Agent" means CoBank, ACB, as administrative agent under the Pledge and Security Agreement, together with its successors and permitted assigns in such capacity.

"Company" is defined in the first paragraph of this Agreement.

"Confidential Information" is defined in Section 20.

"Consolidated EBITDA" means, for any period, an amount determined for the Company and its Subsidiaries on a consolidated basis in accordance with GAAP, equal to (a) the sum, without duplication, of the amounts for such period of: (i) Consolidated Net Income; (ii) Consolidated Interest Expense; (iii) provisions for taxes based on income; (iv) total depreciation expense; (v) total amortization expense; (vi) transaction costs incurred and paid in the period (to the extent expensed); (vii) other non-cash items reducing Consolidated Net Income (excluding any such non-cash item to the extent that it represents an accrual or reserve for potential cash items in any future period or amortization of a prepaid cash item that was paid in a prior period); (viii) pro forma cost-savings add-backs resulting from non-recurring charges related to Acquisitions, as permitted pursuant to Regulation S-X of the Securities Exchange Act of 1934 or as reasonably approved by the Required Holders; (ix) cash collections related to the Grynberg Settlement to the extent not recognized in Consolidated Net Income and (x) such add-backs to Consolidated EBITDA calculated on a Pro Forma Basis with respect to Acquisitions during such period *minus* (b) other non-cash items increasing Consolidated Net Income for such period (excluding any such non-cash item to the extent it represents the reversal of an accrual or reserve for potential cash item in any prior period).

"Consolidated Interest Expense" means, for any period, total interest expense (including that portion attributable to Capital Lease Obligations in accordance with GAAP and capitalized interest) of the Company and its Subsidiaries on a consolidated basis in accordance with GAAP with respect to all outstanding Indebtedness of the Company and its Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and net costs under any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedging agreement or other similar agreement (if any). For purposes of the foregoing, interest expense shall be determined after giving effect to any net payments made or received by the Company or any Subsidiary with respect to interest rate hedging agreements.

"Consolidated Net Income" means, for any period, the net income (or loss) of the Company and its Subsidiaries for such period on a consolidated basis and taken as a single accounting period, in each case determined in conformity with GAAP, *provided* that there shall be excluded (a) the income (or loss) of any Person (other than a Subsidiary of the Company) in which any other Person (other than the Company or any of its Subsidiaries) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to the Company or any of its Subsidiaries by such Person during such period, (b) the income (or loss) of any Person accrued prior to the date it becomes a Subsidiary of the Company or is merged into or consolidated with the Company or any of its Subsidiaries or that Person's assets are acquired by the Company or any of its Subsidiaries, (c) the income of any Subsidiary of the Company to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary, (d) any after-tax gains or losses attributable to asset sales or returned surplus assets of any Plan, and (e) (to the extent not included in clauses (a) through (d) above) any net extraordinary gains or net extraordinary losses.

"Consolidated Net Tangible Assets" means, as of any date of determination, the total amount of all assets of the Company and its Subsidiaries *less* the sum of (a) the consolidated current liabilities of the Company and its Subsidiaries and (b) the assets of the Company and its consolidated Subsidiaries properly classified as intangible assets, in each case determined on a consolidated basis in accordance with GAAP as of such date.

"Consolidated Total Capitalization" means, as of any date of determination, the sum of (i) Consolidated Total Indebtedness, *plus* (ii) the sum of the Capital Stock (excluding treasury stock and capital stock subscribed for and unissued) and surplus (including earned surplus, capital surplus, translation adjustment and the balance of the current profit and loss account not transferred to surplus) accounts of the Company and its Subsidiaries appearing on a consolidated balance sheet of the Company and its Subsidiaries, in each case prepared as of the date of determination in accordance with GAAP consistent with those applied in the preparation of the financial statements referred to in Section 5.5, after eliminating all intercompany transactions and all amounts properly attributable to minority interests, if any, in the stock and surplus of Subsidiaries.

“Consolidated Total Indebtedness” means, as of any date of determination, the aggregate stated balance sheet amount of all Indebtedness of the Company and its Subsidiaries determined on a consolidated basis in accordance with GAAP as of such date.

“Continuing Directors” means, with respect to any Person as of any date of determination, any member of the board of directors of such Person who (a) was a member of such board of directors on the date of Closing, or (b) was nominated for election or elected to such board of directors with the approval of a majority of the Continuing Directors who were members of such board at the time of such nomination or election.

“Control Investment Affiliates” means as to any Person, any other Person that (i) (a) directly or indirectly, is in control of, is controlled by, or is under common control with, such

Person and (b) is organized by such Person primarily for the purpose of making equity or debt investments in one or more companies or (ii) is a Subsidiary of General Electric Capital Corporation. For purposes of this definition, “control” of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise**.**

“Controlled Entity” means (i) any of the Subsidiaries of the Company and any of their or the Company’s respective Controlled Affiliates and (ii) if the Company has a parent company, such parent company and its Controlled Affiliates. As used in this definition, **“Control”** means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Credit Agreement” means that certain Amended and Restated Five Year Term Loan Credit Agreement, dated as of June 17, 2013, as amended and restated as of September 29, 2014, by and among the Company, the several lenders from time to time party thereto, and CoBank, ACB, as Administrative Agent and Collateral Agent, as may be further amended, restated, replaced, refinanced or supplemented from time to time.

“Default” means an event or condition the occurrence or existence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

“Default Rate” means that rate of interest that is the greater of (i) 2.0% per annum above the rate of interest stated in clause (a) of the first paragraph of the Notes or (ii) 2.0% over the rate of interest publicly announced by Wells Fargo Bank NA in New York, New York as its “base” or “prime” rate.

“Deposit Account Control Agreement” means an agreement substantially in the form of Exhibit D to the Pledge and Security Agreement, pursuant to which the Collateral Agent shall have both sole dominion and control over a Deposit Account (within the meaning of Section 9-102(a)(29) of the UCC) and “control” (within the meaning of Section 9-104 of the UCC) over such Deposit Account.

“Disclosure Documents” is defined in Section 5.3.

“Disposition” is defined in Section 10.7.

“Environmental Claims” means any investigation, 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 or relating to (i) any actual or alleged violation of or liability under any Environmental Law; (ii) any Hazardous Material; or (iii) any actual or alleged damage, injury, threat or harm to human health or safety (to extent related to exposure to Hazardous Materials) or to natural resources or the environment.

“Environmental Laws” means any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants,

franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including but not limited to those related to Hazardous Materials.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that is treated as a single employer together with the Company under section 414 of the Code.

“Event of Default” is defined in Section 11.

“Finance Documents” means this Agreement, the Notes, any Subsidiary Guaranty, the Security Documents and any other document or instrument delivered from time to time in connection with the foregoing, as such documents or instruments may be amended, restated, supplemented or otherwise modified from time to time.

“Form 10-K” is defined in Section 7.1(b).

“Form 10-Q” is defined in Section 7.1(a).

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States of America (but solely for the purposes of determining compliance with Sections 9 and 10, without giving effect to any change in GAAP after the date hereof that would recharacterize any operating lease as a Capital Lease).

“Governmental Action” means all authorizations, consents, approvals, waivers, exceptions, variances, orders, licenses, exemptions, publications, filings, notices to and declarations of or with any Governmental Authority, other than routine reporting requirements the failure to comply with which will not affect the validity or enforceability of this Agreement or any other Finance Document or have a material adverse effect on the transactions contemplated by this Agreement or any other Finance Document.

“Governmental Authority” means

(a) the government of

(i) the United States of America or any state or other political subdivision thereof, or

(ii) any other jurisdiction in which the Company or any Subsidiary conducts all or any part of its business, or which asserts jurisdiction over any properties of the Company or any Subsidiary, or

(b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government.

“Governmental Official” means any governmental official or employee, employee of any government-owned or government-controlled entity, political party, any official of a political party, candidate for political office, official of any public international organization or anyone else acting in an official capacity.

“Grynberg Settlement” means all settlement amounts under that certain uncontested Stipulation and Settlement Agreement, in connection with *United States of America, ex rel., Jack J. Grynberg v. K N Energy,* Civil Action No. 97-D-1233, filed in the U.S. District Court, District of Colorado.

“Guaranty” means, with respect to any Person, any obligation (except the endorsement in the ordinary course of business of negotiable instruments for deposit or collection) of such Person guaranteeing or in effect guaranteeing any indebtedness, dividend or other obligation of any other Person in any manner, whether directly or indirectly, including (without limitation) obligations incurred through an agreement, contingent or otherwise, by such Person:

(a) to purchase such indebtedness or obligation or any property constituting security therefor;

(b) to advance or supply funds (i) for the purchase or payment of such indebtedness or obligation, or (ii) to maintain any working capital or other balance sheet condition or any income statement condition of any other Person or otherwise to advance or make available funds for the purchase or payment of such indebtedness or obligation;

(c) to lease properties or to purchase properties or services primarily for the purpose of assuring the owner of such indebtedness or obligation of the ability of any other Person to make payment of the indebtedness or obligation; or

(d) otherwise to assure the owner of such indebtedness or obligation against loss in respect thereof.

In any computation of the indebtedness or other liabilities of the obligor under any Guaranty, the indebtedness or other obligations that are the subject of such Guaranty shall be assumed to be direct obligations of such obligor.

“Hazardous Materials” means any and all pollutants, toxic or hazardous wastes or other substances that might pose a hazard to health and safety, the removal of which may be required by Environmental Law or the generation, manufacture, refining, production, processing, treatment, storage, handling, transportation, transfer, use, disposal, release, discharge, spillage, seepage or filtration of which is or shall be restricted, prohibited or penalized by any applicable Environmental Law including, but not limited to, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum products, lead based paint, radon gas or similar restricted, prohibited or penalized substances.

“Hedging Obligations” means, with respect to any Person, the obligations of such Person under any interest rate or currency swap agreement, interest rate or currency future agreement, interest rate collar agreement, swap agreement (as defined in 11 U.S.C. § 101), interest rate or currency hedge agreement, and any put, call or other agreement or arrangement designed to protect such Person against fluctuations in interest rates or currency exchange rates.

“holder” means, with respect to any Note, the Person in whose name such Note is registered in the register maintained by the Company pursuant to Section 13.1, *provided, however,* that if such Person is a nominee, then for the purposes of Sections 7, 12, 17.2 and 18 and any related definitions in this Schedule B, “holder” shall mean the beneficial owner of such Note whose name and address appears in such register.

“INHAM Exemption” is defined in Section 6.2(e).

“Indebtedness” means, for any Person, all obligations of such Person which in accordance with GAAP should be classified on a balance sheet of such Person as liabilities of such Person, and in any event shall include, without duplication, all (i) indebtedness for borrowed money, (ii) obligations evidenced by bonds, debentures, notes or other similar instruments, (iii) obligations to pay the deferred purchase price of property or services (other than current trade payables incurred in the ordinary course of such Person’s business), (iv) obligations as lessee under leases which shall have been or should be, in accordance with GAAP, recorded as capital leases, (v) obligations as lessee under operating leases which have been recorded as off-balance sheet liabilities, (vi) all payments that such Person would have to make in the event of an early termination on the date Indebtedness of such Person is being determined in respect of its Hedging Obligations, (vii) reimbursement obligations (contingent or otherwise) in respect of outstanding letters of credit, (viii) indebtedness of the type referred to in clauses (i) through (vi) above secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien or encumbrance on, or security interest in, property (including, without limitation, accounts and contract rights) owned by such

Person up to the value of such property, even though such Person has not assumed or become liable for the payment of such indebtedness, and (ix) obligations under direct or indirect guaranties in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in clauses (i) through (vii) above. Notwithstanding anything to the contrary set forth above, Capital Stock, including Capital Stock having a preferred interest, shall not constitute Indebtedness for purposes of this Agreement.

"Institutional Investor" means (a) any Purchaser of a Note, (b) any holder of a Note holding (together with one or more of its affiliates) more than 10% of the aggregate principal amount of the Notes then outstanding, (c) any bank, trust company, savings and loan association or other financial institution, any pension plan, any investment company, any insurance company, any broker or dealer, or any other similar financial institution or entity, regardless of legal form, and (d) any Related Fund of any holder of any Note.

"Intercreditor Agreement" means that certain Intercreditor Agreement, dated as of September 29, 2014, by and among the Collateral Agent, the Administrative Agent (on behalf of

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the lenders under the Credit Agreement) and the Purchasers, as amended, restated, supplemented or otherwise modified from time to time.

"Interest Coverage Ratio" means, at any time, the ratio as of the last day of the most recently ended fiscal quarter of (i) Consolidated EBITDA for the four-fiscal quarter period then ended, to (ii) Consolidated Interest Expense for such four-fiscal quarter period.

"Issuer Party" means the Company, each Subsidiary Guarantor and each Significant Subsidiary.

"**Joint Venture**" means an investment by the Company or any of its Subsidiaries in any other Person (x) (i) over which the Company or any of its Subsidiaries has or controls 50% or more of the votes on the management committee or board of directors of such other Person, or (ii) over which the Company or any of its Subsidiaries otherwise has operational and managerial control of such other Person, (y) of which at least 50% of the outstanding Capital Stock of such other Person is at the time owned by the Company or any of its Subsidiaries and (z) which would represent, when taken together with all other such investments after the date hereof pursuant to this definition, 10% or less of Consolidated Net Tangible Assets as of the date of such investment.

"**Knowledge**" means, with respect to any Person, the actual knowledge (including after making due inquiry with officers, directors or management employees who would reasonably be expected to have knowledge of the matter in question) of any chief executive officer, president, chief financial officer, general counsel or principal accounting officer of such Person.

"Lien" means, with respect to any Person, any mortgage, lien, pledge, charge, security interest or other encumbrance, or any interest or title of any vendor, lessor, lender or other secured party to or of such Person under any conditional sale or other title retention agreement or Capital Lease, upon or with respect to any property or asset of such Person (including in the case of stock, any purchase option, call or similar right of a third party with respect to such stock).

"Loan Documents" means the Credit Agreement and related notes issued thereunder, the Security Documents and any other document or instrument delivered from time to time in connection with the foregoing, as such documents or instruments may be amended, restated, supplemented or otherwise modified from time to time.

"Make-Whole Amount" is defined in Section 8.8.

"Material" means material in relation to the business, operations, financial condition, assets or properties of the Company and its Subsidiaries taken as a whole.

"Material Adverse Effect" means a material adverse effect on (a) the business, operations, affairs, financial condition, assets or properties of the Company and its Subsidiaries taken as a whole, (b) the ability of the Company to perform its material obligations under this Agreement, the Notes and the other Finance Documents, (c) the ability of any Subsidiary

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Guarantor to perform its material obligations under its Subsidiary Guaranty, or (d) the validity or enforceability of the material rights and remedies of the holders under the Finance Documents.

"Material Credit Facility" means, as to the Company,

(a) the Credit Agreement, including any renewals, extensions, amendments, supplements, restatements, replacements or refinancing thereof; and

(b) any other agreement(s) creating or evidencing indebtedness for borrowed money entered into on or after the date of this Agreement by the Company, or in respect of which the Company is an obligor or otherwise provides a guarantee or other credit support (**"Credit Facility"**), in a principal amount outstanding or available for borrowing equal to or greater than the Materiality Threshold (or the equivalent of such amount in the relevant currency of payment, determined as of the date of the closing of such facility based on the exchange rate of such other currency); and if no Credit Facility or Credit Facilities equal or exceed such amounts, then the largest Credit Facility shall be deemed to be a Material Credit Facility.

"Materiality Threshold" means the greater of $25,000,000 and 3% of Consolidated Net Tangible Assets.

"Maturity Date" is defined in the first paragraph of each Note.

"Memorandum" is defined in Section 5.3.

"Multiemployer Plan" means any Plan that is a "multiemployer plan" (as such term is defined in section 4001(a)(3) of ERISA).

"NAIC" means the National Association of Insurance Commissioners or any successor thereto.

"Net Available Amount" in the case of any Disposition, the aggregate amount of Disposition proceeds received by the Company or any Subsidiary in respect of such Disposition, net of (i) costs and expenses incurred by such Person in connection with the enforcement, negotiation, consummation, settlement, proceedings, administration or other activity related to such Disposition (including reasonable legal and accounting fees and expenses paid or payable as a result thereof), (ii) any taxes payable in connection with such Disposition, (iii) amounts required to be applied to the repayment of Indebtedness secured by a Lien on the properties or assets that were the subject of such Disposition, and (iv) any amounts to be set aside in any reserve established in accordance with GAAP or any amount placed in escrow, in either case for adjustment in respect of the sale price of such properties or assets, for indemnification obligations of the Company or any of its Subsidiaries in connection with such Disposition or for other liabilities associated with such Disposition and retained by the Company or any of its Subsidiaries until such time as such reserve is reversed or such escrow arrangement is terminated, in which case the Net Available Amount shall include only the amount of the reserve so reversed or the amount returned to the Company or its Subsidiaries from such escrow arrangement, as the case may be.

"Notes" is defined in Section 1.

"OFAC" is defined in Section 5.16(a).

"OFAC Listed Person" is defined in Section 5.16(a).

"OFAC Sanctions Program" means any economic or trade sanction that OFAC is responsible for administering and enforcing. A list of OFAC Sanctions Programs may be found at http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx.

"Officer's Certificate" means a certificate of a Senior Financial Officer or of any other officer of the Company whose responsibilities extend to the subject matter of such certificate.

"Opco" means SourceGas LLC, a Delaware limited liability company, wholly-owned by the Company.

"Opco Credit Agreements" means, collectively, (a) that certain Five Year Revolving Credit Agreement, dated as of November 15, 2011, among the Opco, the several banks and other financial institutions from time to time parties thereto, Wells Fargo Bank, National Association, as administrative agent, JPMorgan Chase Bank, N.A., as syndication agent, and JPMorgan Chase Bank, N.A. and Union Bank, N.A., as documentation agents, as amended by that certain First Amendment, dated as of April 19, 2013, that certain Second Amendment, dated as of February 28, 2014, that certain Third Amendment, dated as of September 29, 2014 and as may be further amended, restated, supplemented or otherwise modified from time to time, and (b) that certain Second Amended and Restated Term Loan Credit Agreement, dated as of June 3, 2013, by and among the Opco, the several lenders from time to time party thereto, JPMorgan Chase Bank, N.A., as administrative agent, Canadian Imperial Bank of Commerce, New York Agency, as documentation agent, J.P. Morgan Securities LLC and Union Bank, N.A. as joint lead arrangers and joint bookrunners, as amended by that certain Amendment No. 1, dated as of September 29, 2014 and as may be further amended, restated, supplemented or otherwise modified from time to time.

"Opco Senior Note Indenture" means the Indenture, dated as of April 16, 2007, under which the Opco Senior Notes were issued, among the Opco and US Bank National Association, as Trustee, or any successor trustee named therein from time to time, as amended, restated, supplemented or otherwise modified from time to time in accordance with the requirements thereof and of this Agreement.

"Opco Senior Notes" means the $325,000,000 aggregate principal amount of 5.90% senior unsecured notes due 2017 of the Opco.

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA or any successor thereto.

"Permitted Holders" means the Sponsors and their respective Control Investment Affiliates, and Aircraft Services Corporation.

"Permitted Indebtedness" is defined in Section 10.6.

"Permitted Liens" is defined in Section 10.5.

"Permitted Refinancing Indebtedness" means Indebtedness issued or incurred (including by means of the extension or renewal of existing Indebtedness) to refinance, refund, extend, renew or replace existing Indebtedness ("**Refinanced Indebtedness**"); *provided* that (a) the principal amount of such refinancing, refunding, extending, renewing or replacing Indebtedness is not greater than the principal amount (including unfunded commitments) of such Refinanced Indebtedness plus the amount of any premiums or penalties and accrued and unpaid interest paid thereon and reasonable fees and expenses, in each case associated with such refinancing, refunding, extension, renewal or replacement, (b) such refinancing, refunding, extending, renewing or replacing Indebtedness has a final maturity that is no sooner than that of, and a weighted average life to maturity that is no shorter than that of, such Refinanced Indebtedness, (c) if such Refinanced Indebtedness or any guarantees thereof are subordinated to the obligations under this Agreement and the Notes, such refinancing, refunding, extending, renewing or replacing Indebtedness and any guarantees thereof remain so subordinated on terms no less favorable to the Purchasers, (d) the obligors in respect of such Refinanced Indebtedness immediately prior to such refinancing, refunding, extending, renewing or replacing are the only obligors on such refinancing, refunding extending, renewing or replacing Indebtedness and (e) such refinancing, refunding, extending, renewing or replacing Indebtedness contains covenants and events of default (excluding any subordination, pricing, fees, rate floors, discounts, premiums and optional prepayment or redemption terms) which, taken as a whole, are determined in good faith by the chief executive officer or chief financial officer of the Company to be no less favorable to the Company or the applicable Subsidiary in any material respect than the covenants and events of default in respect of such Refinanced Indebtedness.

"Person" means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, business entity or Governmental Authority.

"Plan" means an "employee benefit plan" (as defined in section 3(3) of ERISA) subject to Title I of ERISA that is or, within the preceding five years, has been established or maintained, or to which contributions are or, within the preceding five years, have been made or required to be made, by the Company or any ERISA Affiliate or with respect to which the Company or any ERISA Affiliate may have any liability.

"Pledge and Security Agreement" means the Amended and Restated Pledge and Security Agreement dated as of June 17, 2013, as amended and restated as of September 29, 2014, executed by the Company and the Collateral Agent for the benefit of the Secured Parties to secure the Secured Obligations, as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof and thereof.

"Pledged Equity Interests" is defined in the Pledge and Security Agreement.

"Pro Forma Basis" means, with respect to compliance with any test or covenant hereunder, compliance with such covenant or test after giving effect to the transaction

contemplated by such covenant or test (including pro forma adjustments arising out of events which are directly attributable to the proposed transaction, are factually supportable and are expected to have a continuing impact, in each case which adjustments are prepared by the Company in good faith based upon assumptions the Company deems reasonable) using, for purposes of determining such compliance (to the extent applicable), the historical financial statements of all entities or assets acquired or sold or to be acquired or sold and the consolidated financial statements of the Company and its Subsidiaries which shall be reformulated as if such transaction, and any other such transactions that have been consummated during the period, and any Indebtedness or other liabilities incurred in connection with any Acquisition had been consummated and incurred at the beginning of such period.

"Pro Forma Compliance" means, at any date of determination, that the Company shall be in pro forma compliance with each of the covenants set forth in Section 10.9, as of the last day of the most recent fiscal quarter end (computed on the basis of (a) balance sheet amounts as of the most recently completed fiscal quarter, and (b) income statement amounts for the most recently completed period of four consecutive fiscal quarters, in each case, for which financial statements shall have been delivered to the Purchasers and calculated on a Pro Forma Basis in respect of the event giving rise to such determination).

"property" or **"properties"** means, unless otherwise specifically limited, real or personal property of any kind, tangible or intangible, choate or inchoate.

"PTE" is defined in Section 6.2(a).

"Purchaser" or **"Purchasers"** means each of the purchasers that has executed and delivered this Agreement to the Company and such Purchaser's successors and assigns (so long as any such assignment complies with Section 13.2), *provided*, *however*, that any Purchaser of a Note that ceases to be the registered holder or a beneficial owner (through a nominee) of such Note as the result of a transfer thereof pursuant to Section 13.2 shall cease to be included within the meaning of "Purchaser" of such Note for the purposes of this Agreement upon such transfer.

"**Purchase Money Obligations**" means any obligation incurred to finance (within 270 days before or after), or created or assumed as part of, the acquisition, construction or improvement of any fixed or capital asset, whether or not secured, and any Permitted Refinancing Indebtedness in respect thereof.

"Qualified Institutional Buyer" means any Person who is a "qualified institutional buyer" within the meaning of such term as set forth in Rule 144A(a)(1) under the Securities Act.

"Qualified IPO" means an underwritten public offering of common stock of (and by) the Company pursuant to an effective registration statement filed with the SEC in accordance with the Securities Act, which initial public offering results in gross cash proceeds to the Company of $50,000,000 or more.

"QPAM Exemption" is defined in Section 6.2(d).

"Ratable Portion" means, in respect of any Note, an amount equal to the product of (x) the Net Available Amount being applied to the repayment or prepayment of unsubordinated Indebtedness of the Company and its Subsidiaries *multiplied* by (y) a fraction, the numerator of which is the principal amount of such Note then outstanding and the denominator of which is the aggregate principal amount of all unsubordinated Indebtedness of the Company and its Subsidiaries then outstanding (including the Notes) that will be reduced or repaid with the Net Available Amount (calculated prior to such reduction or repayment).

"Related Fund" means, with respect to any holder of any Note, any fund or entity that (i) invests in Securities or bank loans, and (ii) is advised or managed by such holder, the same investment advisor as such holder or by an affiliate of such holder or such investment advisor.

"Release" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of any Hazardous Material into the indoor or outdoor environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material), including the movement of any Hazardous Material through the air, soil, surface water or groundwater.

"Required Holders" means at any time on or after the Closing, the holders of more than 50% in principal amount of the Notes at the time outstanding (exclusive of Notes then owned by the Company or any of its Affiliates).

"Responsible Officer" means any Senior Financial Officer and any other officer of the Company with responsibility for the administration of the relevant portion of this Agreement.

"**Secured Obligations**" is defined in the Pledge and Security Agreement.

"**Secured Parties**" is defined in the Pledge and Security Agreement.

"SEC" means the Securities and Exchange Commission of the United States, or any successor thereto.

"Securities" or **"Security"** shall have the meaning specified in section 2(1) of the Securities Act.

"Securities Account Control Agreement" means an agreement substantially in the form of Exhibit C to the Pledge and Security Agreement, pursuant to which a securities intermediary maintaining a Securities Account or Securities Entitlement (as each is defined under the Pledge and Security Agreement) shall agree to comply with the Collateral Agent's "entitlement orders" without further consent by the Company.

"Securities Act" means the Securities Act of 1933, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

"Security Documents" means the Pledge and Security Agreement, any Uncertificated Securities Control Agreement, Securities Account Control Agreement or Deposit Account Control Agreement, the Intercreditor Agreement and any other agreement, instrument or document delivered from time to time in connection with this Agreement or the Notes granting a security interest in the assets of the Company in favor of the Collateral Agent for the benefit of the Secured Parties, each as amended, restated, supplemented or otherwise modified from time to time.

"Senior Financial Officer" means the chief financial officer, principal accounting officer, treasurer or comptroller of the Company.

"**Significant Subsidiary**" means, with respect to any Person, a Subsidiary of such Person which meets any of the following conditions:

(a) such Person's and its other Subsidiaries' investments in and advances to such Subsidiary exceed 10% of the total assets of such Person and its Subsidiaries determined on a consolidated basis in accordance with GAAP as of the end of the most recently completed fiscal quarter; or

(b) such Person's and its other Subsidiaries' proportionate share (as determined by ownership interests) of the total assets (after intercompany eliminations) of such Subsidiary exceeds 10% of the total assets of such Person and its Subsidiaries determined on a consolidated basis in accordance with GAAP as of the end of the most recently completed fiscal quarter; or

(c) such Person's and its other Subsidiaries' proportionate share (as determined by ownership interests) in the income from continuing operations before income taxes, extraordinary items and cumulative effect of changes in accounting principles of such Subsidiary exceeds 10% of such income of such Person and its Subsidiaries determined on a consolidated basis in accordance with GAAP for the most recently completed fiscal quarter; or

(d) such Subsidiary is the Opco.

"**Solvent**" means, with respect to any Person, that such Person (a) has capital sufficient to carry on its business and transactions and all business and transactions in which it is about to engage and is able to pay its debts as they mature, (b) owns property having a value, both at fair valuation and at present fair saleable value, greater than the amount required to pay its probable liabilities (including contingencies), and (c) does not believe that it will incur debts or liabilities beyond its ability to pay such debts or liabilities as they mature. For purposes of this definition, (a) "ability to pay its debts or liabilities as they mature" shall mean that such Person will be able to generate enough cash from operations, asset dispositions or refinancings, or a combination thereof, to meet its obligations as they become due, and (b) the amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Source" is defined in Section 6.2.

"Sponsors" means (i) General Electric Capital Corporation or any successor to the direct or indirect ownership interest of General Electric Capital Corporation in the Company and (ii) Alinda Capital Partners Ltd.

"Subsidiary" means, as to any Person, any other Person in which such first Person or one or more of its Subsidiaries or such first Person and one or more of its Subsidiaries owns sufficient equity or voting interests to enable it or them (as a group) ordinarily, in the absence of contingencies, to elect a majority of the directors (or Persons performing similar functions) of such second Person, and any partnership or joint venture if more than a 50% interest in the profits or capital thereof is owned by such first Person or one or more of its Subsidiaries or such first Person and one or more of its Subsidiaries (unless such partnership or joint venture can and does ordinarily take major business actions without the prior approval of such Person or one or more of its Subsidiaries). Unless the context otherwise clearly requires, any reference to a "Subsidiary" is a reference to a Subsidiary of the Company.

"Subsidiary Guarantor" means each Subsidiary that has executed and delivered a Subsidiary Guaranty.

"Subsidiary Guaranty" is defined in Section 9.7(a).

"Substitute Purchaser" is defined in Section 21.

"SVO" means the Securities Valuation Office of the NAIC or any successor to such Office.

"UCC" means the Uniform Commercial Code as in effect in the State of New York or any other relevant jurisdiction from time to time.

“Uncertificated Securities Control Agreement” means an agreement substantially in the form of Exhibit B to the Pledge and Security Agreement, pursuant to which an issuer of an uncertificated security agrees to comply with the Collateral Agent’s instructions with respect to such uncertificated security without further consent by the Company, as amended, restated, supplemented or otherwise modified from time to time.

“USA PATRIOT Act” means United States Public Law 107-56, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

“U.S. Economic Sanctions” is defined in Section 5.16(a).

“Wholly-Owned Subsidiary” means, at any time, any Subsidiary all of the equity interests (except directors’ qualifying shares) and voting interests of which are owned by any one or more of the Company and the Company’s other Wholly-Owned Subsidiaries at such time.

EXECUTION COPY

SECOND AMENDED AND RESTATED
TERM LOAN CREDIT AGREEMENT

DATED AS OF

FEBRUARY 12, 2016

AMONG

BLACK HILLS CORPORATION,
as the Borrower,

THE FINANCIAL INSTITUTIONS PARTY HERETO,
as Banks

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent

and

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Syndication Agent

J.P. MORGAN SECURITIES LLC,
and
MUFG UNION BANK, N.A.,
as Joint Lead Arrangers and Joint Bookrunners

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SECOND AMENDED AND RESTATED TERM LOAN CREDIT AGREEMENT

SECOND AMENDED AND RESTATED TERM LOAN CREDIT AGREEMENT, dated as of February 12, 2016 among Black Hills Corporation, a South Dakota corporation (as successor by assignment to the Existing Borrower (as defined below) (“*Borrower*”), the financial institutions from time to time party hereto (each a “*Bank,*” and collectively the “*Banks*”), and JPMORGAN CHASE BANK, N.A., in its capacity as agent for the Banks hereunder (including its branches and Affiliates, in such capacity, the “*Administrative Agent*”).

WITNESSETH THAT:

WHEREAS, SourceGas LLC, a Delaware limited liability company (the “*Existing Borrower*”), certain lenders party thereto (the “*Existing Banks*”) and the Administrative Agent are party to that certain Amended and Restated Term Loan Credit Agreement, dated as of September 18, 2015, among the

Existing Borrower, the Existing Banks and the Administrative Agent (as amended, restated or otherwise modified as of the date hereof, the "*Existing Credit Agreement*");

WHEREAS, in connection with the Specified Transaction (as defined in the Existing Credit Agreement) and immediately prior to giving effect to the amendment and restatement of the Existing Credit Agreement as set forth in this Agreement, the Borrower will assume the rights, duties, obligations and liabilities of the Existing Borrower under the Existing Credit Agreement as described in Section 1.3 hereof;

WHEREAS, the Borrower, Banks and Administrative Agent have agreed to enter into this Agreement in order to (i) amend and restate the Existing Credit Agreement in its entirety; (ii) re-evidence the "Obligations" under, and as defined in, the Existing Credit Agreement, which shall be repayable in accordance with the terms of this Agreement; and (iii) set forth the terms and conditions under which the Existing Loans (as defined below) shall be reallocated as Loans (as defined below) owing to Banks under this Agreement in accordance with each Bank's Percentage on the Restatement Effective Date;

WHEREAS, it is the intent of the parties hereto that this Agreement not constitute a novation of the obligations and liabilities of the parties under the Existing Credit Agreement or be deemed to evidence or constitute full repayment of such obligations and liabilities, but that this Agreement amend and restate in its entirety the Existing Credit Agreement and re-evidence the obligations and liabilities of the Borrower (as successor by assignment to the Existing Borrower) outstanding thereunder, which shall be payable in accordance with the terms hereof;

WHEREAS, it is also the intent of the Borrower to confirm that all obligations under the Existing Credit Agreement and "Loan Documents" (as referred to and defined in the Existing Credit Agreement) shall continue in full force and effect as modified and/or restated hereby and that, from and after the Restatement Effective Date, all references to the "Agreement" contained in any such existing "Loan Documents" shall be deemed to refer to this Agreement; and

NOW, THEREFORE, in consideration of the recitals set forth above and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree that the Existing Credit Agreement is hereby amended and restated as follows:

SECTION 1. DEFINITIONS; INTERPRETATION.

Section 1.1 *Definitions*. The following terms when used herein have the following meanings:

"Adjusted LIBOR" is defined in Section 2.3(b) hereof.

"Administrative Agent" is defined in the first paragraph of this Agreement and includes any successor Administrative Agent pursuant to Section 10.7 hereof.

"Administrative Questionnaire" means an administrative questionnaire in a form supplied by the Administrative Agent.

"Affiliate" means, as to any Person, any other Person which directly or indirectly controls, or is under common control with, or is controlled by, such Person. As used in this definition, *"control"* (including, with their correlative meanings, *"controlled by"* and *"under common control with"*) means possession, directly or indirectly, of power to direct or cause the direction of management or policies of a Person (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise), *provided* that, in any event for purposes of this definition: (i) any Person which owns directly or indirectly twenty percent (20%) or more of the securities having ordinary voting power for the election of directors or other governing body of a corporation or twenty percent (20%) or more of the partnership or other ownership interests of any other Person will be deemed to control such corporation or other Person; and (ii) each director and executive officer of the Borrower or any Subsidiary of the Borrower shall be deemed an Affiliate of the Borrower and each of its Subsidiaries.

"Agreement" means this Second Amended and Restated Term Loan Credit Agreement, including all Exhibits and Schedules hereto, as it may be amended, supplemented or otherwise modified from time to time in accordance with the terms hereof.

"Applicable Margin" means, at any time (i) with respect to Base Rate Loans, a rate of interest equal to zero percent (0%) per annum, and (ii) with respect to Eurodollar Loans, a rate of interest equal to seven eighths of one percent (0.875%) per annum.

"Approved Fund" means any Fund that is administered or managed by (a) a Bank, (b) an Affiliate of a Bank or (c) an entity or an Affiliate of an entity that administers or manages a Bank.

"Anti-Corruption Laws" means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or its Subsidiaries from time to time concerning or relating to bribery, corruption or money laundering.

"Arrangers" means, collectively, J.P. Morgan Securities LLC and MUFG Union Bank, N.A.

"Assignment and Assumption" means an assignment and assumption entered into by a Bank and an Eligible Assignee (with the consent of any party whose consent is required by the terms hereof), and accepted by the Administrative Agent, in substantially the form of **Exhibit C** or any other form approved by the Administrative Agent.

"Authorized Representative" means those persons whose specimen signatures are included in the incumbency certificate provided by the Borrower pursuant to Section 6.1(c) hereof, or any further or different officer of the Borrower so named by any Authorized Representative of the Borrower in a written notice to the Administrative Agent.

"Bank" and *"Banks"* are defined in the first paragraph of this Agreement.

"Base Rate" is defined in Section 2.3(a) hereof.

"Base Rate Loan" means a Loan bearing interest prior to maturity at a rate specified in Section 2.3(a) hereof.

"BHP" means Black Hills Power, Inc., a South Dakota corporation.

"Borrower" is defined in the first paragraph of this Agreement.

"Borrowing" means the total of Loans of a single type advanced, continued for an additional Interest Period, or converted from a different type into such type by the Banks on a single date and for a single Interest Period. Borrowings of Loans are made by and maintained ratably for each of the Banks according to their Percentages. A Borrowing is *"advanced"* on the day Banks advance funds comprising such Borrowing to the Borrower, is *"continued"* on the date a new Interest Period for the same type of Loans commences for such Borrowing and is *"converted"* when such Borrowing is changed from one type of Loan to the other, all as requested by the Borrower pursuant to Section 2.5(a) hereof.

"Business Day" means any day other than a Saturday or Sunday on which Banks are not authorized or required to close in New York, New York, Chicago, Illinois or Rapid City, South Dakota and, if the applicable Business Day relates to the borrowing or payment of a Eurodollar Loan, on which banks are dealing in U.S. Dollars in the interbank market in London, England.

"Capital" means, as of any date of determination thereof, without duplication, the sum of (A) Consolidated Net Worth *plus* (B) all Recourse Indebtedness.

"Capital Lease" means at any date any lease of Property which, in accordance with GAAP, would be required to be capitalized on the balance sheet of the lessee.

"Capitalized Lease Obligations" means, for any Person, the amount of such Person's liabilities under Capital Leases determined at any date in accordance with GAAP.

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

"Change of Control Event" means one or more of the following events:

(a) less than a majority of the members of the Board of Directors of the Borrower shall be persons who either were (i) nominated and approved by the Board of Directors of the Borrower serving as of the Restatement Effective Date or (ii) appointed by directors so nominated and approved; or

(b) the stockholders of the Borrower shall approve any plan or proposal for the liquidation or dissolution of the Borrower; or

(c) a Person or group of Persons acting in concert (other than the direct or indirect beneficial owners of the Voting Stock of the Borrower as of the Restatement Effective Date) shall, as a result of a tender or exchange offer, open market purchases, privately negotiated purchases or otherwise, have become the direct or indirect beneficial owner (within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as amended from time to time) of Voting Stock of the Borrower representing more than twenty percent (20%) of the combined voting power of the outstanding Voting Stock or other ownership interests for the election of directors or shall have the right to elect a majority of the Board of Directors of the Borrower; or

(d) except as permitted by Section 7.12 hereof, the Borrower ceases at any time to own one hundred percent (100%) of the Voting Stock and other equity interests of any Material Subsidiary (or such lower percentage that the Borrower owns at the time of organization or acquisition of such Material Subsidiary).

"CLF&P" means Cheyenne Light, Fuel & Power Company, a Wyoming corporation.

"CLF&P Indenture" means that certain Restated Indenture of Mortgage, Deed of Trust, Security Agreement and Financing Statement, dated as of November 20, 2007, between CLF&P and Wells Fargo Bank, National Association, as Trustee, together with all amendments and supplemental indentures thereto, and the first mortgage bonds issued in connection therewith.

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

"Commitment" and *"Commitments"* means, as to each Bank, its obligation to make or maintain a Loan to the Borrower pursuant to Section 2.1 in an aggregate principal amount not to exceed the amount set forth opposite such Bank's name on Schedule 2.1.

"Compliance Certificate" means a certificate in the form of **Exhibit B** hereto.

"Consolidated Assets" means all assets which should be listed on the consolidated balance sheet of the Borrower and its Consolidated Subsidiaries, as determined on a consolidated basis in accordance with GAAP.

"*Consolidated Net Worth*" means, as of any time the same is to be determined, the total shareholders' equity (including capital stock, additional paid-in-capital and retained earnings after deducting treasury stock, but excluding (to the extent otherwise included in calculating shareholders' equity), minority interests in Subsidiaries) which would appear on the consolidated balance sheet of the Borrower determined on a consolidated basis in accordance with GAAP.

"*Consolidated Subsidiary*" means, as to any Person, each subsidiary of such Person (whether now existing or hereafter created or acquired) the financial statements of which shall be (or should have been) consolidated, with the financial statements of such Person in accordance with GAAP, including principles of consolidation.

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

"*Controlled Group*" means all members of a controlled group of corporations and all trades and businesses (whether or not incorporated) under common control that, together with the Borrower or any of its Subsidiaries, are treated as a single employer under Section 414 of the Code.

"*Credit Documents*" means this Agreement, the Notes and all other documents executed in connection herewith or therewith.

"*Credit Event*" means any Borrowing.

"*Default*" means any event or condition the occurrence of which would, with the passage of time or the giving of notice, or both, constitute an Event of Default.

"*Defaulting Bank*" means any Bank, as reasonably determined by the Administrative Agent, that has (a) failed to pay over to the Administrative Agent or any other Bank any other amount required to be paid by it hereunder within three (3) Business Days after the date when due, unless the subject of a good faith dispute, or (b) become (i) or is insolvent or has a parent company that has become or is insolvent or (ii) the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee or custodian appointed for it, or has a parent company that has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee or custodian appointed for it or has taken any corporate or board or other action seeking or agreeing to the appointment of any such Person; *provided*, a Bank shall not become a Defaulting Bank solely as the result of the acquisition or maintenance of an ownership interest in such Bank or Person controlling such Bank or the exercise of control over a Bank or Person controlling such Bank by a governmental authority or an instrumentality thereof.

"*Derivative Arrangement*" means any agreement (including any master agreement and any agreement, whether or not in writing, relating to any single transaction) that is an interest rate swap agreement, basis swap, forward rate agreement, commodity swap, commodity option, equity or equity index swap or option, bond option, interest rate option, forward foreign exchange agreement, rate cap, collar or floor agreement, future agreement, currency swap agreement, cross-currency rate swap agreement, swaption, currency option, that relates to fluctuations in raw material prices or utility or energy prices or other costs, or any other similar agreement, including any option to enter into any of the foregoing, or any combination of any of the foregoing. "*Derivative Arrangements*" shall include all such agreements or arrangements made or entered into at any time, or in effect at any time, whether or not related to a Loan.

"*Derivative Obligations*" means, with respect to any Person, all liabilities of such Person under any Derivative Arrangement (including but not limited to obligations and liabilities arising in connection with or as a result of early or premature termination of a Derivative Arrangement, whether or not occurring as a result of a default thereunder), absolute or contingent, now or hereafter existing or incurred or due or to become due.

"*Designated Persons*" means a person or entity (a) listed in the annex to any Executive Order or (b) named as a "Specially Designated National and Blocked Person" ("*SDN*") on the most current list published by OFAC at its official website or any replacement website or other replacement official publication of such list (the "*SDN List*") or that is otherwise the subject of any Sanctions Laws and Regulations.

"*Electronic Signature*" means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

"*Electronic System*" means any electronic system, including e-mail, e-fax, Intralinks®, ClearPar® and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Administrative Agent and any of its respective Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

"*Eligible Assignee*" means (a) a Bank, (b) an Affiliate of a Bank, (c) an Approved Fund, and (d) any other Person (other than a natural person) approved by (i) the Administrative Agent, and (ii) unless an Event of Default has occurred and is continuing, the Borrower (each such approval not to be unreasonably withheld or delayed); *provided* notwithstanding the foregoing, "*Eligible Assignee*" shall not include any Ineligible Institution.

"*Environmental Claim*" means any claim, action, investigation or written notice by any Person alleging potential liability (including, without limitation, potential liability for investigation, cleanup, removal, remediation, post-remedial activities, restoration, oversight, site security or costs thereof or related thereto, natural resources damages, property damages, personal injuries, fines or penalties) arising out of, based on or resulting from (a) the presence, or Release of any Hazardous Materials at any location, whether or not owned, leased or operated by the Borrower or any of its Subsidiaries, or (b) circumstances forming the basis of any violation, or alleged violation, of any Environmental and Health Laws.

"*Environmental and Health Laws*" means any and all federal, state, regional, county, local and foreign statutes, laws, common law, regulations, ordinances, judgments, orders (including, without limitation, administrative orders), permits, licenses and governmental rules or restrictions relating to human health, safety (including without limitation occupational safety and health standards), pollution, natural resources, conservation or the environment, or to

emissions, discharges, Releases or threatened Releases of pollutants, contaminants, Hazardous Materials or wastes into the environment, (including without limitation ambient air, surface water, ground water or land), or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, Hazardous Materials or wastes, or the removal, investigation or clean-up (including but not limited to oversight, security and relocation) or other remediation thereof.

"*Environmental Liabilities*" means all liabilities, obligations or responsibilities to conduct or pay for any type of removal, investigation, cleanup, remediation, post-remedial activities, restoration, oversight, site security pertaining to Hazardous Materials, pollutants, contaminants or any other substance regulated under Environmental and Health Laws, or take any other action at any location (including without limitation the reserve or expenditure of monies) to address actual or potential liability under Environmental and Health Laws or to comply or assure continued compliance with Environmental and Health Laws, and all Environmental Claims pending or threatened against the Borrower or its Subsidiaries or against any Person whose liability for any Environmental Claim the Borrower or its Subsidiaries may have retained or assumed, either contractually or by operation of law.

"*ERISA*" is defined in Section 5.8 hereof.

"*Eurodollar Loan*" means a Loan bearing interest prior to its maturity at the rate specified in Section 2.3(b) hereof.

"*Eurodollar Reserve Percentage*" is defined in Section 2.3(b) hereof.

"*Event of Default*" means any of the events or circumstances specified in Section 8.1 hereof.

"*Executive Order*" has the meaning assigned to such term in the definition of Sanctions Laws and Regulations.

"*Existing Banks*" has the meaning assigned to such term in the recitals heretof.

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

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

"*FATCA*" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

"*Federal Funds Rate*" means, for any day, the rate calculated by the FRBNY based on such day's federal funds transactions by depository institutions (as determined in such manner as the FRBNY shall set forth on its public website from time to time) and as published on the next succeeding Business Day by the FRNBY as the federal funds effective rate. For the avoidance of doubt, if the Federal Funds Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"*FRNBY*" means the Federal Reserve Bank of New York.

"*FRBNY Rate*" means, for any day, the greater of (a) the Federal Funds Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day; provided that if both such rates are not so published for any day that is a Business Day, the term "FRBNY Rate" means the rate quoted for such day for a federal funds transaction at 11:00 a.m. on such day received by the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"*Fund*" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

"*GAAP*" means generally accepted accounting principles as in effect in the United States from time to time, applied by the Borrower and its Subsidiaries on a basis consistent with the preparation of the Borrower's financial statements furnished to the Banks as described in Section 5.4 hereof.

"*Granting Bank*" has the meaning specified in Section 11.10(h) hereof.

"*Guarantee*" means, in respect of any Person, any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Indebtedness of another Person, including, without limitation, by means of an agreement to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or to maintain financial covenants, or to assure the payment of such Indebtedness by an agreement to make payments in respect of goods or services regardless of whether delivered, or otherwise, *provided*, that the term "*Guarantee*" shall not include endorsements for deposit or collection in the ordinary course of business; and such term when used as a verb shall have a correlative meaning.

"*Hazardous Material*" means any chemical, substance or material, the generation, use, storage, transportation or disposal of which, is prohibited, limited or regulated by any Environmental and Health Law, and includes, without limitation, (a) asbestos, polychlorinated biphenyls, dioxins and petroleum or its by-products or derivatives (including crude oil or any fraction thereof), lead-based paint, mold and radon, and (b) any material or substance the exposure to, or manufacture, possession, presence, use, generation, storage, transportation, treatment, Release, disposal, abatement, cleanup, removal, remediation or handling of which, is prohibited, controlled or regulated pursuant to any Environmental and Health Law.

"*Immaterial Subsidiary*" shall mean, any direct or indirect subsidiary of the Borrower (i) whose total assets (as determined in accordance with GAAP) do not represent at least ten percent (10%) of the total assets (as determined in accordance with GAAP) of the Borrower and its subsidiaries on a consolidated

basis or (ii) whose total revenues (as determined in accordance with GAAP) do not represent at least ten percent (10%) of the total revenues (as determined in accordance with GAAP) of the Borrower and its subsidiaries on a consolidated basis, *provided* that no subsidiary shall be deemed an Immaterial Subsidiary to the extent (a) the total assets of such subsidiary, when combined with the total assets of other subsidiaries which are Immaterial Subsidiaries, represent at least twenty percent (20%) of the total assets (as determined in accordance with GAAP) of the Borrower and its subsidiaries on a consolidated basis or (ii) the total revenues of such subsidiary, when combined with the total revenues of other Immaterial Subsidiaries, (as determined in accordance with GAAP) represent at least twenty percent (20%) of the total revenues (as determined in accordance with GAAP) of the Borrower and its subsidiaries on a consolidated basis. As used in this definition *"subsidiary"* shall mean any Person whose financial statements are consolidated into the financial statements of the Borrower in accordance with GAAP.

"*Impacted Bank"* means any Bank that fails promptly to provide the Administrative Agent, upon the Administrative Agent's reasonable request therefor, reasonably satisfactory assurance that such Bank will not become a Defaulting Bank.

"*Indebtedness"* means, as to any Person, without duplication: (i) all obligations of such Person for borrowed money or evidenced by bonds, debentures, notes or similar instruments; (ii) all obligations of such Person for the deferred purchase price of property or services (other than in respect of trade accounts payable arising in the ordinary course of business which are not past-due); (iii) all Capitalized Lease Obligations of such Person; (iv) all Indebtedness of others secured by a Lien on any properties, assets or revenues of such Person (other than stock, partnership interests or other equity interests of the Borrower or any Subsidiary of the Borrower in other entities) to the extent of the lesser of the value of the property subject to such Lien or the amount of such Indebtedness; (v) all Guarantees issued by such Person, *provided* that Long-Term Guaranties shall not be deemed "Indebtedness" for purposes of calculating the Borrower's compliance with the financial covenants set forth in Section 7.17 hereof; (vi) all obligations of such Person, contingent or otherwise, in respect of any letters or credit (whether commercial or standby) or bankers' acceptances, (vii) all Derivative Obligations of such Person, *provided* that for purposes of determining the Borrower's compliance with the financial covenants set forth in Section 7.17 hereof, only the Borrower's Derivative Obligations under Derivative Arrangements which must be marked-to-market in accordance with GAAP shall be included as Indebtedness of the Borrower, and (viii) all obligations of such Person under synthetic (and similar type) lease arrangements, *provided* that for purposes of calculating such Person's Indebtedness under such synthetic (or similar type) lease arrangements, such lease arrangement shall be treated as if it were a Capital Lease.

"*Ineligible Institution"* means (i) a natural person, (ii) a Defaulting Bank, (iii) the Borrower, any of its Subsidiaries or any of its Affiliates, or (iv) a company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof.

"*Interest Period"* is defined in Section 2.6 hereof.

"*Investments"* is defined in Section 7.14 hereof.

"*Lending Office"* is defined in Section 9.4 hereof.

"*LIBO Rate"* means, with respect to any Eurodollar Borrowing for any applicable Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate) for Dollars for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen or, in the event such rate does not appear on either of such Reuters pages, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate as shall be selected by

the Administrative Agent from time to time in its reasonable discretion (in each case the "LIBOR Screen Rate") at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period; provided that, if the LIBOR Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement; provided, further, that if a LIBOR Screen Rate shall not be available at such time for such Interest Period (the "Impacted Interest Period"), then the LIBO Rate for such Interest Period shall be the Interpolated Rate; provided, that, if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. It is understood and agreed that all of the terms and conditions of this definition of "LIBO Rate" shall be subject to Section 2.3.

"*LIBOR Screen Rate"* has the meaning assigned to such term in the definition of "LIBO Rate".

"*Lien"* means any interest in Property securing an obligation owed to, or a claim by, a Person other than the owner of the Property, whether such interest is based on the common law, statute or contract, including, but not limited to, the security interest or lien arising from a mortgage, encumbrance, pledge, conditional sale, security agreement or trust receipt, or a lease, consignment or bailment for security purposes. For the purposes of this definition, a Person shall be deemed to be the owner of any Property which it has acquired or holds subject to a conditional sale agreement, Capital Lease or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes, and such retention of title shall constitute a *"Lien."*

"*Loan"* and *"Loans"* are defined in Section 2.1 hereof and includes a Base Rate Loan or Eurodollar Loan, each of which is a *"type"* of Loan hereunder.

"*Long-Term Guarantee"* means (i) any Guarantee issued by the Borrower or its Subsidiaries under which the holder or beneficiary of such Guarantee is not permitted under any circumstance or contingency to make demand or exercise any other remedies under such Guarantee prior to the Termination Date, as extended from time to time in accordance with the terms hereof and (ii) any coal mining reclamation bonds or contingent indemnity or reimbursement obligations with respect to such reclamation bonds (so long as such reclamation bonds have not been called upon).

"*Material Adverse Effect"* means a material adverse effect on (i) the business, financial position or results of operations of the Borrower or the Borrower and its Subsidiaries taken as a whole, (ii) the ability of the Borrower to perform its material obligations under the Credit Documents, (iii) the validity or enforceability of the material obligations of the Borrower under any Credit Document, (iv) the rights and remedies of the Banks or the Administrative Agent against the Borrower; or (v) the timely payment of the principal of and interest on the Loans or other amounts payable by the Borrower hereunder, *provided* that a downgrade of the Borrower's S&P Rating and/or Moody's Rating and/or any other credit rating of Borrower from any other credit rating agency shall not, in and of itself, be deemed a "Material Adverse Effect" for purposes of this Agreement.

"*Material Subsidiaries*" means any Subsidiary of the Borrower which is not either an Immaterial Subsidiary or a Project Finance Subsidiary; all Material Subsidiaries are designated as such in **Schedule 5.2**, as updated from time to time in accordance with the terms of this Agreement.

"*Moody's Rating*" means the rating assigned by Moody's Investors Service, Inc. and any successor thereto that is a nationally recognized rating agency to the outstanding senior unsecured non-credit enhanced long-term indebtedness of a Person (or if neither Moody's Investors Service, Inc. nor any such successor shall be in the business of rating long-term indebtedness, a nationally recognized rating agency in the United States of America as mutually agreed between the Required Banks and the Borrower). Any reference in this Agreement to any specific rating is a reference to such rating as defined as of the date

hereof by Moody's Investors Service, Inc. (or such a successor) and shall be deemed to refer to the equivalent rating if such rating system changes.

"*Non-Defaulting Bank*" means a Bank that is not a Defaulting Bank.

"*Non-Recourse Indebtedness*" means, without duplication, all Indebtedness of the Borrower and its Consolidated Subsidiaries determined on a consolidated basis in accordance with GAAP incurred in connection with project financings and refinancings (including project financings and refinancings of existing assets) as to which the holder of such Indebtedness has recourse solely against the assets of the Project Finance Subsidiary that incurs such Indebtedness and not against the Borrower or a Consolidated Subsidiary of the Borrower other than a Project Finance Subsidiary or any of their other assets (whether directly, through a Guarantee or otherwise), other than the pledge of the stock (or similar equity interest) of the Project Finance Subsidiary which incurred such Indebtedness. For purposes of clarification, any Indebtedness of a Project Finance Subsidiary which would otherwise constitute Non-Recourse Indebtedness but for the issuance by the Borrower or a Consolidated Subsidiary of the Borrower of a Guarantee or other document which provides recourse with respect to such Indebtedness, such Indebtedness shall for all purposes of this Agreement be deemed Non-Recourse Indebtedness so long as (i) the Borrower's or such Consolidated Subsidiary's obligations under such Guarantee or other document are treated for all purposes as Recourse Indebtedness hereunder, (ii) such Recourse Indebtedness of the Borrower or such Consolidated Subsidiary pursuant to such Guaranty is unsecured and is otherwise permitted by this Agreement, and (iii) such Recourse Indebtedness of the Borrower or such Consolidated Subsidiary pursuant to all such Guaranties does not in the aggregate exceed $100,000,000 at any one time outstanding.

"*Note*" is defined in Section 2.10(a) hereof.

"*Obligations*" means all fees payable hereunder, all obligations of the Borrower to pay principal of or interest on Loans, fees, expenses, indemnities, and all other payment obligations of the Borrower arising under or in relation to any Credit Document.

"*OFAC*" has the meaning assigned to such term in the definition of Sanctions Laws and Regulations.

"*Overnight Bank Funding Rate*" means, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S. managed banking offices of depository institutions (as such composite rate shall be determined by the FRBNY as set forth on its public website from time to time) and published on the next succeeding Business Day by the FRBNY as an overnight bank funding rate (from and after such date as the FRBNY shall commence to publish such composite rate).

"*Percentage*" means, for each Bank, the percentage held by such Bank of the aggregate principal amount of all outstanding Obligations.

"*Permitted Derivative Obligations*" means all Derivative Obligations as to which the Derivative Arrangements giving rise to such Derivative Obligation are entered into in the ordinary course of business to hedge interest rate risk, currency risk, commodity price risk or the production of the Borrower or its Subsidiaries (and not for speculative purposes) and if such Derivative Obligation is an obligation of the Borrower, such Derivative Obligation ranks no greater than *pari passu* to the Obligations.

"*Person*" means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization or any other entity or organization, including a government or any agency or political subdivision thereof.

"*Plan*" means at any time an employee pension benefit plan covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code that is either (i) maintained by a member of the Controlled Group or (ii) maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions.

"*PBGC*" is defined in Section 5.8 hereof.

"*Prime Rate*" means the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. as its prime rate in effect at its principal office in New York City; each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

"*Project Finance Subsidiary*" means any Subsidiary of the Borrower as to which the creditors and other holders of Indebtedness of such Subsidiary have recourse solely against the assets of such Subsidiary and not against the Borrower or any other Subsidiary of the Borrower or any of their other assets (whether directly, through a Guarantee or otherwise) other than (i) pursuant to a Guarantee permitted hereunder and (ii) the stock of such Subsidiary (or similar equity interest).

"*Property*" means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, whether now owned or hereafter acquired.

"*PUHCA*" means the Public Utility Holding Company Act of 2005, as amended.

"*Recourse Indebtedness*" means, without duplication, all Indebtedness of the Borrower and its Consolidated Subsidiaries determined on a consolidated basis in accordance with GAAP other than Non-Recourse Indebtedness, but including first mortgage bond debt.

"*Recourse Leverage Ratio*" means, as of any time the same is to be determined, the ratio of the amount of (A) Recourse Indebtedness outstanding at such time to (B) the amount of Capital at such time.

"*Related Parties*" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

"*Release*" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Materials into the indoor or outdoor environment (including, without limitation, the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Materials), or into or out of any property, including the movement of any Hazardous Material through the air, soil, surface water, groundwater or property.

"*Required Banks*" means, as of the date of determination thereof, any Banks holding in the aggregate more than fifty percent (50%) of the Percentages, *provided*, that at any time there are two (2) or fewer Banks, Required Banks shall mean Banks holding one hundred percent (100%) of the Percentages.

"*Restatement Effective Date*" means February 12, 2016.

"*S&P Rating*" means the rating assigned by Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business and any successor thereto that is a nationally recognized rating agency to the outstanding senior unsecured non-credit enhanced long-term indebtedness of a Person (or, if

neither such division nor any successor shall be in the business of rating long-term indebtedness, a nationally recognized rating agency in the United States as mutually agreed between the Required Banks and the Borrower). Any reference in this Agreement to any specific rating is a reference to such rating as defined as of the date hereof by Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business (or such a successor), and shall be deemed to refer to the equivalent rating if such rating system changes.

"*Sanctions Laws and Regulations*" means (a) any sanctions, prohibitions or requirements imposed by any executive order (an "*Executive Order*") or by any sanctions program administered by the U.S. Department of the Treasury Office of Foreign Assets Control ("*OFAC*") or the U.S. Department of State and (b) any sanctions measures imposed by the United Nations Security Council, European Union or the United Kingdom.

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

"*Security*" has the same meaning as in Section 2(l) of the Securities Act of 1933, as amended.

"*Solvent*" means that (a) the fair value of a Person's assets is in excess of the total amount of such Person's debts, as determined in accordance with the United States Bankruptcy Code, and (b) the present fair saleable value of a Person's assets is in excess of the amount that will be required to pay such Person's debts as they become absolute and matured. As used in this definition, the term "debts" includes any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent, as determined in accordance with the United States Bankruptcy Code.

"*SourceGas Acquisition*" means the transactions contemplated in that certain Purchase and Sale Agreement, dated as of July 12, 2015, as amended from time to time (the "*Acquisition Agreement*"), among Alinda Gas Delaware LLC, Alinda Infrastructure Fund I, L.P., Aircraft Services Corporation, and Black Hills Utility Holdings, Inc., a Subsidiary of the Borrower and consummated on the Restatement Effective Date.

"*SourceGas Acquisition Debt Financing*" means Indebtedness outstanding from time to time in an aggregate principal amount not to exceed $1,890,000,000 that is (i) assumed by the Borrower or any of its Subsidiaries in connection with the SourceGas Acquisition, (ii) incurred by the Borrower or any of its Subsidiaries to pay all or a portion of the cash consideration for the SourceGas Acquisition and to pay the fees and expenses incurred in connection with the SourceGas Acquisition, the SourceGas Acquisition Debt Financing and the other transactions contemplated in connection therewith or (iii) incurred by the Borrower or any of its Subsidiaries to refinance, extend, modify or replace any Indebtedness described in clause (i) or (ii) above (provided that, after giving effect thereto, the aggregate principal amount of all SourceGas Acquisition Debt Financing does not exceed $1,890,000,000).

"*SPC*" has the meaning specified in Section 11.10(h).

"*Subsidiary*" means, as to the Borrower, any corporation or other entity (i) which is consolidated into the financial statements of the Borrower in accordance with GAAP or (ii) of which more than fifty percent (50%) of the outstanding stock or comparable equity interests having ordinary voting power for the election of the Board of Directors of such corporation or similar governing body in the case of a non-corporation (irrespective of whether or not, at the time, stock or other equity interests of any other class or classes of such corporation or other entity shall have or might have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned by the Borrower or by one or more of its Subsidiaries.

"*Termination Date*" means June 30, 2017.

"*Unfunded Vested Liabilities*" means, with respect to any Plan at any time, the amount (if any) by which (i) the present value of all vested nonforfeitable accrued benefits under such Plan exceeds (ii) the fair market value of all Plan assets allocable to such benefits, all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of a member of the Controlled Group to the PBGC or the Plan under Title IV of ERISA.

"Unguaranteed Non-Recourse Indebtedness" means, without duplication, Indebtedness of the Borrower and its Consolidated Subsidiaries determined on a consolidated basis in accordance with GAAP incurred in connection with project financings (including project financings of existing assets) as to which the holder of such Indebtedness has recourse solely against the assets of the Project Finance Subsidiary that incurs such Indebtedness and not against the Borrower or a Consolidated Subsidiary of the Borrower other than a Project Finance Subsidiary or any of their other assets (whether directly, through a Guarantee or otherwise), other than the pledge of the stock (or similar equity interest) of the Project Finance Subsidiary which incurred such Indebtedness; *provided*, for purposes of clarification of this definition, any Indebtedness of a Project Finance Subsidiary in which the Borrower or a Consolidated Subsidiary of the Borrower has issued a Guarantee or is a party to any other document which provides recourse with respect to such Indebtedness, such Indebtedness shall for all purposes of this Agreement not be deemed Unguaranteed Non-Recourse Indebtedness.

"U.S. Dollars" and *"$"* each means the lawful currency of the United States of America.

"Voting Participant" is defined in Section 11.10(i) hereof.

"Voting Participant Notification" is defined in Section 11.10(i) hereof.

"Voting Stock" of any Person means capital stock of any class or classes or other equity interests (however designated) having ordinary voting power for the election of directors or similar governing body of such Person.

"Welfare Plan" means a *"welfare plan,"* as defined in Section 3(l) of ERISA.

"Wholly-Owned" when used in connection with any Subsidiary means a Subsidiary of which all of the issued and outstanding shares of stock or other equity interests (other than directors' qualifying shares as required by law) shall be owned by the Borrower and/or one or more of its Wholly-Owned Subsidiaries.

Section 1.2 *Interpretation*. The foregoing definitions shall be equally applicable to both the singular and plural forms of the terms defined. All references to times of day in this Agreement shall be references to New York, New York time unless otherwise specifically provided. The word *"including"* means including without limiting the generality of any description preceding such term. Where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made for the purposes of this Agreement, the same shall be done in accordance with GAAP in effect on the Restatement Effective Date, to the extent applicable, except where such principles are inconsistent with the specific provisions of this Agreement. Whether any obligations of the Borrower or any Subsidiary are *"pari passu"* with the Obligations shall be determined based on contractual rights and shall not take into consideration structural seniority or subordination. Unless the context requires otherwise (a) 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, restated, supplemented or otherwise modified (subject to

any restrictions on such amendments, restatements, supplements or modifications set forth herein), and (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws). Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made without giving effect to (i) any election under Accounting Standards Codification Section 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any of its Subsidiaries at "fair value", as defined therein or (ii) any treatment of Indebtedness in respect of convertible debt instruments under Financial Accounting Standards Codification Subtopic 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

Section 1.3 *Borrower Assumption*. (a) Effective immediately prior to the amendment and restatement of the Existing Credit Agreement set forth herein, the Existing Borrower hereby assigns all of its rights, duties, obligations and liabilities under the Existing Credit Agreement to the Borrower, including, without limitation, the right to obtain Loans, all on the terms and subject to the conditions set forth in the Existing Credit Agreement.

(b) The Borrower hereby expressly and completely assumes, as its direct and primary obligation, the payment and performance of all of the duties, liabilities and obligations of the Existing Borrower under the Existing Credit Agreement and the other Credit Documents, including, without limitation, the obligation to pay principal, interest and fees with respect to all such liabilities and obligations, and indemnification obligations related thereto (collectively the "Assumed Obligations") and hereby agrees to make all payments required under the Existing Credit Agreement and the other Credit Documents in effect and to discharge the Assumed Obligations as they become due or are declared due. The Borrower acknowledges that the Existing Borrower has assigned to the Borrower all of the rights, duties, obligations and liabilities of the Existing Borrower under the Credit Agreement, including, without limitation, the right to obtain Loans, all on the terms and subject to the conditions set forth in the Existing Credit Agreement. From and after the date hereof, the Borrower agrees to perform and discharge all of the Assumed Obligations, including, without limitation, performance and observance of all of the agreements, covenants and conditions of the Credit Agreement and the other Credit Documents to be performed or observed by the Existing Borrower thereunder or in connection therewith, and to be bound in all respects by the terms of the Existing Credit Agreement and the other Credit Documents as they relate to the Existing Borrower as if the Borrower were an original signatory thereto.

(c) The Existing Borrower hereby represents and warrants that, as of the date hereof (i) all of the representations and warranties contained in Article IV of the Existing Credit Agreement are true and correct and (ii) no Default or Event of Default has occurred and is continuing.

(d) The Administrative Agent and the Banks hereby acknowledge the assignment of rights, duties, obligations and liabilities from the Existing Borrower to the Borrower and the assumption by the Borrower of the rights, duties, obligations and liabilities of the Existing Borrower under the Existing Credit Agreement, and agree that from and after the date hereof, the Borrower, as successor in interest to the Existing Borrower, shall have all of the rights, duties, obligations and liabilities of the Existing Borrower under the Existing Credit Agreement, subject to the terms and conditions set forth herein and therein.

Section 1.4 *Amendment and Restatement of the Existing Credit Agreement.* (a) The parties to this Agreement agree that, on the Restatement Effective Date and immediately after giving effect to the

provisions of Section 1.3 hereof, the terms and provisions of the Existing Credit Agreement shall be and hereby are amended, superseded and restated in their entirety by the terms and provisions of this Agreement. This Agreement is not intended to and shall not constitute a novation, payment and reborrowing or termination of the "Obligations" under (and as defined in) the Existing Credit Agreement and the other Credit Documents as in effect prior to the Restatement Effective Date. All "Loans" made and "Obligations" incurred under (and as defined in) the Existing Credit Agreement which are outstanding on the Restatement Effective Date shall continue as Loans and Obligations under (and shall be governed by the terms of) this Agreement and the other Credit Documents. Without limiting the foregoing, upon the effectiveness hereof: (a) all references in the "Loan Documents" (as defined in the Existing Credit Agreement) to the "Administrative Agent", the "Agreement" and the "Loan Documents" shall be deemed to refer to the Administrative Agent, this Agreement and the Credit Documents, (b) all obligations constituting "Obligations" (under and as defined in the Existing Credit Agreement) with any Bank or any Affiliate of any Bank which are outstanding on the Restatement Effective Date shall continue as Obligations under this Agreement and the other Credit Documents and (c) the Borrower hereby agrees to compensate each Bank for any and all losses, costs and expenses incurred by such Bank in connection with the sale and assignment of any Eurodollar Loans described below, in each case on the terms and in the manner set forth in Section 2.11 hereof.

(b) The Borrower hereby (a) agrees that this Agreement and the transactions contemplated hereby shall not limit or diminish its obligations arising under or pursuant to the Credit Documents to which it is a party, (b) reaffirms all of its obligations under the Credit Documents to which it is a party and (c) acknowledges and agrees that each Credit Document executed by it remains in full force and effect and is hereby reaffirmed, ratified and confirmed.

SECTION 2. THE CREDITS.

Section 2.1 *The Loan Commitment*. Prior to the Restatement Effective Date, certain term loans were previously made to the Borrower under the Existing Credit Agreement which remain outstanding as of the Restatement Effective Date (such outstanding loans being hereinafter referred to as the "*Existing Loans*"). Subject to the terms and conditions of this Agreement, the Borrower and each Bank agrees that on the Restatement Effective Date but subject to the satisfaction of the reallocation and other transactions described in Section 1.4, the Existing Loans shall be reevidenced as loans under this Agreement (each such loan, a "*Loan*" hereunder), the terms of the Existing Loans shall be restated in their entirety and shall be evidenced by this Agreement. Any amount borrowed under this Section 2.1 and subsequently repaid or prepaid may not be reborrowed. As provided in Section 2.5(a) hereof, the Borrower may elect that each Borrowing of Loans be either Base Rate Loans or Eurodollar Loans. Unless an earlier maturity is provided for hereunder, all Loans shall mature and be due and payable on the Termination Date.

Section 2.2 *Reserved*.

Section 2.3 *Applicable Interest Rates*.

(a) *Base Rate Loans*. Each Base Rate Loan made or maintained by a Bank shall bear interest during each Interest Period it is outstanding (computed (x) at all times the Base Rate is based on the rate described in clause (i) of the definition thereof, on the basis of a year of 365 or 366 days, as applicable, and actual days elapsed or (y) at all times the Base Rate is based on the rate described in clause (ii) or (iii) of the definition thereof, on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced, continued or created by conversion from a Eurodollar Loan until maturity (whether by acceleration or otherwise) at a rate per annum equal to the sum of the Applicable Margin plus the Base Rate

from time to time in effect, payable on the last day of its Interest Period and at maturity (whether by acceleration or otherwise) and no less frequently than quarterly.

"*Base Rate*" means, for any day, a rate of interest per annum equal to the highest of (i) the Prime Rate for such day, (ii) the sum of the FRNBY Rate for such day plus 1/2% per annum and (iii) the Adjusted LIBOR for a one month Interest Period denominated in U.S. Dollars on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1% per annum, *provided* that, for the avoidance of doubt, the Adjusted LIBOR for any day shall be based on the rate appearing on the Reuters Screen LIBOR01 Page (or on any successor or substitute page of such page) at approximately 11:00 a.m. London time on such day. Any change in the Base Rate due to a change in the Prime Rate, the FRNBY Rate or the Adjusted LIBOR shall be effective from and including the effective date of such change in the Prime Rate, the FRNBY Rate or the Adjusted LIBOR, respectively. For the avoidance of doubt, if the Base Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

(b) *Eurodollar Loans*. Each Eurodollar Loan made or maintained by a Bank shall bear interest during each Interest Period it is outstanding (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced, continued, or created by conversion from a Base Rate Loan until maturity (whether by acceleration or otherwise) at a rate per annum equal to the sum of the Applicable Margin plus the Adjusted LIBOR applicable for such Interest Period, payable on the last day of the Interest Period and at maturity (whether by acceleration or otherwise), and, if the applicable Interest Period is longer than three months, on each day occurring every three months after the commencement of such Interest Period.

"*Adjusted LIBOR*" means, for any Borrowing of Eurodollar Loans, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) determined by multiplying the LIBO Rate *times* the Eurodollar Reserve Percentage.

"*Eurodollar Reserve Percentage*" means for a Borrowing of Eurodollar Loans from any Bank, a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board of Governors of the Federal Reserve System to which the Administrative Agent is subject for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D of the Board of Governors of the Federal Reserve System. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that

may be available from time to time to any Bank under such Regulation D of the Board of Governors of the Federal Reserve System or any comparable regulation. The Eurodollar Reserve Percentage shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

(c) *Rate Determinations*. The Administrative Agent shall determine each interest rate applicable to Obligations, and a determination thereof by the Administrative Agent shall be conclusive and binding except in the case of manifest error.

Section 2.4 *Minimum Borrowing Amounts*. Each Borrowing of Eurodollar Loans shall be in an amount not less than $2,000,000 and integral multiples of $1,000,000 in excess thereof.

Section 2.5 *Manner of Borrowing Loans and Designating Interest Rates Applicable to Loans*.

(a) *Notice to the Administrative Agent*. The Loans included in the Borrowing shall bear interest initially at the type of rate specified in the notice of Borrowing delivered by the

Borrower to the Administrative Agent by no later than 12:00 noon (New York time) (i) at least three (3) Business Days before the date hereof with respect to any Borrowing of Eurodollar Loans or (ii) on the date hereof with respect to any Borrowing of Base Rate Loans. The Borrower may from time to time elect to change or continue the type of interest rate borne by each Borrowing or, subject to the minimum amount requirement for each outstanding Borrowing set forth in Section 2.4 hereof, a portion thereof, as follows: (i) if such Borrowing is of Eurodollar Loans, on the last day of the Interest Period applicable thereto, the Borrower may continue part or all of such Borrowing as Eurodollar Loans for an Interest Period or Interest Periods specified by the Borrower or convert part or all of such Borrowing into Base Rate Loans, and (ii) if such Borrowing is of Base Rate Loans, on any Business Day, the Borrower may convert all or part of such Borrowing into Eurodollar Loans for an Interest Period or Interest Periods specified by the Borrower. The Borrower shall give all such notices requesting, the continuation or conversion of a Borrowing to the Administrative Agent by telephone, telecopy or email of a properly executed pdf (which notice shall be irrevocable once given and, if by telephone, shall be promptly confirmed in writing). Notices of the continuation of a Borrowing of Eurodollar Loans for an additional Interest Period or of the conversion of part or all of a Borrowing of Eurodollar Loans into Base Rate Loans or of Base Rate Loans into Eurodollar Loans must be given by no later than 1:00 p.m. (New York time) at least three (3) Business Days before the date of the requested continuation or conversion. All such notices concerning the continuation or conversion of a Borrowing shall be irrevocable once given and shall specify the date of the requested advance, continuation or conversion of a Borrowing (which shall be a Business Day), the amount of the requested Borrowing to be advanced, continued, or converted, the type of Loans to comprise such new, continued or converted Borrowing and, if such Borrowing is to be comprised of Eurodollar Loans, the Interest Period applicable thereto. The Borrower agrees that the Administrative Agent may rely on any such telephonic or telecopy notice given by any person it in good faith believes is an Authorized Representative without the necessity of independent investigation, and in the event any such notice by telephone conflicts with any written confirmation, such telephonic notice shall govern if the Administrative Agent has acted in reliance thereon. There may be no more than eight (8) different Interest Periods in effect at any one time, *provided* that for purposes of determining the number of Interest Periods in effect at any one time, all Base Rate Loans shall be deemed to have one and the same Interest Period.

(b) *Notice to the Banks*. The Administrative Agent shall give prompt telephonic or telecopy notice to each Bank of any notice from the Borrower received pursuant to Section 2.5(a) hereof. The Administrative Agent shall give notice to the Borrower and each Bank by like means of the interest rate applicable to each Borrowing of Eurodollar Loans.

(c) *Borrower's Failure to Notify*. Any outstanding Borrowing of Base Rate Loans shall, subject to Section 6.2 hereof, automatically be continued for an additional Interest Period on the last day of its then current Interest Period unless the Borrower has notified the Administrative Agent within the period required by Section 2.5(a) hereof that it intends to convert such Borrowing into a Borrowing of Eurodollar Loans or notifies the Administrative Agent within the period required by Section 2.8(a) hereof that it intends to prepay or repay such Borrowing. If the Borrower fails to give notice pursuant to Section 2.5(a) hereof of the continuation or conversion of any outstanding principal amount of a Borrowing of Eurodollar Loans before the last day of its then current Interest Period within the period required by Section 2.5(a) hereof and has not notified the Administrative Agent within the period required by Section 2.8(a) hereof that it intends to prepay such Borrowing, such Borrowing shall automatically be converted into a Borrowing of Base Rate Loans, subject to Section 6.2 hereof. The Administrative Agent shall promptly notify the Banks of the Borrower's failure to so give a notice under Section 2.5(a) hereof.

(d) *Disbursement of Loans*. Not later than 12:00 noon (New York time) on the date of any requested advance of a new Borrowing of Eurodollar Loans, and not later than 2:00 p.m. (New York time) on the date of any requested advance of a new Borrowing of Base Rate Loans, subject to Section 6 hereof, each Bank shall make available its Loan comprising part of such Borrowing in funds immediately available at the principal office of the Administrative Agent. The Administrative Agent shall make available to the Borrower Loans in the type of funds received by the Administrative Agent from the Banks.

(e) *Administrative Agent Reliance on Bank Funding*. Unless the Administrative Agent shall have been notified by a Bank (i) with respect to Eurodollar Loans, before the date on which such Bank is scheduled to make payment to the Administrative Agent of the proceeds of a Loan (which notice shall be effective upon receipt) or (ii) with respect to Base Rate Loans, no later than 2:00 p.m. (New York time) on the due date thereof, that such Bank does not intend to make such payment, the Administrative Agent may assume that such Bank has made such payment when due and the Administrative Agent may in reliance upon such assumption (but shall not be required to) make available to the Borrower the proceeds of the Loan to be made by such Bank and, if any Bank has not in fact made such payment to the Administrative Agent, such Bank shall, on demand, pay to the Administrative Agent the amount made available to the Borrower attributable to such Bank together with interest thereon in respect of each day during the period commencing on the date such amount was made available to the Borrower and ending on (but excluding) the date such Bank pays such amount to the Administrative Agent at a rate per annum equal to (i) from the date the related payment was made by the Administrative Agent to the date two (2) Business Days after payment by such Bank is due hereunder, the Federal Funds Rate for each such day and (ii) from the date two (2) Business Days after the date such payment is due from such Bank to the date such payment is made by such Bank, the Base Rate in effect for each such day. If such amount is not received from such Bank by the Administrative Agent immediately upon demand, the

Borrower will, on demand, repay to the Administrative Agent the proceeds of the Loan attributable to such Bank with interest thereon at a rate per annum equal to the interest rate applicable to the relevant Loan.

Section 2.6 *Interest Periods*. As provided in Section 2.5(a) hereof, at the time of each request for a Borrowing of Eurodollar Loans, the Borrower shall select an Interest Period applicable to such Loans from among the available options. The term *"Interest Period"* means the period commencing on the date a Borrowing of Loans is advanced, continued, or created by conversion and ending: (a) in the case of Base Rate Loans, on the last Business Day of the calendar quarter in which such Borrowing is advanced, continued, or created by conversion (or on the last day of the following calendar quarter if such Loan is advanced, continued or created by conversion on the last Business Day of a calendar quarter), and (b) in the case of Eurodollar Loans, 1, 2, 3 or 6 months thereafter (or such other time period as may be agreed to by and among the Borrower, the Administrative Agent and the Banks); *provided, however,* that:

(a) any Interest Period for a Borrowing of Base Rate Loans that otherwise would end after the Termination Date shall end on the Termination Date;

(b) for any Borrowing of Eurodollar Loans, the Borrower may not select an Interest Period that extends beyond the Termination Date;

(c) whenever the last day of any Interest Period would otherwise be a day that is not a Business Day, the last day of such Interest Period shall be extended to the next succeeding Business Day, *provided* that, if such extension would cause the last day of an Interest Period for a Borrowing of Eurodollar Loans to occur in the following calendar month, the last day of such Interest Period shall be the immediately preceding Business Day; and

(d) for purposes of determining an Interest Period for a Borrowing of Eurodollar Loans, a month means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month; *provided, however,* that if there is no numerically corresponding day in the month in which such an Interest Period is to end or if such an Interest Period begins on the last Business Day of a calendar month, then such Interest Period shall end on the last Business Day of the calendar month in which such Interest Period is to end.

Section 2.7 *Maturity of Loans*. Unless an earlier maturity is provided for hereunder (whether by acceleration or otherwise), all Obligations (including principal and interest on all outstanding Loans) shall mature and become due and payable by the Borrower on the Termination Date.

Section 2.8 *Prepayments*. The Borrower may prepay any Borrowing of Eurodollar Loans or Base Rate Loans without premium or penalty and in whole or in part (but, if in part, then (i) in an amount not less than $2,000,000 and integral multiples of $1,000,000 in excess thereof, and (ii) in an amount such that the minimum amount required for a Borrowing pursuant to Section 2.4 hereof remains outstanding) upon irrevocable notice to the Administrative Agent (A) in the case of any Borrowing of Eurodollar Loans, no later than 2:00 p.m. (New York time) on the date that is three (3) Business Days' prior to such prepayment and (B) in the case of any Borrowing of Base Rate Loans, no later than 2:00 p.m. (New York time) on the date of such prepayment, such prepayment to be made by the payment of the principal amount to be prepaid and accrued interest thereon to the date fixed for prepayment. In the case of Eurodollar Loans, any amounts owing under Section 2.11 hereof as a result of such prepayment shall be paid contemporaneously with such prepayment. The Administrative Agent will promptly advise each Bank of any such prepayment notice it receives from the Borrower. No amount paid or prepaid before the Termination Date may be borrowed again.

Section 2.9 *Default Rate*. If any payment of principal or interest on any Loan, or payment of any other Obligation, is not made when due (whether by acceleration or otherwise), such principal, interest or other Obligation shall bear interest (computed on the basis of a year of 360 days and actual days elapsed or, if based on the rate described in clause (i) of the definition of Base Rate, on the basis of a year of 365 or 366 days, as applicable, and the actual number of days elapsed) from the date such payment was due until paid in full, payable on demand, at a rate per annum equal to:

(a) for any Obligation other than a Eurodollar Loan (including principal and interest relating to Base Rate Loans and interest on Eurodollar Loans), the sum of two percent (2.00%) plus the Applicable Margin plus the Base Rate from time to time in effect; and

(b) for the principal of any Eurodollar Loan, the sum of two percent (2.00%) plus the rate of interest in effect thereon at the time of such default until the end of the Interest Period applicable thereto and, thereafter, at a rate per annum equal to the sum of two percent (2.00%) plus the Applicable Margin plus the Base Rate from time to time in effect.

Section 2.10 *The Notes*.

(a) The Loans made to the Borrower by each Bank shall, upon the written request of any such Bank, be evidenced by a single promissory note of the Borrower issued to such Bank in the form of **Exhibit A** hereto. Each such promissory note is hereinafter referred to as a *"Note"* and collectively such promissory notes are referred to as the *"Notes."*

(b) Each Bank shall record on its books and records or on a schedule to its Note (if any) the amount of each Loan advanced, continued, or converted by it, all payments of principal

and interest and the principal balance from time to time outstanding thereon, the type of such Loan, and, for any Eurodollar Loan, the Interest Period and the interest rate applicable thereto. The record thereof, whether shown on such books and records of a Bank or on a schedule to any Note, shall be *prima facie* evidence of the same; *provided, however,* that the failure of any Bank to record any of the foregoing or any error in any such record shall not limit or otherwise affect the obligation of the Borrower to repay all Loans made hereunder together with accrued interest thereon. At the written request of any Bank and upon such Bank tendering to the Borrower the Note to be replaced, the Borrower shall furnish a new Note to such Bank to replace any outstanding Note, and at such time the first notation appearing on a schedule on the reverse side of, or attached to, such Note shall set forth the aggregate unpaid principal amount of all Loans, if any, then outstanding thereon.

Section 2.11 *Funding Indemnity*. If any Bank shall incur any loss, cost or expense (including, without limitation, any loss, cost or expense (excluding loss of margin) incurred by reason of the liquidation or re-employment of deposits or other funds acquired by such Bank to fund or maintain any Eurodollar Loan or the relending or reinvesting of such deposits or amounts paid or prepaid to such Bank) as a result of:

(a) any payment (whether by acceleration or otherwise), prepayment or conversion of a Eurodollar Loan on a date other than the last day of its Interest Period,

(b) any failure (because of a failure to meet the conditions of Section 6 hereof or otherwise) by the Borrower to borrow or continue a Eurodollar Loan, or to convert a Base Rate Loan into a Eurodollar Loan, on the date specified in a notice given pursuant to Section 2.5(a) hereof or established pursuant to Section 2.5(c) hereof,

(c) any failure by the Borrower to make any payment or prepayment of principal on any Eurodollar Loan when due (whether by acceleration or otherwise), or

(d) any acceleration of the maturity of a Eurodollar Loan as a result of the occurrence of any Event of Default hereunder,

then, upon the demand of such Bank, the Borrower shall pay to such Bank such amount as will reimburse such Bank for such loss, cost or expense. If any Bank makes such a claim for compensation, it shall provide to the Borrower, with a copy to the Administrative Agent, a certificate executed by an officer of such Bank setting forth the amount of such loss, cost or expense in reasonable detail (including an explanation of the basis for and the computation of such loss, cost or expense) and the amounts shown on such certificate if reasonably calculated shall be *prima facie* evidence of the amount of such loss, cost or expense.

Section 2.12 *Interest Rate Limitation*. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the *"Charges"*), shall exceed the maximum lawful rate (the *"Maximum Rate"*) which may be contracted for, charged, taken, received or reserved by the Bank holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Bank in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Rate to the date of repayment, shall have been received by such Bank.

Section 2.13 *Reserved*.

Section 2.14 *Defaulting Banks*. Notwithstanding any provision of this Agreement to the contrary, if any Bank becomes a Defaulting Bank, then any amount payable to such Defaulting Bank hereunder (whether on account of principal, interest, fees or otherwise and including any amount that would otherwise be payable to such Defaulting Bank pursuant to this Agreement) shall, in lieu of being distributed to such Defaulting Bank, subject to any applicable requirements of law, be applied (i) first, to the payment of any amounts owing by such Defaulting Bank to the Administrative Agent hereunder, and (ii) second, to such Defaulting Bank, or, in each case, as otherwise directed by a court of competent jurisdiction.

Notwithstanding anything set forth herein to the contrary, a Defaulting Bank shall not have any voting or consent rights under or with respect to any Credit Documents or constitute a "Bank" for any voting or consent rights under or with respect to any Credit Document, in any matter requiring the consent of Required Banks. Moreover, for the purposes of determining Required Banks and the Loans held, Defaulting Banks shall be excluded from the total Loans outstanding. For purposes of clarification, a Defaulting Bank shall not lose its right to vote with respect to matters set forth in clauses (i) and (ii) of Section 11.11 hereof.

SECTION 3. FEES.

Section 3.1 *Fees*. All fees payable under this Agreement shall be payable in U.S. Dollars and shall be computed on the basis of a year of 360 days, for the actual number of days elapsed. All determinations of the amount of fees owing hereunder (and the components thereof) shall be made by the Administrative Agent and shall be *prima facie* evidence of the amount of such fee, absent manifest error.

SECTION 4. PLACE AND APPLICATION OF PAYMENTS.

Section 4.1 *Place and Application of Payments*. All payments of principal of and interest on the Loans, and of all other Obligations and other amounts payable by the Borrower under the Credit Documents, shall be made by the Borrower in U.S. Dollars to the Administrative Agent by no later than 2:00 p.m. (New York time) on the due date thereof at the principal office of the Administrative Agent pursuant to the payment instructions set forth on Part A of **Schedule 4** hereof (or such other location in the, United States as the Administrative Agent may designate to the Borrower), for the benefit of the Person or Persons entitled thereto. Any payments received after such time shall be deemed to have been received by the Administrative Agent on the next Business Day. All such payments shall be made free and clear of, and without deduction for, any set-off, defense, counterclaim, levy, or any other deduction of any kind in immediately available funds at the place of payment. The Administrative Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal or interest on Loans or applicable fees ratably to the Banks and like funds relating to the payment of any other amount payable to any Person to such Person, in each case to be applied in accordance with the terms of this Agreement.

SECTION 5. REPRESENTATIONS AND WARRANTIES.

The Borrower hereby represents and warrants to each Bank as to itself and, where the following representations and warranties apply to its Subsidiaries, as to each Subsidiary of the Borrower, as follows:

Section 5.1 *Corporate Organization and Authority*. The Borrower is duly organized and existing in good standing under the laws of the state of South Dakota; has all necessary corporate

power to carry on its present business; and is duly licensed or qualified and in good standing in each jurisdiction in which the nature of the business transacted by it or the nature of the Property owned or leased by it makes such licensing, qualification or good standing necessary and in which the failure to be so licensed, qualified or in good standing would have a Material Adverse Effect.

Section 5.2 *Subsidiaries*. **Schedule 5.2** (as updated from time to time pursuant to Section 7.1 hereof) hereto identifies each Subsidiary of the Borrower, the jurisdiction of organization, the percentage of issued and outstanding equity securities owned by the Borrower and its Subsidiaries and, if such percentage is not one hundred percent (100%) (excluding directors' qualifying shares as required by law), a description of each class of its equity securities and the number of securities issued and outstanding. Each Subsidiary is duly organized and existing in good standing under the laws of the jurisdiction of its organization, has all necessary corporate or equivalent power to carry on its present business, and is duly licensed or qualified and in good standing in each jurisdiction in which the nature of the business transacted by it or the nature of the Property owned or leased by it makes such licensing or qualification necessary and in which the failure to be so licensed or qualified would have a Material Adverse Effect. All of the issued and outstanding securities of each Subsidiary owned directly or indirectly by the Borrower are validly issued and outstanding and fully paid and nonassessable except as set forth on **Schedule 5.2** hereto. All such securities owned by the Borrower are owned beneficially, and of record, free of any Lien, except as permitted in Section 7.9 hereof.

Section 5.3 *Corporate Authority and Validity of Obligations*. The Borrower has full right and authority to enter into this Agreement and the other Credit Documents to which it is a party, to make the borrowings herein provided for, to issue its Notes in evidence thereof and to perform all of its obligations under the Credit Documents to which it is a party. Each Credit Document to which it is a party has been duly authorized, executed and delivered by the Borrower and constitutes valid and binding obligations of the Borrower enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforceability of creditors' rights generally and by equitable principles of general applicability (regardless of whether such enforceability is considered in a proceeding in equity or at law). No Credit Document, nor the performance or observance by the Borrower of any of the matters or things therein provided for, contravenes any provision of law or any charter or by-law provision of the Borrower or any material Contractual Obligation of or affecting the Borrower or any of the Borrower's Properties or results in or requires the creation or imposition of any Lien on any of the Properties or revenues of the Borrower.

Section 5.4 *Financial Statements*. All financial statements heretofore delivered to the Banks showing historical performance of the Borrower for the Borrower's fiscal years ending on or before December 31, 2014, have been prepared in accordance with generally accepted accounting principles applied on a basis consistent, except as otherwise noted therein, with that of the previous fiscal year (subject to normal year-end adjustments). Each of such financial statements fairly presents on a consolidated basis the financial condition of the Borrower and its Subsidiaries as of the dates thereof and the results of operations for the periods covered thereby. The Borrower and its Subsidiaries have no material contingent liabilities other than those disclosed in such financial statements referred to in this Section 5.4 or in comments or footnotes thereto, or in any report supplementary thereto, heretofore furnished to the Banks. Since December 31, 2014, there has been no event or series of events which has resulted in, or reasonably could be expected to result in, a Material Adverse Effect.

Section 5.5 *No Litigation; No Labor Controversies*.

(a) Except as disclosed on **Schedule 5.5**, there is no litigation or governmental proceeding pending, or to the knowledge of the Borrower, threatened, against the Borrower or any Subsidiary of the Borrower in which there is a reasonable possibility of an adverse decision which, if adversely determined, could (individually or in the aggregate) have a Material Adverse Effect.

(b) There are no labor controversies pending or, to the best knowledge of the Borrower, threatened against the Borrower or any Subsidiary of the Borrower which could (individually or in the aggregate) have a Material Adverse Effect.

Section 5.6 *Taxes*. The Borrower and its Subsidiaries have timely filed all United States federal tax returns, and all other foreign, state, local and other tax returns, required to be filed and have timely paid all taxes due from the Borrower and its Subsidiaries (whether or not pursuant to such returns or pursuant to any assessment received by the Borrower or any Subsidiary of the Borrower), except such taxes, if any, as are being contested in good faith and for which adequate reserves have been provided. No notices of tax liens have been filed and no claims are being asserted concerning any such taxes, which liens or claims are material to the financial condition of the Borrower or any of its Subsidiaries (individually or in the aggregate). The charges, accruals and reserves on the books of the Borrower and its Subsidiaries for any taxes or other governmental charges are adequate and in conformance with GAAP.

Section 5.7 *Approvals*. No authorization, consent, approval, license, exemption, filing or registration with any court or governmental department, agency or instrumentality which have not already been obtained, nor any approval or consent of the stockholders of the Borrower or any Subsidiary of the Borrower or from any other Person, is necessary to the valid execution, delivery or performance by the Borrower or any Subsidiary of the Borrower of any Credit Document to which it is a party.

Section 5.8 *ERISA*. With respect to each Plan, the Borrower and each other member of the Controlled Group has fulfilled its obligations under the minimum funding standards of and is in compliance in all material respects with the Employee Retirement Income Security Act of 1974, as amended ("*ERISA*"), and with the Code to the extent applicable to it and has not incurred any liability to the Pension Benefit Guaranty Corporation ("*PBGC*") or a Plan under Title IV of ERISA other than (a) a liability incurred in the ordinary course of business related to the ongoing funding requirements of a Plan or (b) a liability to the PBGC for premiums under Section 4007 of ERISA. Neither the Borrower nor any Subsidiary of the Borrower has any contingent liabilities for any post-retirement benefits under a Welfare Plan, other than liability for continuation coverage described in Part 6 of Title I of ERISA and Section 4980B of the Code or similar state statute.

Section 5.9 *Government Regulation*. Neither the Borrower nor any Subsidiary of the Borrower is an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

Section 5.10 *Margin Stock; Use of Proceeds*. Neither the Borrower nor any Subsidiary of the Borrower is engaged principally, or as one of its primary activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (*"margin stock"* to have the same meaning herein as in Regulation U of the Board of Governors of the Federal Reserve System). The proceeds of the Loans re-evidence borrowings under the Existing Credit Agreement (which borrowings refinanced Existing Indebtedness of the Existing Borrower) and are for general corporate purposes of the Borrower and its Subsidiaries. The Borrower will not use the proceeds

of any Loan in a manner that violates any provision of Regulation U or X of the Board of Governors of the Federal Reserve System.

Section 5.11 *Licenses and Authorizations; Compliance with Laws*.

(a) The Borrower and each of its Subsidiaries has all necessary licenses, permits and governmental authorizations to own and operate its Properties and to carry on its business as currently conducted and contemplated except for any such licenses, permits and governmental authorizations which, the failure to have, could not, either individually or in the aggregate, reasonably expected to have a Material Adverse Effect. The Borrower and each of its Subsidiaries is in compliance with all applicable laws, regulations, ordinances and orders of any governmental or judicial authorities except for any such law, regulation, ordinance or order which, the failure to comply therewith, could not reasonably expected to have a Material Adverse Effect.

(b) In the ordinary course of its business, the Borrower and each of its Subsidiaries conduct annual reviews of the effect of Environmental and Health Laws on the Properties and all aspects of the business and operations of the Borrower and its Subsidiaries in the course of which the Borrower identifies and evaluates associated liabilities and costs (including, without limitation, any capital or operating expenditures required for clean-up or contemplated closure of Properties currently or previously owned, any capital or operating expenditures required to achieve or maintain compliance with standards imposed by law and any actual or reasonably likely liabilities to third parties, including employees or governmental entities, and any related costs and expenses). The Borrower regularly documents the results of these reviews in periodic environmental compliance audit or assessment reports (collectively, *"Environmental Review Documents"*). On the basis of this review, the Borrower has reasonably concluded that Environmental and Health Laws do not, and for the reasonably foreseeable future will not have, any Material Adverse Effect.

(c) Except as set forth on **Schedule 5.11** (as amended from time to time in accordance with the provisions hereof): (i) the Borrower and each Subsidiary (including, without limitation, all operations and conditions at or in the Property) are and have been in compliance with all applicable Environmental and Health Laws (which compliance includes, but is not limited to, the possession by the Borrower and each of its Subsidiaries of all permits and other governmental authorizations required under applicable Environmental and Health Laws, and compliance with the terms and conditions thereof), except where failure to be in compliance could not reasonably be expected to have a Material Adverse Effect; (ii) there is no Environmental Claim pending or, to the Borrower's knowledge, threatened against the Borrower or any of its Subsidiaries or against any Person whose liability for any Environmental Claim the Borrower or any of its Subsidiaries has retained or assumed either contractually or by operation of law, in each such case which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect; (iii) from and after the date on which the Borrower acquired title to the Property, there have been and are no past or present actions, activities, circumstances, conditions, events or incidents, including, without limitation, the Release or presence of any Hazardous Material, and prior to the date on which the Borrower acquired title to the Property, to the Borrower's knowledge, there have been and are no past or present actions, activities, circumstances, conditions, events or incidents, including, without limitation, the Release or presence of any Hazardous Material, which, in each case, could reasonably be expected to form the basis of any Environmental Claim against the Borrower or any of its Subsidiaries, or against any Person whose liability for any Environmental Claim the Borrower or any of its Subsidiaries has retained or assumed either contractually or by operation of law, in each such case which could reasonably be expected to have a Material Adverse Effect; (iv) the Borrower and its Subsidiaries have not, and to the Borrower's knowledge, no other Person has placed, stored, deposited, discharged, buried, dumped or disposed of Hazardous Materials on,

beneath or adjacent to any property currently or formerly owned, operated or leased by the Borrower or any of its Subsidiaries, in each case, which, individually or in the aggregate, which could reasonably be expected to have a Material Adverse Effect; and (v) no Lien in favor of any Person relating to or in connection with any Environmental Claim has been filed or has been attached to any Property.

Section 5.12 *Ownership of Property; Liens*. The Borrower and each Subsidiary of the Borrower has good title to or valid leasehold interests in all its Property. None of the Borrower's or any Subsidiary's Property is subject to any Lien, except as permitted in Section 7.9 hereof

Section 5.13 *No Burdensome Restrictions; Compliance with Agreements*. Neither the Borrower nor any Subsidiary of the Borrower is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement to which it is a party (including any Contractual Obligation), which default could materially adversely affect the business, operations, Property or financial or other condition of the Borrower and its Subsidiaries (individually or in the aggregate).

Section 5.14 *Full Disclosure*. All information heretofore furnished by the Borrower to the Administrative Agent or any Bank for purposes of or in connection with the Credit Documents or any transaction contemplated thereby is, and all such information hereafter furnished by the Borrower to the Administrative Agent or any Bank will be, true and accurate in all material respects and not misleading.

Section 5.15 *Solvency*. The Borrower and each of its Subsidiaries on a consolidated basis, is Solvent. The Borrower and each of its Material Subsidiaries, individually, is Solvent.

Section 5.16 *Sanctions Laws and Regulations*. None of the Borrower, any of its Subsidiaries or any of their respective directors, officers or employees or, to the knowledge of the Borrower, any Affiliates of the Borrower or its Subsidiaries or any agent of the Borrower or any of its Subsidiaries that will act in any capacity in connection with this Agreement or benefit from the credit facility established hereby, is a Designated Person. The Borrower, its Subsidiaries and their respective officers and employees and to the knowledge of the Borrower its directors and agents, are

in compliance with Sanctions Laws and Regulations in all material respects. No Borrowing, use of proceeds or other Transactions will violate any Sanctions Laws and Regulations.

SECTION 6. CONDITIONS PRECEDENT.

The obligation of each Bank to effect a Borrowing shall be subject to the following conditions precedent:

Section 6.1 *Initial Credit Event*. On or before the Restatement Effective Date:

(a) The Administrative Agent shall have received for each Bank the favorable written opinion of (i) Faegre Baker Daniels LLP, counsel to the Borrower and (ii) General Counsel to the Borrower; *provided*, either such opinion shall include a legal opinion to the effect that the Borrower has obtained all necessary approvals under PUHCA in connection with its obligations under the Credit Documents, and such other related matters as the Administrative Agent may reasonably request;

(b) The Administrative Agent shall have received for each Bank copies of the Borrower's (i) Articles of Incorporation, together with all amendments and (ii) bylaws (or

comparable constituent documents) and any amendments thereto, certified in each instance by its Secretary or an Assistant Secretary;

(c) The Administrative Agent shall have received for each Bank copies of resolutions of the Borrower's Board of Directors authorizing the execution and delivery of the Credit Documents and the consummation of the transactions contemplated thereby together with specimen signatures of the persons authorized to execute such documents on the Borrower's behalf, all certified in each instance by its Secretary or Assistant Secretary;

(d) The Administrative Agent shall have received for each Bank which has requested same such Bank's duly executed Note of the Borrower dated the date hereof and otherwise in compliance with the provisions of Section 2.10(a) hereof;

(e) The Administrative Agent shall have received a duly executed set of the Credit Documents;

(f) All legal matters incident to the execution and delivery of the Credit Documents shall be satisfactory to the Banks;

(g) The Administrative Agent shall have received a duly executed Compliance Certificate containing financial information as of December 31, 2014;

(h) During the period from December 31, 2014 to the Restatement Effective Date, except as set forth on Schedule 6.1, neither the Borrower nor any of its Subsidiaries shall have issued, incurred, assumed, created, become liable for, contingently or otherwise, any material Indebtedness;

(i) The Borrower shall have provided to the Administrative Agent a certificate stating that the conditions precedent set forth in this Section 6.1 and Sections 6.2(b) and (c) hereof have been satisfied;

(j) The Administrative Agent shall have received such other documents and information as it may reasonably request; and

(k) There has been no material adverse change in the business, assets, operations, performance or condition, financial or otherwise, of the Borrower and its subsidiaries taken as a whole, since the last day of the most recently audited financial year of the Borrower.

Section 6.2 *All Credit Events*. As of the time of the Credit Event hereunder:

(a) In the case of a Borrowing, the Administrative Agent shall have received the notice required by Section 2.5 hereof;

(b) Each of the representations and warranties set forth in Section 5 hereof (except with respect to representations contained in the first sentence of Section 5.2 hereof which are untrue as the result of information on **Schedule 5.2** which has not yet been required to be updated pursuant to Section 7.6(c) hereof) shall be and remain true and correct in all material respects (unless such representation or warranty is already qualified with respect to materiality, in which case it shall be and remain true and correct in all respects) as of said time, except that if any such representation or warranty relates solely to an earlier date it need only remain true in all material respects (unless

such representation or warranty is already qualified with respect to materiality, in which case it shall be and remain true and correct in all respects) as of such date; and

(c) The Borrower shall be in full compliance with all of the terms and conditions hereof, and no Default or Event of Default shall have occurred and be continuing or would occur as a result of such Credit Event.

Each request for a Credit Event shall be deemed to be a representation and warranty by the Borrower on the date of such Credit Event as to the facts specified in paragraphs (b) and (c) of this Section 6.2.

SECTION 7. COVENANTS.

The Borrower covenants and agrees that, so long as any Note or Loan is outstanding hereunder, except to the extent compliance in any case is waived in writing by the Required Banks:

Section 7.1 *Corporate Existence; Subsidiaries*. The Borrower shall, and shall cause each of its Subsidiaries to, preserve and maintain its corporate existence, subject to the provisions of Section 7.12 hereof. Together with any financial statements delivered pursuant to Section 7.6 hereof, the Borrower shall deliver an updated **Schedule 5.2** to reflect any changes from the existing **Schedule 5.2**.

Section 7.2 *Maintenance*. The Borrower will maintain, preserve and keep its plants, Properties and equipment necessary to the proper conduct of its business in reasonably good repair, working order and condition and will from time to time make all reasonably necessary repairs, renewals, replacements, additions and betterments thereto so that at all times such plants, Properties and equipment shall be reasonably preserved and maintained, and the Borrower will cause each of its Subsidiaries to do so in respect of Property owned or used by it; *provided, however*, that nothing in this Section 7.2 shall prevent the Borrower or a Subsidiary of the Borrower from discontinuing the operation or maintenance of any such Properties if such discontinuance is not disadvantageous to the Banks or the holders of the Notes, does not materially impair the operations of the Borrower or any Subsidiary of the Borrower and is, in the judgment of the Borrower, desirable in the conduct of its business or the business of its Subsidiaries.

Section 7.3 *Taxes*. The Borrower will duly pay and discharge, and will cause each of its Subsidiaries duly to pay and discharge, all taxes, rates, assessments, fees and governmental charges upon or against it or against its Properties, in each case before the same becomes delinquent and before penalties accrue thereon, unless and to the extent that the same is being contested in good faith by appropriate proceedings and reserves in conformity with GAAP have been provided therefor on the books of the Borrower.

Section 7.4 *ERISA*. The Borrower will, and will cause each of its Subsidiaries to, promptly pay and discharge all obligations and liabilities arising under ERISA of a character which, if unpaid or unperformed, might result in the imposition of a Lien against any of its properties or assets and will promptly notify the Administrative Agent of (i) the occurrence of any reportable event (as defined in ERISA) affecting a Plan, other than any such event of which the PBGC has waived notice by regulation, (ii) receipt of any notice from PBGC of its intention to seek termination of any Plan or appointment of a trustee therefor, (iii) its or any of its Subsidiaries' intention to completely or partially terminate or withdraw from any Plan, (iv) with respect to any Plan that is a multiemployer plan (as defined in Section 4001(a)(3) of ERISA), the filing of a notice of reorganization, insolvency or termination under Section 4041 of ERISA, (v) the failure of a Plan

or related trust intended to qualify for tax exempt status under Section 401(a) or 501 of the Code to qualify thereunder, and (vi) the occurrence of any event affecting any Plan which could result in the incurrence by the Borrower or any of its Subsidiaries of any material liability, fine or penalty, or any material increase in the contingent liability of the Borrower or any of its Subsidiaries under any post-retirement Welfare Plan benefit. The Administrative Agent will promptly distribute to each Bank any notice it receives from the Borrower pursuant to this Section 7.4.

Section 7.5 *Insurance*. The Borrower will insure, and keep insured, and will cause each of its Subsidiaries to insure, and keep insured, with good and responsible insurance companies, all insurable Property owned by it of a character usually insured by companies similarly situated and operating like Property. To the extent usually insured by companies similarly situated and conducting similar businesses, the Borrower will also insure, and cause each of its Subsidiaries to insure, employers' and public and product liability risks with good and responsible insurance companies. The Borrower will, upon request of any Bank, furnish to such Bank a summary setting forth the nature and extent of the insurance maintained pursuant to this Section 7.5.

Section 7.6 *Financial Reports and Other Information*.

(a) The Borrower will maintain a system of accounting in accordance with GAAP and will furnish to the Banks and their respective duly authorized representatives such information respecting the business and financial condition of the Borrower and its Subsidiaries as any Bank may reasonably request; and without any request, the Borrower shall deliver to the Administrative Agent, which in turn will deliver to each Bank, in form and detail satisfactory to the Administrative Agent, each of the following:

(i) within 90 days after the end of each fiscal year of the Borrower, commencing with the fiscal year ending December 31, 2015, a copy of the Borrower financial statements for such fiscal year, including the consolidated balance sheet of the Borrower and its Subsidiaries for such year and the related statements of income and statements of cash flow, each as certified by independent public accountants of recognized national standing selected by the Borrower in accordance with GAAP with such accountants' opinion to the effect that the financial statements have been prepared in accordance with GAAP and present fairly in all material respects in accordance with GAAP the consolidated financial position of the Borrower and its Subsidiaries as of the close of such fiscal year and the results of their operations and cash flows for the fiscal year then ended and that an examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards and, accordingly, such examination included such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances, *provided* that such opinion shall not contain a "going concern" or like qualification or exception or a qualification arising out of the scope of the audit, and *provided, further*, that if the Borrower publicly files with the SEC its annual report on Form 10-K for the applicable annual period, and such annual report contains the financial statements and accountants certifications, opinions and statements described above, the Borrower may satisfy the requirements of this Section 7.6(a)(i) by such filing, subject to Section 7.6(b) hereof. Together with such information the Borrower shall provide to the Administrative Agent such consolidating information as may be necessary for the Banks to determine the Borrower's compliance with Section 7.17 hereof;

(ii) within 60 days after the end of each of the first three quarterly fiscal periods of each fiscal year of the Borrower, commencing with the fiscal quarter ending

March 31, 2016, a consolidated unaudited balance sheet of the Borrower and its Subsidiaries, and the related statements of income and statements of cash flow, as of the close of such period, all of the foregoing prepared by the Borrower in reasonable detail in accordance with GAAP and certified by the Borrower's chief executive officer, chief financial officer or corporate controller as fairly presenting the financial condition as at the dates thereof and the results of operations for the periods covered thereby, *provided* that if the Borrower publicly files with the SEC a Form 10-Q for the applicable quarterly period, and such quarterly report contains the financial statements and certifications described above, the Borrower may satisfy the requirements of this Section 7.6(a)(ii) by such filing, subject to Section 7.6(b) hereof. Together with such information the Borrower shall provide to the Administrative Agent such consolidating information as may be necessary for the Banks to determine the Borrower's compliance with Section 7.17 hereof;

(iii) within the period provided in subsection (i) above, the written statement of the accountants who certified the audit report thereby required consistent with past practices that in the course of their audit they have obtained no knowledge of certain Defaults or Events of Default, or, if such accountants have obtained knowledge of any such Default or Event of Default, they shall disclose in such statement the nature and period of the existence thereof; and

(iv) promptly after the sending or filing thereof, copies of all proxy statements, financial statements and reports the Borrower or any of its non Wholly-Owned Subsidiaries that are Material Subsidiaries sends to its (or their, as applicable) shareholders, and, subject to Section 7.6(b) hereof, copies of all other regular, periodic and special reports and all registration statements the Borrower or any of its Subsidiaries file with the SEC or any successor thereto, or with any national securities exchanges.

(b) Any financial statement, report or registration statement required to be furnished pursuant to Section 7.6(a)(i), (ii) or (iv) hereof shall be deemed to have been furnished on the date on which the Administrative Agent receives notice that the Borrower has filed such financial statement, report or registration statement with the SEC and it is available on the EDGAR website on the Internet at www.sec.gov or any successor government website that is freely and readily available to the Administrative Agent and the Banks without charge; *provided* that the Borrower shall give notice of any such filing to the Administrative Agent (which shall then give notice of any such filing to the Banks). Notwithstanding the foregoing, the Borrower shall deliver paper copies of any such financial statement, report or registration statement to the Administrative Agent if the Administrative Agent requests the Borrower to furnish such paper copies until written notice to cease delivering such paper copies is given by the Administrative Agent.

(c) Each financial statement furnished to the Administrative Agent pursuant to Section 7.6(a)(i) or (ii) hereof shall be accompanied by (A) a written certificate signed by the Borrower's chief executive officer, chief financial officer or corporate controller to the effect that (i) no Default or Event of Default has occurred during the period covered by such statements or, if any such Default or Event of Default has occurred during such period, setting forth a description of such Default or Event of Default and specifying the action, if any, taken by the Borrower to remedy the same, (ii) the representations and warranties contained in Section 5 hereof are true and correct in all material respects as though made on the date of such certificate (other than those made solely as of an earlier date, which need only remain true as of such date), except as otherwise described therein, (B) a Compliance Certificate in the form of **Exhibit B** hereto showing the Borrower's compliance with the covenants set forth in Sections 7.9, 7.11, 7.12 and 7.14 through 7.18 hereof, and (C) a reasonably detailed description of any material change in any of the material information

set forth on **Schedules 5.2**, **5.5** and **5.11** since the date of the last certificate delivered pursuant to clause (A) above.

(d) The Borrower will promptly (and in any event within three Business Days after an officer of the Borrower has knowledge thereof) give notice to the Administrative Agent and each Bank:

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

(ii) any event or condition which could reasonably be expected to have a Material Adverse Effect;

(iii) of any (x) litigation or governmental proceeding of the type described in Section 5.5 hereof or (y) environmental or other matters of the type described in Section 5.11 hereof; and

(iv) of the entering into of any Long-Term Guaranties, and the Borrower shall promptly provide the Administrative Agent with a copy of any such Guarantee and any modification to such Guarantee.

Section 7.7 *Bank Inspection Rights*. For purposes of confirming compliance with the Credit Documents or after the occurrence and during the continuance of an Event of Default, upon reasonable notice from the Administrative Agent or the Required Banks, the Borrower will, at the Borrower's expense, permit such Banks (and such Persons as any Bank may designate) during normal business hours to visit and inspect, under the Borrower's guidance, any of the Properties of the Borrower or any of its Subsidiaries, to examine all of their books of account, records, reports and other papers, to make copies and extracts therefrom, and to discuss their respective affairs, finances and accounts with their respective officers, employees and with their independent public accountants (and by this provision the Borrower authorizes such accountants to discuss with the Banks (and such Persons as any Bank may designate) the finances and affairs of the Borrower and its Subsidiaries) all at such reasonable times and as often as may be reasonably requested; *provided, however,* that except upon the occurrence and during the continuation of any Default or Event of Default, not more than one such visit and inspection may be conducted each calendar quarter.

Section 7.8 *Conduct of Business*. Neither the Borrower nor any Subsidiary of the Borrower will engage in any line of business other than business activities in the field of (i) cogeneration and related thermal uses, (ii) energy production, (iii) energy development, (iv) energy recovery, (v) utility ownership, operation and management, including the provision of services reasonably ancillary thereto, such as gas services and call centers, (vi) demand side management services, (vii) management of investment funds which invest in energy related businesses and investments in such funds, (viii) hedging (but not speculative activities relating to any of the foregoing lines of business described in clauses (i) through (viii)), (ix) *[Reserved]*, (x) telecommunications, (xi) management and operating services related to any of the foregoing lines of business, and (xii) other businesses not described in the foregoing so long as the Investments and expenses made in such other businesses does not exceed $50,000,000.

Section 7.9 *Liens*. The Borrower will not, and will not permit any of its Subsidiaries to, create, incur, permit to exist or to be incurred any Lien of any kind on any Property owned by the Borrower or any Subsidiary of the Borrower; *provided, however,* that this Section 7.9 shall not apply to or

operate to prevent:

(a) Liens arising by operation of law in respect of Property of the Borrower or any of its Subsidiaries which are incurred in the ordinary course of business which do not in the aggregate materially detract from the value of such Property or materially impair the use thereof in the operation of the business of the Borrower or any of its Subsidiaries;

(b) Liens securing (i) Non-Recourse Indebtedness of any Subsidiary of the Borrower or (ii) the obligations of a Project Finance Subsidiary under a power purchase agreement or under Non-Recourse Indebtedness of such Project Finance Subsidiary, *provided* that in the case of clause (i) above any such Lien is limited to the Property being financed or refinanced by such Non-Recourse Indebtedness and the stock (or similar equity interest) of the Subsidiary which incurred such Non-Recourse Indebtedness, and in the case of clause (ii) above any such Lien is limited to the Property and the stock (or similar equity interest) of such Subsidiary or Project Finance Subsidiary, as applicable;

(c) Liens for taxes or assessments or other government charges or levies on the Borrower or any Subsidiary of the Borrower or their respective Properties which are being contested in good faith by appropriate proceedings and for which reserves in conformity with GAAP have been provided on the books of the Borrower; *provided* that the aggregate amount of liabilities (including interest and penalties, if any) of the Borrower and its Subsidiaries secured by such Liens shall not exceed $50,000,000 at any one time outstanding;

(d) Liens arising out of judgments or awards against the Borrower or any Subsidiary of the Borrower, or in connection with surety or appeal bonds in connection with bonding such judgments or awards, the time for appeal from which or petition for rehearing of which shall not have expired or with respect to which the Borrower or such Subsidiary shall be prosecuting an appeal or proceeding for review, and with respect to which it shall have obtained a stay of execution pending such appeal or proceeding for review; *provided* that the aggregate amount of liabilities (including interest and penalties, if any) of the Borrower and its Subsidiaries secured by such Liens shall not exceed $50,000,000 at any one time outstanding;

(e) Survey exceptions or encumbrances, easements or reservations, or rights of others for rights-of-way, utilities and other similar purposes, or zoning or other restrictions as to the use of real properties which are necessary for the conduct of the activities of the Borrower and any Subsidiary of the Borrower or which customarily exist on properties of corporations engaged in similar activities and similarly situated and which do not in any event materially impair their use in the operation of the business of the Borrower or any Subsidiary of the Borrower;

(f) Liens existing on the date hereof and listed on **Schedule 7.9** hereto;

(g) Liens securing (i) Indebtedness evidencing the deferred purchase price of newly acquired property or incurred to finance the acquisition of personal property of the Borrower or a Subsidiary of the Borrower used in the ordinary course of business of the Borrower or a Subsidiary of the Borrower, so long as such Liens are limited to the property being financed or acquired and proceeds thereof, (ii) Capitalized Lease Obligations, so long as such Liens are limited to the property subject to the related Capital Lease and proceeds thereof, and (iii) the performance of tenders, statutory obligations, bids, leases or other similar obligations (other than for borrowed money) entered into in the ordinary course of business or to secure obligations on performance bonds; *provided*, that such Liens shall only be permitted to the extent the aggregate amount of Indebtedness and other obligations secured by all such Liens does not exceed five percent (5%) of Consolidated Assets as reflected on the most recent balance sheet delivered by the Borrower pursuant to Section 7.6 hereof;

(h) Liens in favor of carriers, warehousemen, mechanics, materialmen and landlords granted in the ordinary course of business for amounts not overdue or being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been set aside on its books;

(i) Liens incurred or deposits made in the ordinary course of business in connection with worker’s compensation, unemployment insurance or other forms of governmental insurance or benefits;

(j) Liens relating to synthetic lease arrangements of the Borrower or a Subsidiary of the Borrower, *provided* that (i) such Lien is limited to the Property being leased, and (ii) to the extent the lessor or any other Person has recourse to the Borrower, any Subsidiary or any of their Property (other than the Property being so leased), through a Guarantee (including a residual guarantee) or otherwise, such Lien shall be permitted if the Borrower has included the recourse portion of such obligations as Indebtedness for all purposes (including financial covenant calculations) under the Credit Documents;

(k) *Reserved*;

(l) Liens securing Indebtedness issued pursuant to (i) that certain Restated and Amended Indenture of Mortgage and Deed of Trust dated as of September 1, 1999 between BHP and The Chase Manhattan Bank, as trustee (and any successor trustee thereunder), together with all amendments and supplemental indentures thereto, (ii) the CLF&P Indenture, together with all amendments and supplemental indentures thereto, and (iii) Indebtedness of the type described in Section 7.15(c)(C) hereof that is issued or incurred by Black Hills Utility Holdings, Inc. or any of its direct or indirect Subsidiaries to finance the design, permitting, construction, ownership, operation or maintenance of utility properties; and

(m) Any extension, renewal or replacement (or successive extensions, renewals or replacements) in whole or in part of any Lien referred to in the foregoing paragraphs (a) through (j), inclusive, *provided, however,* that the principal amount of Indebtedness secured thereby shall not exceed the principal amount of Indebtedness so secured at the time of such extension, renewal or replacement, and that such extension, renewal or replacement shall be limited to the Property which was subject to the Lien so extended, renewed or replaced or in the case of a Project Finance Subsidiary, all of the assets of such Project Finance Subsidiary;

(n) Liens (i) of a collecting bank arising under the UCC on items in the course of collection, (ii) in favor of a banking institution arising as a matter of law, or which arise under the documents governing the deposit relationship, encumbering deposits (including the right of set-

off, charge-back rights, and refund rights) and which are within the general parameters customary in the banking industry, or (iii) encumbering customary deposits and margin deposits and other Liens attaching to brokerage accounts or arising under or in connection with Derivative Arrangements or Derivative Obligations, in each case incurred in the ordinary course of business; and

(o) Other Liens made in the ordinary course of business of the Borrower or its Subsidiaries so long as the aggregate amount of Indebtedness or other obligations secured by such Liens does not exceed, in the aggregate, $50,000,000.

provided, that the foregoing paragraphs shall not be deemed under any circumstance to permit a Lien to exist on any capital stock or other equity interests of the Material Subsidiaries.

Section 7.10 *Use of Proceeds; Regulation U.* Each Loan shall re-evidence the borrowings of the Existing Borrower under the Existing Credit Agreement which solely refinanced existing Indebtedness of the Existing Borrower and were used for general corporate purposes of the Existing Borrower and its Subsidiaries. The Borrower will not use any part of the proceeds of any of the Borrowings directly or indirectly to purchase or carry any margin stock (as defined in Section 5.10 hereof) or to extend credit to others for the purpose of purchasing or carrying any such margin stock.

Section 7.11 *Sales and Leasebacks*. The Borrower will not, nor will it permit any of its Subsidiaries to, enter into any arrangement with any bank, insurance company or other lender or investor providing for the leasing by the Borrower or any Subsidiary of the Borrower of any Property theretofore owned by it and which has been or is to be sold or transferred by such owner to such lender or investor if the total amount of rent and other obligations of the Borrower and its Subsidiaries under such lease, when combined with all rent and other obligations of the Borrower and its Subsidiaries under all such leases, would exceed $50,000,000 in the aggregate, *provided* that the Borrower and its Subsidiaries may engage in synthetic lease transactions so long as the Borrower's or such Subsidiary's, as applicable, obligations under such synthetic leases are included as Indebtedness for all purposes (including financial covenant calculations) under the Credit Documents.

Section 7.12 *Mergers, Consolidations, Acquisitions and Sales of Assets.*

(a) The Borrower will not, and will not permit any of its Material Subsidiaries to, consolidate with or be a party to merger with any other Person or sell, lease or otherwise dispose of all or a *"substantial part"* of the assets of the Borrower and its Subsidiaries; *provided, however,* that

(i) the foregoing shall not prohibit any sale, lease, transfer or disposition of assets, other than equity interests in or the assets of BHP and CLF&P, solely to the extent and so long as (A) such transaction does not result in a downgrade of the Borrower's S&P Rating below BBB- or the Borrower's Moody's Rating below Baa3, (B) such transaction is for cash consideration (or other consideration acceptable to the Required Banks) in an amount not less than the fair market value of the applicable assets, and (C) such transaction, when combined with all other such transactions, would not have a Material Adverse Effect, taken as a whole;

(ii) the foregoing shall not prohibit any sale, lease, transfer or disposition to which the Required Banks have consented, such consent not to be unreasonably withheld if (A) such transaction does not result in a downgrade of either the Borrower's S&P Rating below BBB- or the Borrower's Moody's Rating below Baa3, (B) such transaction is for cash consideration (or other consideration acceptable to the Required Banks) in an amount not less than the fair market value of the applicable assets, and (C) such transaction, when combined with all other such transactions, would not have a Material Adverse Effect, taken as a whole;

(iii) any Subsidiary of the Borrower may merge or consolidate with or into or sell, lease or otherwise convey all or a substantial part of its assets to the Borrower or any Subsidiary of which the Borrower holds (directly or indirectly) at least the same percentage equity ownership; *provided* that in any such merger or consolidation involving the Borrower, the Borrower shall be the surviving or continuing corporation;

(iv) the Borrower and its Subsidiaries may sell inventory, reserves and electricity in the ordinary course of business;

(v) the Borrower and its Subsidiaries may sell the assets of or equity interest in any Immaterial Subsidiary; and

(vi) the Borrower may enter into a merger with, or acquisition of all or substantially all of the capital stock or assets of, another Person so long as:

(A) if a merger, the Borrower or such Subsidiary is the surviving entity,

(B) unless consented to by the Required Banks, no downgrade in the Borrower's S&P Rating below BBB- or the Borrower's Moody's Rating below Baa3 would occur as a result of the consummation of such a transaction;

(C) if such transaction is an acquisition, the Board of Directors (or similar governing body) of the Person being acquired has approved being so acquired; and

(D) no Default or Event of Default has occurred and is continuing at the time of, or would occur as a result of, such transaction.

As used in this Section 7.12(a), a sale, lease, transfer or disposition of assets during any fiscal year shall be deemed to be of a *"substantial part"* of the Consolidated Assets of the Borrower and its Subsidiaries if the net book value of such assets, when added to the net book value of all other assets sold, leased, transferred or disposed of by the Borrower and its Subsidiaries during such fiscal year (other than inventory, reserves and electricity in the ordinary

course of business) exceeds ten percent (10%) of the total assets of the Borrower and its Consolidated Subsidiaries, determined on a consolidated basis as of the last day of the immediately preceding fiscal year.

(b) Except as permitted pursuant to Section 7.12(a) or Section 7.14 hereof, the Borrower will not sell, transfer or otherwise dispose of, or permit any of its Subsidiaries to issue, sell, transfer or otherwise dispose of, any shares of stock of any class (including as *"stock"* for purposes of this Section, any warrants, rights or options to purchase or otherwise acquire stock or other Securities exchangeable for or convertible into stock) of any Subsidiary of the Borrower, except to the Borrower or a Wholly-Owned Subsidiary of the Borrower or except for the purpose of qualifying directors.

Section 7.13 *Use of Property and Facilities; Environmental and Health and Safety Laws*.

(a) The Borrower will, and will cause each of its Subsidiaries to, comply in all material respects with the requirements of all Environmental and Health Laws applicable to or pertaining to the Properties or business operations of the Borrower or any Subsidiary of the Borrower. Without limiting the foregoing, the Borrower will not, and will not permit any Person to, except in accordance with applicable law, dispose of any Hazardous Material into, onto or upon any real property owned or operated by the Borrower or any of its Subsidiaries.

(b) (i) The Borrower will promptly provide the Administrative Agent with copies of Environmental Review Documents as defined in Section 5.11(b) hereof that disclose any Environmental Claim or Environmental Liability that could potentially result in a Material Adverse

Effect, and in no event later than five (5) Business Days after an officer of the Borrower or a Subsidiary of the Borrower finalizes such Environmental Review Document; and (ii) the Borrower will also promptly provide the Administrative Agent with all notices and other information placing the Borrower or any of its Subsidiaries on notice of actual or potential Environmental Claims or Environmental Liabilities that could potentially result in a Material Adverse Effect.

(c) The Borrower shall promptly take, and shall cause each of its Subsidiaries promptly to take, any and all necessary remedial action in connection with the presence, handling, storage, use, disposal, transportation or Release or threatened Release of any Hazardous Materials on, under or affecting any Property in order to comply in all material respects with all applicable Environmental and Health Laws. In the event the Borrower or any of its Subsidiaries undertakes any action with respect to the presence, Release or threatened Release of any Hazardous Materials on or affecting any Property, the Borrower or such Subsidiaries shall conduct and complete such action in material compliance with all applicable Environmental and Health Laws, and in accordance with the policies, orders and directives of all federal, state and local governmental authorities except when, and only to the extent that, the Borrower's or such Subsidiary's liability for such presence, handling, storage, use, disposal, transportation or Release or threatened Release of any Hazardous Materials is being diligently contested in the proper legal forum and any failure to comply during such contest will not cause a Material Adverse Effect.

(d) The Borrower agrees that the Banks may, from time to time, retain, at the Borrower's expense for actual and reasonable out-of-pocket costs directly related thereto, an independent professional consultant reasonably acceptable to the Borrower to review the Environmental Review Documents and to conduct their own investigation (the scope of which investigation shall be reasonable based upon the circumstances) of any Property currently owned, leased, operated or used by the Borrower or any of its Subsidiaries, if (x) a Default or an Event of Default shall have occurred and be continuing, or (y) the Banks reasonably believe (1) that an occurrence relating to such Property is likely to give rise to an Environmental Liability, or (2) that a violation of an Environmental or Health Law on or around such Property has occurred or is likely to occur, which could, in the case of subclauses (1)-(2) above, reasonably be expected to have a Material Adverse Effect. The Borrower shall use its commercially reasonable efforts to obtain for the Banks and their agents, employees, consultants and contractors the right, upon reasonable notice to the Borrower, to enter into or on to the Property currently owned, leased, operated or used by the Borrower or any of its Subsidiaries to perform such tests on such property as are reasonably necessary to conduct such a review and/or investigation; *provided*, *however*, that no invasive or destructive environmental testing shall be undertaken without the Borrower's approval, not to be unreasonably withheld, conditioned, or delayed or if recommended by the Banks' independent consultant (except during the continuation of an Event of Default when no such approval of the Borrower shall be required). Without limiting the generality of the foregoing, any such investigation of any Property shall be conducted, unless otherwise agreed to by the Borrower and the Banks, during normal business hours and, shall be conducted so as not to unreasonably interfere with the ongoing operations at any such Property or to cause any damage or loss to any property at such Property. The Borrower and the Banks hereby acknowledge and agree that any report of any investigation conducted at the request of the Banks pursuant to this Section 7.13 will be obtained and shall be used by the Banks for the purposes of the Banks' internal credit decisions, to monitor and police the Obligations and to protect the Banks' security interests, if any, created by the Credit Documents, and the Banks hereby acknowledge and agree any such report will be kept confidential by them to the extent permitted by law, except that upon request, the Banks agree to deliver a copy of any such report to the Borrower. The Borrower acknowledges and agrees that (i) it will indemnify and hold harmless the Banks and their agents from any costs, losses or liabilities relating to the Borrower's or its Subsidiaries' use of or reliance on such report, (ii) the Banks make no

representation or warranty with respect to such report, and (iii) by delivering such report to the Borrower, the Banks are not requiring or recommending the implementation of any suggestions or recommendations contained in such report.

(e) The Borrower shall promptly notify the Banks of (i) any proposed acquisition of stock, assets, or property by the Borrower or any of its Subsidiaries; or (ii) any other proposed actions, omissions or events by or affecting the Borrower or any of its Subsidiaries, that could reasonably be expected to expose the Borrower or any of its Subsidiaries to, or otherwise result in, Environmental Liability that could reasonably be expected to have a Material Adverse Effect.

(f) The Borrower shall, at its own expense, provide copies of such documents or information as the Banks may reasonably request in relation to any matters disclosed pursuant to this Section 7.13.

Section 7.14 *Investments, Acquisitions, Loans, Advances and Guaranties*. The Borrower will not, nor will it permit any Subsidiary of the Borrower to, directly or indirectly, make, retain or have outstanding any investments (whether through purchase of stock or obligations or otherwise) in, or loans or advances to, any other Person, or acquire all or any substantial part of the assets or business of any other Person or division thereof, or be or become liable as endorser, guarantor, surety or otherwise (such as liability as a general partner) for any debt, obligation or undertaking of any other Person, or otherwise agree to provide funds for payment of the obligations of another, or supply funds thereto or invest therein or otherwise assure a creditor of another against loss, or apply for or become liable to the issuer of a letter of credit which supports an obligation of another, or subordinate any claim or demand it may have to the claim or demand of any other Person (cumulatively, all of the foregoing *"Investments"*); *provided, however,* that the foregoing provisions shall not apply to nor operate to prevent:

(a) investments in direct obligations of the United States of America or of any agency or instrumentality thereof whose obligations constitute full faith and credit obligations of the United States of America, *provided* that (i) any such obligation matures within ten years from the date it is acquired by the Borrower or Subsidiary, (ii) on any day, the aggregate amount of all such investments maturing beyond one year from such date shall not exceed $100,000,000 and (iii) on any day, the aggregate amount of all such investments does not exceed five percent (5%) of Consolidated Assets as reflected on the most recent balance sheet delivered by the Borrower pursuant to Section 7.6 hereof;

(b) investments in (i) commercial paper rated P-1 by Moody's Investors Services, Inc. or A-1 by Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business maturing within one year of its date of issuance, and (ii) debt and auction preferred securities rated Aaa by Moody's Investors Services, Inc. or AAA by Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business maturing within one year of their respective dates of purchase;

(c) investments in certificates of deposit issued by any Bank or any United States commercial bank having capital and surplus of not less than $200,000,000 maturing within one year from the date of issuance thereof or in banker's acceptances endorsed by any Bank or other such commercial bank and maturing within six months of the date of acceptance;

(d) investments in repurchase obligations with a term of not more than seven (7) days for underlying securities of the types described in subsection (a) above entered into with any bank meeting the qualifications specified in subsection (c) above, provided all such agreements require

physical delivery of the securities securing such repurchase agreement, except those delivered through the Federal Reserve Book Entry System;

(e) investments in money market funds that invest solely, and which are restricted by their respective charters to invest solely, in investments of the type described in the immediately preceding subsections (a), (b), (c) and (d) above;

(f) ownership of stock, obligations or securities received in settlement of debts (created in the ordinary course of business) owing to the Borrower or any Subsidiary;

(g) endorsements of negotiable instruments for collection in the ordinary course of business;

(h) loans and advances to employees in the ordinary course of business for travel, relocation, and similar purposes;

(i) Investments (i) existing on the Restatement Effective Date in Subsidiaries of the Borrower, (ii) existing on the Restatement Effective Date and identified in **Schedule 7.14** hereof, or (iii) consisting of intercompany loans permitted pursuant to Section 7.15(e) hereof;

(j) Investments constituting (i) accounts receivable arising, (ii) trade debt granted, or (iii) deposits made in connection with the purchase price of goods or services, in each case in the ordinary course of business;

(k) Investments in Persons engaged in lines of business related to the lines of business described in Section 7.8 hereof so long as (i) both before and after giving effect to such Investment no Default of Event of Default shall have occurred and be continuing, (ii) such Investments do not permit any creditor of such Person recourse to the Borrower or any other Subsidiary of the Borrower or any of their assets (other than the assets and/or the stock or similar equity interest of such Person and except as permitted pursuant to Sections 7.14(i) and (n) hereof) and (iii) if such Investments are in Persons engaged in the lines of business described in clause (xii) of Section 7.8 hereof, such Investments and expenses in the aggregate do not exceed $50,000,000 outstanding at any time;

(l) Guaranties, other than Long-Term Guaranties, so long as such Indebtedness is permitted pursuant to Section 7.15 hereof;

(m) transactions permitted pursuant to Section 7.12(a) hereof;

(n) Investments constituting Long-Term Guaranties;

(o) *[Reserved]*; and

(p) Investments consisting of promissory notes issued in consideration for the sale by the Borrower or a Subsidiary of a portion of the stock (or similar equity interests) of a Subsidiary where (i) such note is secured by the stock (or similar equity interest) sold, and (ii) one of the purposes of such sale is to ensure that such Subsidiary qualifies as a "qualifying facility" under the Public Utility Regulatory Policies Act of 1978, as amended

Any Investment which when made complies with the requirements of paragraphs (a) through (e) may continue to be held notwithstanding that such Investment if made thereafter would not comply with such requirements;

In determining the amount of investments, acquisitions, loans, advances and guarantees permitted under this Section 7.14, investments and acquisitions shall always be taken at the original cost thereof (regardless of any subsequent appreciation or depreciation therein), loans and advances shall be taken at the principal amount thereof then remaining unpaid, and guarantees shall be taken at the amount of obligations guaranteed thereby.

Section 7.15 *Restrictions on Indebtedness*. The Borrower will not, nor will it permit any Subsidiary of the Borrower to, issue, incur, assume, create, become liable for, contingently or otherwise, or have outstanding any Indebtedness; *provided, however,* that the foregoing provisions shall not restrict nor operate to prevent the following Indebtedness:

(a) the Obligations;

(b) Non-Recourse Indebtedness of any Project Finance Subsidiary;

(c) so long as the Borrower would be in compliance with Section 7.17 hereof (calculated as of the date of, and after giving effect to, the incurrence of such Indebtedness), secured Indebtedness (excluding Indebtedness of the type described in (e) below but including the pledge of stock or similar equity interest of any Project Finance Subsidiary or any Subsidiary which is an entity whose sole purpose and extent of business activities is to own the stock or similar equity interest of such Project Finance Subsidiary): (A) set forth on **Schedule 7.15(c)** hereto, (B)(i) of BHP or CLF&P, (ii) evidencing the deferred purchase price of newly acquired property or incurred to finance the acquisition of personal property of the Borrower or a Subsidiary of the Borrower used in the ordinary course of business of the Borrower or Subsidiary, (iii) constituting Capitalized Lease Obligations or with respect to synthetic (or similar type) lease arrangements, or (iv) incurred in connection with the performance of tenders, statutory obligations, bids, leases or other similar obligations (other than for borrowed money) entered into in the ordinary course of business or to secure obligations on performance bonds; *provided*, that the aggregate amount of Indebtedness permitted by clause (B)(iv) of this Section 7.15(c) at any time outstanding shall not exceed 5% of Consolidated Assets as reflected on the most recent balance sheet delivered by the Borrower pursuant to Section 7.6 hereof, and (C) constituting first mortgage bond debt which is issued or incurred by Black Hills Utility Holdings, Inc. or any of its direct or indirect Subsidiaries to finance the design, permitting, construction, ownership, operation or maintenance of utility properties which does not mature prior to the Termination Date, as extended from time to time in accordance with the terms hereof, and is not in excess of an amount equal to fifty percent (50%) of the net book value of the property, plant and equipment of Black Hills Utility Holdings, Inc. (as reported in the most recent quarterly financial statements which were prepared in accordance with GAAP); *provided*, the Borrower shall promptly provide the Administrative Agent with a copy of any documentation evidencing such Indebtedness in excess of $25,000,000 and any modification to such Indebtedness;

(d) so long as the Borrower would be in compliance with Section 7.17 hereof (calculated as of the date of, and after giving effect to, the incurrence of such Indebtedness), other Indebtedness (excluding Indebtedness of the type described in (e) below) which is unsecured and either junior in right of payment to the Obligations or *pari passu* to the Obligations or is equally and ratably secured with the Obligations, *provided* that the Borrower shall promptly provide the Administrative Agent with a copy of any documentation evidencing such Indebtedness in excess of $25,000,000 and any modification to such Indebtedness;

(e) intercompany loans (i) from (x) any Subsidiary of the Borrower to the Borrower so long as such loans are subordinated to the Obligations on terms reasonably satisfactory to the

Administrative Agent, and (y) the Borrower to a Subsidiary of the Borrower and (ii) among Wholly-Owned Subsidiaries;

(f) the following Indebtedness of SourceGas Holdings LLC, SourceGas LLC or any of their respective affiliates acquired in connection with the SourceGas Acquisition: (i) up to $95,000,000 principal amount of 3.98% Senior Secured Notes, Series A, due September 29, 2019 of SourceGas Holdings LLC and (ii) up to $325,000,000 principal amount of 5.90% Senior Notes due 2017 of SourceGas LLC;

(g) *Reserved*;

(h) Permitted Derivative Obligations; and

(i) Indebtedness pursuant to Long-Term Guaranties.

Indebtedness shall only be permitted under (d), (e), (h), and (i) above to the extent such Indebtedness will have a priority of payment with the Obligations which is no greater than *pari passu* (and with respect to clause (e), to the extent such Indebtedness is subordinated to the Obligations as set forth in such clause).

Section 7.16 *Reserved*

Section 7.17 *Recourse Leverage Ratio*. The Borrower will not permit the Recourse Leverage Ratio to exceed 0.65 to 1.00 at the end of any fiscal quarter; *provided* that, solely for the first four fiscal quarters immediately following the SourceGas Acquisition (inclusive of the fiscal quarter in which the SourceGas Acquisition occurs), the maximum Recourse Leverage Ratio permitted under this Section 7.17 shall be increased to (i) 0.70 to 1.00 as at the end of any fiscal quarter during such four fiscal quarter period that the aggregate outstanding principal amount of the SourceGas Acquisition Debt Financing (after giving effect to any prepayments thereof) as of the end of such fiscal quarter is equal to or greater than $1,250,000,000 and less than $1,460,000,000 or (ii) 0.75 to 1.00 as at the end of any fiscal quarter during such four fiscal quarter period that the aggregate outstanding principal amount of the SourceGas Acquisition Debt Financing (after giving effect to any prepayments thereof) as of the end of such fiscal quarter is equal to or greater than $1,460,000,000.

Section 7.18 *Dividends and Other Shareholder Distributions*.

(a) The Borrower shall not (i) declare or pay any dividends or make a distribution of any kind (including by redemption or purchase) on or relating to its outstanding capital stock, or (ii) repay (directly, through sinking fund payments or otherwise) any Indebtedness or other obligations owing to a shareholder (other than publicly-traded Indebtedness or obligations) unless in either circumstance no Default or Event of Default exists prior to or would result after giving effect to such action.

(b) Except (i) to the extent such an encumbrance or restriction is imposed by PUHCA, the rules and regulations promulgated thereunder or any order of the SEC issued pursuant thereto, (ii) as set forth on **Schedule 7.18**, or (iii) in connection with Non-Recourse Indebtedness of a Project Finance Subsidiary, the Borrower will not, and will not permit any of its Subsidiaries, directly or indirectly to create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any such Subsidiary to: (1) pay dividends or make any other distribution on any of such Subsidiary's capital stock owned by the Borrower or any Subsidiary of the Borrower; (2) pay any Indebtedness owed to the Borrower or

any other Subsidiary; (3) make loans or advances to the Borrower or any other Subsidiary; or (4) transfer any of its property or assets to the Borrower or any other Subsidiary.

Section 7.19 *Reserved*.

Section 7.20 *Transactions with Affiliates*. Except as is required by PUHCA or the rules and regulations promulgated thereunder, the Borrower will not, and will not permit any of its Subsidiaries to, enter into or be a party to any material transaction or arrangement with any Affiliate of such Person (other than the Borrower), including without limitation, the purchase from, sale to or exchange of Property with, any merger or consolidation with or into, or the rendering of any service by or for, any Affiliate, except in the ordinary course of and pursuant to the reasonable requirements of the Borrower's or such Subsidiary's business and upon terms no less favorable to the Borrower or such Subsidiary than could be obtained in a similar transaction involving a third-party.

Section 7.21 *Compliance with Laws*. Without limiting any of the other covenants of the Borrower in this Section 7, the Borrower will, and will cause each of its Subsidiaries to, conduct its business, and otherwise be, in compliance with all applicable laws, regulations, ordinances and orders of any governmental or judicial authorities; *provided, however,* that neither the Borrower nor any Subsidiary of the Borrower shall be required to comply with any such law, regulation, ordinance or order if the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

Section 7.22 *Pari-Passu*. The Borrower will at all times cause the Obligations to rank at least *pari passu* with all other senior unsecured Indebtedness of the Borrower.

Section 7.23 *Certain Subsidiaries*. Unless pursuant to Indebtedness which is authorized pursuant to this Agreement, the Borrower will not, and the Subsidiaries of the Borrower will not, permit any creditor of a Project Finance Subsidiary to have recourse to the Borrower or any Subsidiary of the Borrower (other than such Project Finance Subsidiary) or any of their assets (other than (i) the stock or similar equity interest of the applicable Subsidiary or any Subsidiary which is an entity whose sole purpose and extent of business activities is to own the stock or similar equity interest of a Project Finance Subsidiary and (ii) with respect to a Permitted Derivative Obligation) other than recourse under Guaranties permitted pursuant to Section 7.15(i) hereof.

Section 7.24 *Ratings*. The Borrower will at all times this Agreement is in effect maintain a S&P Rating and a Moody's Rating (or if one or both of such ratings are unavailable, rating(s) from such other recognized national rating agency or agencies as may be acceptable to the Administrative Agent and the Required Banks).

Section 7.25 *Material Obligations*. The Borrower (i) will duly pay and discharge, and cause each of its Subsidiaries to duly pay and discharge, at or before maturity, all of their respective obligations and liabilities, including tax liabilities, except for such obligations and/or liabilities (A) that may be the subject of a contest maintained in good faith by appropriate proceedings and with respect to which such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made; *provided* that compliance with the obligation that is the subject of such contest is effectively stayed during such challenge and (B) the nonpayment or nondischarge of which could not reasonably be expected to have a Material Adverse Effect, (ii) will maintain, and cause each Subsidiary to maintain, in accordance with GAAP, appropriate reserves for the accrual of all of their respective obligations and liabilities, and (iii) will not breach or permit any Subsidiary to breach, or permit to exist any default under, the terms of any lease,

commitment, contract, instrument or obligation to which it is a party, or by which its properties or assets are bound, except for such breaches or defaults which could not reasonably be expected to have a Material Adverse Effect.

Section 7.26 *Sanctions Laws and Regulations*.

(a) The Borrower shall not request any Loans, and the Borrower shall not use, and shall procure that its Subsidiaries and its and their respective directors, officers and employees shall not, directly or indirectly, use the proceeds of the Loans (i) 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, (ii) to fund any activities or business of or with any Designated Person, or in any country or territory, that at the time of such funding is the subject of any sanctions under any Sanctions Laws and Regulations, or (ii) in any other manner that would result in a violation of any Sanctions Laws and Regulations by any party to this Agreement.

(b) The Borrower shall not knowingly permit any of the funds or assets of the Borrower that are used to pay any amount due pursuant to this Agreement to constitute funds obtained from transactions with or relating to Designated Persons or countries which are the subject of sanctions under any Sanctions Laws and Regulations.

SECTION 8. EVENTS OF DEFAULT AND REMEDIES.

Section 8.1 *Events of Default*. Any one or more of the following shall constitute an Event of Default:

(a) (i) default in the payment when due of any fees, interest or of any other Obligation not covered by clause (ii) below and such payment default continues for three (3) days or (ii) default in the payment when due of the principal amount of any Loan;

(b) default by the Borrower or any Subsidiary in the observance or performance of any covenant set forth in Section 7.1, Section 7.6(d), Sections 7.9 through 7.12, Sections 7.14 through 7.20, and Sections 7.22, 7.23, 7.24 and 7.26 hereof;

(c) default by the Borrower or any Subsidiary in the observance or performance of any provision hereof or of any other Credit Document not mentioned in (a) or (b) above, which is not remedied within thirty (30) days after notice thereof shall have been given to the Borrower by the Administrative Agent;

(d) (i) failure to pay when due Indebtedness in an aggregate principal amount of $50,000,000 or more of the Borrower or any Material Subsidiary (other than any such Indebtedness which is Unguaranteed Non-Recourse Indebtedness) or (ii) default shall occur under one or more indentures, agreements or other instruments under which any Indebtedness of the Borrower or any of its Material Subsidiaries in an aggregate principal amount of $50,000,000 or more, and such default shall continue for a period of time sufficient to permit the holder or beneficiary of such Indebtedness or a trustee therefor to cause the acceleration of the maturity of any such Indebtedness or any mandatory unscheduled prepayment, purchase or funding thereof;

(e) any representation or warranty made herein or in any other Credit Document by the Borrower or any Subsidiary of the Borrower, or in any statement or certificate furnished pursuant hereto or pursuant to any other Credit Document by the Borrower or any Subsidiary of

the Borrower, or in connection with any Credit Document, proves untrue in any material respect as of the date of the issuance or making, or deemed making or issuance, thereof;

(f) the Borrower or any Material Subsidiary shall (i) fail to pay its debts generally as they become due or admit in writing its inability to pay its debts generally as they become due, (ii) make an assignment for the benefit of creditors, (iii) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, (iv) institute any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it or any analogous action is taken under any other applicable law relating to bankruptcy or insolvency, (v) take any corporate action (such as the passage by its board of directors of a resolution) in furtherance of any matter described in parts (i)-(iv) above, or (vi) fail to contest in good faith any appointment or proceeding described in Section 8.1(g) hereof;

(g) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for the Borrower or any Material Subsidiary, or any substantial part of any of their Property, or a proceeding described in Section 8.1(f)(iv) hereof shall be instituted against the Borrower or any Material Subsidiary, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of sixty (60) days;

(h) the Borrower or any Material Subsidiary shall fail within thirty (30) days to pay, bond or otherwise discharge any judgment or order for the payment of money in excess of $50,000,000, which is not stayed on appeal or otherwise being appropriately contested in good faith in a manner that stays execution thereon;

(i) the Borrower or any other member of the Controlled Group shall (i) fail to pay when due an amount or amounts which it shall have become liable to the PBGC or to a Plan under Title IV of ERISA, or (ii) file notice of intent to terminate a Plan or Plans having aggregate Unfunded Vested Liabilities in excess of $50,000,000 (collectively, a *"Material Plan"*) under Title IV of ERISA, or (iii) take any action with respect to a Plan that could result in the requirement of the Borrower or any of its Subsidiaries to furnish a bond to the PBGC or such Plan; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any Material Plan or a proceeding shall be instituted by a fiduciary of any Material Plan against the Borrower or any other member of the Controlled Group to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within thirty (30) days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated; or the occurrence of any event with respect to any Plan that could result in the incurrence by the Borrower or any other member of its Controlled Group of any material liability, fine or penalty; or any notice from any Plan that is a multiemployer plan that (i) such Plan is in reorganization, (ii) increased contributions may be required to avoid a reduction in Plan benefits or the imposition of an excise tax, (ii) any such Plan has been funded at a rate less than that required by the Code and ERISA, (iii) any such Plan is or may be terminated, or (iv) any such Plan is or may become insolvent;

(j) the Borrower or any Subsidiary of the Borrower or any Person acting on behalf of the Borrower, a Subsidiary or any governmental authority challenges the validity of any Credit Document or the Borrower's or one of its Subsidiary's obligations thereunder or any Credit

Document ceases to be in full force and effect or is modified other than in accordance with the terms thereof and hereof;

(k) a Change of Control Event shall have occurred; or

(l) the Borrower shall for any reason cease to be wholly liable for the full amount of the Obligations.

Section 8.2 *Non-Bankruptcy Defaults*. When any Event of Default other than those described in subsections (f) or (g) of Section 8.1 hereof has occurred and is continuing, the Administrative Agent shall, if so directed by the Required Banks, by written notice to the Borrower: (a) declare the principal of and the accrued interest on the Loans to be forthwith due and payable and thereupon all outstanding Loans, including both principal and interest thereon, and all other Obligations, shall be and become immediately due and payable together with all other amounts payable under the

Credit Documents without further demand, presentment, protest or notice of any kind and (b) automatically convert each Eurodollar Loan to a Base Rate Loan at the end of the Interest Period then in effect for such Eurodollar Loan. The Administrative Agent, after giving notice to the Borrower pursuant to Section 8.1(c) hereof or this Section 8.2, shall also promptly send a copy of such notice to the other Banks, but the failure to do so shall not impair or annul the effect of such notice.

Section 8.3 *Bankruptcy Defaults*. When any Event of Default described in subsections (f) or (g) of Section 8.1 hereof has occurred and is continuing, then all outstanding Notes, including both interest and principal thereon, and all other Obligations shall immediately become due and payable together with all other amounts payable under the Credit Documents without presentment, demand, protest or notice of any kind.

Section 8.4 *Expenses*. The Borrower agrees to pay to the Administrative Agent and each Bank, and any other holder of any Note outstanding hereunder, all reasonable and properly documented out-of-pocket costs and expenses incurred or paid by the Administrative Agent or such Bank or any such holder, including attorneys' fees (including allocable fees of in house counsel) and court costs, in connection with (i) any amendment or waiver to the Credit Documents requested by the Borrower, (ii) any Default or Event of Default by the Borrower hereunder, or (iii) the enforcement of any of the Credit Documents.

SECTION 9. CHANGE IN CIRCUMSTANCES.

Section 9.1 *Change of Law*. Notwithstanding any other provisions of this Agreement or any Note, if at any time after the date hereof any Change in Law makes it unlawful for any Bank to make or continue to maintain, make, fund, continue or convert Eurodollar Loans or to perform its obligations as contemplated hereby, such Bank shall promptly give notice thereof to the Borrower and such Bank's obligations to make or maintain Eurodollar Loans under this Agreement shall be suspended until it is no longer unlawful for such Bank to make or maintain Eurodollar Loans. The Borrower shall prepay on demand the outstanding principal amount of any such affected Eurodollar Loans, together with all interest accrued thereon at a rate per annum equal to the interest rate applicable to such Loan; *provided*, *however*, subject to all of the terms and conditions of this Agreement, the Borrower may in the alternative elect to convert the principal amount of the affected Eurodollar Loans from such Bank into Base Rate Loans from such Bank, which Base Rate Loans shall not be made ratably by the Banks but only from such affected Bank.

Section 9.2 *Unavailability of Deposits or Inability to Ascertain, or Inadequacy of, the LIBO Rate*. If on or prior to the first day of any Interest Period for any Borrowing of Eurodollar Loans:

(a) the Administrative Agent determines that deposits in U.S. Dollars (in the applicable amounts) are not being offered to major banks in the eurodollar interbank market for such Interest Period, or that by reason of circumstances affecting the interbank eurodollar market adequate and reasonable means do not exist for ascertaining the applicable LIBO Rate, or

(b) the Required Banks reasonably determine and so advise the Administrative Agent that the LIBO Rate as reasonably determined by the Administrative Agent will not adequately and fairly reflect the cost to such Banks of funding their or its Eurodollar Loans for such Interest Period,

then the Administrative Agent shall forthwith give notice thereof to the Borrower and the Banks, whereupon until the Administrative Agent notifies the Borrower that the circumstances giving rise to such suspension no longer exist, the obligations of the Banks to make Eurodollar Loans shall be suspended.

Section 9.3 *Increased Cost and Reduced Return*.

(a) If, on or after the date hereof, any Change in Law:

(i) shall subject any Bank (or its Lending Office) or the Administrative Agent to any tax, duty or other charge with respect to its Loans, its Notes or its obligation to make Loans, or shall change the basis of taxation of payments to any Bank (or its Lending Office) or the Administrative Agent of the principal of or interest on its Loans or participations therein or any other amounts due under this Agreement in respect of its Loans, participations therein or its obligation to make Loans (except for changes in the rate of tax on the overall net income or profits of such Bank or its Lending Office or the Administrative Agent imposed by the jurisdiction in which such Bank or its Lending Office or the Administrative Agent is incorporated or in which such Bank's principal executive office or Lending Office or the Administrative Agent is located); or

(ii) shall impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including, without limitation, any compulsory loan requirement, insurance charge or other assessment or any other such requirement imposed by the Board of Governors of the Federal Reserve System, but excluding with respect to any Eurodollar Loans any such requirement included in an applicable Eurodollar Reserve Percentage) against assets of, deposits with or for the account of, or credit extended by, any Bank (or its Lending Office) or shall impose on any Bank (or its Lending Office) or on the interbank market any other condition affecting its Eurodollar Loans, its Notes or its participation in any thereof or its obligation to make Eurodollar Loans;

and the result of any of the foregoing is to increase the cost to such Bank (or its Lending Office) or the Administrative Agent of making or maintaining any Loan or to reduce the amount of any sum received or receivable by such Bank (or its Lending Office) or the Administrative Agent under this Agreement or under its Notes with respect thereto, by an amount deemed by such Bank or the Administrative Agent to be material, then, within fifteen (15) days after demand by such Bank (with a copy to the Administrative Agent) or the Administrative Agent, the Borrower shall be obligated to pay to such Bank or the Administrative Agent such additional amount or amounts as will compensate such Bank or the Administrative Agent for such increased cost or reduction. In the event any law, rule, regulation or interpretation described above is revoked, declared invalid or inapplicable or is otherwise rescinded, and as a result thereof a Bank or the Administrative Agent is determined to be entitled to a refund from the

applicable authority for any amount or amounts which were paid or reimbursed by the Borrower to such Bank or the Administrative Agent hereunder, such Bank or the Administrative Agent shall refund such amount or amounts to the Borrower without interest.

(b) If, after the date hereof, any Bank or the Administrative Agent shall have determined that any Change in Law regarding capital adequacy or liquidity requirements, (including, without limitation, any revision in the Final Risk-Based Capital Guidelines of the Board of Governors of the Federal Reserve System (12 CFR Part 208, Appendix A; 12 CFR Part 225, Appendix A) or of the Office of the Comptroller of the Currency (12 CFR Part 3, Appendix A), or in any other applicable capital or liquidity rules heretofore adopted and issued by any governmental authority), has or would have the effect of reducing the rate of return on such Bank's capital, or on the capital of any corporation controlling such Bank, as a consequence of its obligations hereunder to a level below that which such Bank could have achieved but for such Change in Law (taking into consideration such Bank's policies with respect to capital adequacy and liquidity) by an amount deemed by such Bank to be material, then from time to time, within fifteen (15) days after demand by such Bank (with a copy to the Administrative Agent), the Borrower shall pay to such Bank such additional amount or amounts as will compensate such Bank for such reduction.

(c) Each Bank that determines to seek compensation under this Section 9.3 shall notify the Borrower and the Administrative Agent of the circumstances that entitle the Bank to such compensation pursuant to this Section 9.3 and will designate a different Lending Office if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in the sole judgment of such Bank, be otherwise disadvantageous to such Bank. A certificate of any Bank claiming compensation under this Section 9.3 and setting forth the additional amount or amounts to be paid to it hereunder submitted to the Borrower and the Administrative Agent by such Bank in good faith shall be *prima facie* evidence of the amount of such compensation. In determining such amount, such Bank may use any reasonable averaging and attribution methods.

Section 9.4 *Lending Offices*. Each Bank may, at its option, elect to make its Loans hereunder at the branch, office or affiliate specified in its respective Administrative Questionnaire or in the assignment agreement which any assignee bank executes pursuant to Section 11.12 hereof (each a *"Lending Office"*) for each type of Loan available hereunder or at such other of its branches, offices or affiliates as it may from time to time elect and designate in a written notice to the Borrower and the Administrative Agent, so long as such election does not increase costs or other amounts payable by the Borrower to such Bank hereunder.

Section 9.5 *Discretion of Bank as to Manner of Funding*. Notwithstanding any other provision of this Agreement, each Bank shall be entitled to fund and maintain its funding of all or any part of its Loans in any manner it sees fit, it being understood, however, that for the purposes of this Agreement all determinations hereunder shall be made as if each Bank had actually funded and maintained each Eurodollar Loan through the purchase of deposits in the eurodollar interbank market having a maturity corresponding to such Loan's Interest Period and bearing an interest rate equal to the LIBO Rate for such Interest Period.

SECTION 10. THE AGENT.

Section 10.1 *Appointment and Authorization of Administrative Agent*. Each Bank hereby appoints JPMorgan Chase Bank, N.A. as the Administrative Agent under the Credit Documents and hereby authorizes the Administrative Agent to take such action as the Administrative Agent on its behalf and to exercise such powers under the Credit Documents as are delegated to the Administrative Agent by the terms thereof, together with such powers as are reasonably incidental

thereto. The Administrative Agent shall have no duties or responsibilities except those expressly set forth in this Agreement and the Credit Documents. The Administrative Agent is acting pursuant to a contractual relationship on an arm's length basis and the duties of the Administrative Agent shall be mechanical and administrative in nature; the Administrative Agent shall not have by reason of this Agreement or any other Credit Document a fiduciary relationship in respect of any Bank, the holder of any Note or any other Person; and nothing in this Agreement or any other Credit Document, expressed or implied, is intended to or shall be so construed as to impose upon the Administrative Agent any obligations in respect of this Agreement or any other Credit Document except as expressly set forth herein or therein.

Section 10.2 *Administrative Agent and its Affiliates*. The Administrative Agent shall have the same rights and powers under this Agreement and the other Credit Documents as any other Bank and may exercise or refrain from exercising the same as though it were not the Administrative Agent, and the Administrative Agent and its affiliates may accept deposits from, lend money to, and generally engage in any kind of business with the Borrower or any Affiliate of the Borrower as if it were not the Administrative Agent under the Credit Documents.

Section 10.3 *Action by Administrative Agent*. If the Administrative Agent receives from the Borrower a written notice of an Event of Default pursuant to Section 7.6(d)(i) hereof, the Administrative Agent shall promptly give each of the Banks written notice thereof. The obligations of the Administrative Agent under the Credit Documents are only those expressly set forth therein. Without limiting the generality of the foregoing, the Administrative Agent shall not be required to take any action hereunder with respect to any Default or Event of Default, except as expressly provided in Sections 8.2 and 8.3 hereof. In no event, however, shall the Administrative Agent be required to take any action in violation of applicable law or of any provision of any Credit Document, and the Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder or under any other Credit Document unless it shall be first indemnified to its reasonable satisfaction by the Banks against any and all costs, expense, and liability which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall be entitled to assume that no Default or Event of Default exists unless notified to the contrary in writing by a Bank or the Borrower. In all cases in which this Agreement and the other Credit Documents do not require the Administrative Agent to take certain actions, the Administrative Agent shall be fully justified in using its discretion in failing to take or in taking any action hereunder and thereunder.

Section 10.4 *Consultation with Experts*. The Administrative Agent may consult with legal counsel, independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts.

Section 10.5 *Liability of Administrative Agent; Credit Decision*. Neither the Administrative Agent nor any of its directors, officers, agents, or employees shall be liable for any action taken or not taken by it in connection with the Credit Documents (i) with the consent or at the request of the Required Banks, or (ii) in the absence of its own gross negligence or willful misconduct (as proven by the final, non-appealable judgment of a court of competent jurisdiction). Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be responsible for or have any duty to ascertain, inquire into or verify (i) any statement, warranty or representation made in connection with this Agreement, any other Credit

Document or any Credit Event; (ii) the performance or observance of any of the covenants or agreements of the Borrower or any other party contained herein or in any other Credit Document; (iii) the satisfaction of any condition specified in Section 6 hereof; or (iv) the validity, effectiveness, genuineness, enforceability,

perfection, value, worth or collectibility hereof or of any other Credit Document or of any other documents or writing furnished in connection with any Credit Document; and the Administrative Agent makes no representation of any kind or character with respect to any such matter mentioned in this sentence. The Administrative Agent may execute any of its duties under any of the Credit Documents by or through employees, agents, and attorneys-in-fact and shall not be answerable to the Banks, the Borrower, or any other Person for the default or misconduct of any such agents or attorneys-in-fact selected with reasonable care. The Administrative Agent shall not incur any liability by acting in reliance upon any notice, consent, certificate, other document or statement (whether written or oral) believed by it to be genuine or to be sent by the proper party or parties. In particular and without limiting any of the foregoing, the Administrative Agent shall have no responsibility for confirming the accuracy of any Compliance Certificate or other document or instrument received by it under the Credit Documents. The Administrative Agent may treat the payee of any Note as the holder thereof until written notice of transfer shall have been filed with the Administrative Agent signed by such payee in form satisfactory to the Administrative Agent. Each Bank acknowledges that it has independently and without reliance on the Administrative Agent or any other Bank, and based upon such information, investigations and inquiries as it deems appropriate, made its own credit analysis and decision to extend credit to the Borrower in the manner set forth in the Credit Documents. It shall be the responsibility of each Bank to keep itself informed as to the creditworthiness of the Borrower and any other relevant Person, and the Administrative Agent shall have no liability to any Bank with respect thereto.

Section 10.6 *Indemnity*. The Banks shall ratably, in accordance with their respective Percentages, indemnify and hold the Administrative Agent, and its directors, officers, employees, agents and representatives harmless from and against any liabilities, losses, costs or expenses suffered or incurred by it under any Credit Document or in connection with the transactions contemplated thereby, regardless of when asserted or arising, except to the extent the Administrative Agent is promptly reimbursed for the same by the Borrower and except to the extent that any event giving rise to a claim was caused by the gross negligence or willful misconduct of the party seeking to be indemnified. The obligations of the Banks under this Section 10.6 shall survive termination of this Agreement.

Section 10.7 *Resignation of Administrative Agent and Successor Administrative Agent*. The Administrative Agent may resign at any time by giving written notice thereof to the Banks and the Borrower. Upon any such resignation of the Administrative Agent, the Required Banks shall have the right to appoint a successor Administrative Agent with the consent of the Borrower. If no successor Administrative Agent shall have been so appointed by the Required Banks, and shall have accepted such appointment, within thirty (30) days after the retiring Administrative Agent's giving of notice of resignation, then the retiring Administrative Agent may, on behalf of the Banks, appoint a successor Administrative Agent, which shall be any Bank or any commercial bank organized under the laws of the United States of America or of any State thereof and having a combined capital and surplus of at least $200,000,000. Upon the acceptance of its appointment as the Administrative Agent hereunder, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights and duties of the retiring Administrative Agent under the Credit Documents, and the retiring Administrative Agent shall be discharged from its duties and obligations thereunder; *provided*, if the Administrative Agent shall notify the Borrower and the Banks that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Bank directly, until such time as the Required Banks appoint a successor Administrative Agent as provided for above. After any retiring Administrative

Agent's resignation hereunder as the Administrative Agent, the provisions of this Section 10 and all protective provisions of the other Credit Documents shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Administrative Agent

SECTION 11. MISCELLANEOUS.

Section 11.1 *Withholding Taxes*.

(a) *Payments Free of Withholding*. Subject to Section 11.1 (b) hereof, each payment by the Borrower under this Agreement or the other Credit Documents shall be made without withholding for or on account of any present or future taxes (other than overall net income taxes on the recipient imposed by the jurisdiction in which the recipient is organized or conducts business (other than any jurisdiction in which the recipient is deemed to conduct business solely as the result of entering into this Agreement or any other Credit Document or receiving any payment or taking any action thereunder) and taxes imposed by FATCA). If any such withholding is so required, the Borrower shall make the withholding, pay the amount withheld to the appropriate governmental authority before penalties attach thereto or interest accrues thereon and, except with respect to taxes imposed by FATCA, forthwith pay such additional amount as may be necessary to ensure that the net amount actually received by each Bank and the Administrative Agent free and clear of such taxes (including such taxes on such additional amount) is equal to the amount which that Bank or the Administrative Agent (as the case may be) would have received had such withholding not been made. If the Administrative Agent or any Bank pays any amount in respect of any such taxes, penalties or interest (other than taxes, penalties or interest imposed by FATCA), the Borrower shall reimburse the Administrative Agent or that Bank for that payment on demand in the currency in which such payment was made. If the Borrower pays any such taxes, penalties or interest, it shall deliver official tax receipts evidencing that payment or certified copies thereof to the Bank or the Administrative Agent on whose account such withholding was made (with a copy to the Administrative Agent if not the recipient of the original) on or before the thirtieth day after payment. If any Bank or the Administrative Agent determines it has received or been granted a credit against or relief or remission for, or repayment of, any taxes paid or payable by it because of any taxes, penalties or interest paid by the Borrower and evidenced by such a tax receipt, such Bank or the Administrative Agent shall, to the extent it can do so without prejudice to the retention of the amount of such credit, relief, remission or repayment, pay to the Borrower such amount as such Bank or the Administrative Agent determines is attributable to such deduction or withholding and which will leave such Bank or the Administrative Agent (after such payment) in no better or worse position than it would have been in if the Borrower had not been required to make such deduction or withholding. Nothing in this Agreement shall interfere with the right of each Bank and the Administrative Agent to arrange its tax affairs in whatever manner it thinks fit nor obligate any Bank or

the Administrative Agent to disclose any information relating to its tax affairs or any computations in connection with such taxes, other than the information required to be disclosed pursuant to Section 11.1(d) hereof.

(b) *U.S. Withholding Tax Exemptions*. Each Bank that is not a "United States person" (as such term is defined in Section 7701(a)(30) of the Code) shall submit to the Borrower and the Administrative Agent on or before the date of the initial Borrowing hereunder two duly completed and signed copies of either Form W-8BEN, Form W-8BEN-E or Form W-8ECI of the United States Internal Revenue Service. Thereafter and from time to time, each such Bank shall submit to the Borrower and the Administrative Agent such additional duly completed and signed copies of one or the other of such Forms (or such successor forms as shall be adopted from time to time by the relevant United States taxing authorities) as may be (i) requested by the Borrower in a written notice, directly or through the Administrative Agent, to such Bank and (ii) required under then

current United States law or regulations to avoid or reduce United States federal withholding taxes on payments in respect of all amounts to be received by such Bank, including fees, pursuant to the Credit Documents or the Loans.

(c) *Inability of Bank to Submit Forms*. If any Bank determines, as a result of any Change in Law, that it is unable to submit to the Borrower or the Administrative Agent any form or certificate that such Bank is obligated to submit pursuant to subsection (b) or (d) of this Section 11.1 or that such Bank is required to withdraw or cancel any such form or certificate previously submitted or any such form or certificate otherwise becomes ineffective or inaccurate, such Bank shall promptly notify the Borrower and the Administrative Agent of such fact and the Bank shall to that extent not be obligated to provide any such form or certificate and will be entitled to withdraw or cancel any affected form or certificate, as applicable.

(d) *FATCA Forms*. If a payment made to a Bank under any Credit Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Bank were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Bank shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Bank has complied with such Bank's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this subsection (d), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(e) *Indemnification by the Banks*. Each Bank shall severally indemnify the Administrative Agent, within ten (10) Business Days after demand therefor, for (i) any taxes attributable to such Bank (but only to the extent that Borrower has not already indemnified the Administrative Agent for such taxes and without limiting the obligation of Borrower to do so), and (ii) any taxes attributable to such Bank's failure to comply with the provisions of Section 11.10(d)) relating to the maintenance of a Participant Register, in each case, that are payable or paid by the Administrative Agent in connection with any Credit Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such 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 any Bank by the Administrative Agent shall be conclusive absent manifest error. Each Bank hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Bank under any Credit Document or otherwise payable by the Administrative Agent to the Bank from any other source against any amount due to the Administrative Agent under this subsection (e).

Section 11.2 *No Waiver of Rights*. No delay or failure on the part of the Administrative Agent or any Bank or on the part of the holder or holders of any Note in the exercise of any power or right under any Credit Document shall operate as a waiver thereof, nor as an acquiescence in any default, nor shall any single or partial exercise thereof preclude any other or further exercise of any other power or right, and the rights and remedies hereunder of the Administrative Agent, the Banks and the holder or holders of any Notes are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have.

Section 11.3 *Non-Business Day*. If any payment of principal or interest on any Loan or of any other Obligation shall fall due on a day which is not a Business Day, interest or fees (as applicable) at the rate, if any, such Loan or other Obligation bears for the period prior to maturity shall continue to accrue on such Obligation from the stated due date thereof to and including the next succeeding Business Day, on which the same shall be payable.

Section 11.4 *Documentary Taxes*. The Borrower agrees that it will pay any documentary, stamp or similar taxes payable in respect to any Credit Document, including interest and penalties, in the event any such taxes are assessed, irrespective of when such assessment is made and whether or not any credit is then in use or available hereunder.

Section 11.5 *Survival of Representations*. All representations and warranties made herein or in certificates given pursuant hereto shall survive the execution and delivery of this Agreement and the other Credit Documents, and shall continue in full force and effect with respect to the date as of which they were made as long as any credit is in use or available hereunder.

Section 11.6 *Survival of Indemnities*. All indemnities and all other provisions relative to reimbursement to the Banks of amounts sufficient to protect the yield of the Banks with respect to the Loans, including, but not limited to, Section 2.11, Section 9.3 and Section 11.13 hereof, shall survive the termination of this Agreement and the other Credit Documents and the payment of the Loans and all other Obligations.

Section 11.7 *Set-Off*.

(a) 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 of any Event of Default, each Bank and each subsequent holder of any Note is hereby authorized by the Borrower at any time or from time to time, without notice to the Borrower or to any other Person, any such notice being hereby expressly waived, to set off and to appropriate and

to apply any and all deposits (general or special, including, but not limited to, Indebtedness evidenced by certificates of deposit, whether matured or unmatured, or otherwise fully matured, and in whatever currency denominated) and any other Indebtedness at any time held or owing by that Bank or that subsequent holder to or for the credit or the account of the Borrower, whether or not matured, against and on account of the obligations and liabilities of the Borrower to that Bank or that subsequent holder under the Credit Documents, including, but not limited to, all claims of any nature or description arising out of or connected with the Credit Documents, irrespective of whether or not (a) that Bank or that subsequent holder shall have made any demand hereunder or (b) the principal of or the interest on the Loans or Notes and other amounts due hereunder shall have become due and payable pursuant to Section 8 and although said obligations and liabilities, or any of them, may be contingent or unmatured.

(b) Each Bank agrees with each other Bank a party hereto that if such Bank shall receive and retain any payment, whether by set-off or application of deposit balances or otherwise, on any of the Loans in excess of its ratable share of payments on all such obligations then outstanding to the Banks, then such Bank shall purchase for cash at face value, but without recourse, ratably from each of the other Banks such amount of the Loans, or participations therein, held by each such other Banks (or interest therein) as shall be necessary to cause such Bank to share such excess payment ratably with all the other Banks; *provided*, *however*, that if any such purchase is made by any Bank, and if such excess payment or part thereof is thereafter recovered from such purchasing Bank, the related purchases from the other Banks shall be rescinded ratably and the purchase price restored as to the portion of such excess payment so recovered, but without interest.

Section 11.8 *Notices*.

(a) Except as otherwise specified herein, all notices under the Credit Documents shall be in writing (including facsimile or by using Electronic Systems) and shall be given to a party hereunder at its address or facsimile number set forth below or such other address or facsimile number as such party may hereafter specify by notice to the Administrative Agent and the Borrower, given by courier, by United States certified or registered mail, by other telecommunication device capable of creating a written record of such notice and its receipt or, to the extent permitted in Section 11.8(b) hereof, Electronic Systems. Notices under the Credit Documents to the Banks shall be addressed to their respective addresses, facsimile or telephone numbers set forth on their respective Administrative Questionnaires or in the assignment agreement which any assignee bank executes pursuant to Section 11.12 hereof, and to the Borrower and to the Administrative Agent to:

If to the Borrower:

Black Hills Corporation
PO Box 1400
625 9th Street
Rapid City, South Dakota 57709
Attention: Kimberly Nooney
Facsimile: 605.430.1311
Telephone: 605.721.2370

with copies to:

Black Hills Corporation
PO Box 1400
625 9th Street
Rapid City, South Dakota 57709
Attention: Steven J. Helmers
Facsimile: 605.721.2550
Telephone: 605.721.2303

If to the Administrative Agent:

Notices shall be sent to the applicable address set forth on Part B of **Schedule 4** hereto.

Each such notice, request or other communication shall be effective (i) if given by facsimile, when such facsimile is transmitted to the facsimile number specified in this Section 11.8 or in the applicable Administrative Questionnaire and a confirmation of receipt of such facsimile has been received by the sender, (ii) if given by courier, when delivered, (iii) if given by mail, three (3) Business Days after such communication is deposited in the mail, registered with return receipt requested, addressed as aforesaid or (iv) if given by any other means, when delivered at the addresses specified or referred to in this Section 11.8; *provided* that any notice given pursuant to Section 2 hereof shall be effective only upon receipt during the recipient's normal business hours. Notices delivered through Electronic Systems, to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) Notices and other communications to the Banks hereunder may be delivered or furnished by using Electronic Systems pursuant to procedures approved by the Administrative Agent; *provided* that the foregoing shall not apply to notices pursuant to Article II unless otherwise

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agreed by the Administrative Agent and the applicable Bank. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; *provided* that approval of such procedures may be limited to particular notices or communications.

Section 11.9 *Counterparts; Electronic Execution*. This Agreement may be executed in any number of counterpart signature pages, and by the different parties on different counterparts, each of which when executed shall be deemed an original but all such counterparts taken together shall constitute one and the same instrument. Delivery of an executed counterpart hereof via facsimile or electronic means shall for all purposes be as effective as delivery of an original counterpart. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to

any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries 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, physical delivery thereof 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 the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 11.10 *Successors and Assigns*.

(a) *Successors and Assigns Generally*. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign any of its rights or obligations under any Credit Document unless such assignation occurs in connection with a merger or acquisition by the Borrower which is otherwise permitted under the terms of this Agreement and the appropriate Credit Documents, if applicable, and the Borrower obtains the prior written consent of all of the Banks, which consent shall be in form and substance satisfactory to the Administrative Agent. No Bank may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (g) of this Section (and any other attempted assignment or transfer by any party hereto 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, Participants to the extent provided in paragraph (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Banks) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) *Assignments by Banks*. Any Bank may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of the Loans at the time owing to it); *provided* that

(i) except in the case of an assignment of the entire remaining amount of the assigning Bank's Loans at the time owing to it or in the case of an assignment to a Bank or an Affiliate of a Bank or an Approved Fund with respect to a Bank, the principal outstanding balance of the Loan of the assigning Bank subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than $5,000,000, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing,

the Borrower, otherwise consents (each such consent not to be unreasonably withheld or delayed);

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Bank's rights and obligations under this Agreement with respect to the Loan assigned;

(iii) any assignment under this Section 11.10(b) must be approved by (i) the Administrative Agent (not to be unreasonably withheld) and (ii) unless the Person that is the proposed assignee is itself a Bank or an Affiliate of a Bank (whether or not the proposed assignee would otherwise qualify as an Eligible Assignee) and/or an Event of Default has occurred and is continuing, the Borrower (not to be unreasonably withheld); *provided* that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof; and

(iv) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500, and the Eligible Assignee, if it shall not be a Bank, shall deliver to the Administrative Agent an Administrative Questionnaire and any relevant tax forms.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Bank under this Agreement, and the assigning Bank thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Bank's rights and obligations under this Agreement, such Bank shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 9.3 and 9.4 hereof with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Bank of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Bank of a participation in such rights and obligations in accordance with paragraph (d) of this Section. The Borrower shall execute and deliver to the assignee a Note upon written request from such assignee. The assignor shall promptly return to the Borrower its Note if after giving effect to such assignment no Obligations are owing to such assignor.

(c) *Register*. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in the United States a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Banks, and principal amounts of the Loans owing to, each Bank pursuant to the terms hereof from time to time (the *"Register"*). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent and the Banks may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Bank hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower at any reasonable time and from time to time upon reasonable prior notice.

(d) *Participations*. Any Bank may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than an Ineligible Institution) (each, a *"Participant"*) in all or a portion of such Bank's rights and/or obligations under this Agreement (including all or a portion of the Loans owing to it); *provided* that (i) such Bank's obligations under this Agreement shall remain unchanged, (ii) such Bank shall remain solely

responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the other Banks shall continue to deal solely and directly with such Bank in connection with such Bank's rights and obligations under this Agreement. Each Bank that sells a participation shall, acting solely for this purpose as a non-fiduciary 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 such Bank's Loans or other obligations under this Agreement (the *"Participant Register"*); *provided* that no Bank shall have any obligation to disclose all or any portion of the Participant Register to any Person (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 this Agreement) except to the extent that such disclosure is necessary to establish that such Commitment, Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Bank shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Any agreement or instrument pursuant to which a Bank sells such a participation shall provide that such Bank 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 Bank will not, without the consent of the Participant, agree to any amendment, modification or waiver of the type described in Section 11.11(i) hereof that affects such Participant. Subject to paragraph (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 9.3 and 9.4 hereof to the same extent as if it were a Bank and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 11.7(a) hereof as though it were a Bank, provided such Participant agrees to be subject to Section 11.7(b) hereof as though it were a Bank.

(f) *Limitations upon Participant Rights*. A Participant shall not be entitled to receive any greater payment under Sections 9.3 and 9.4 hereof than the applicable Bank would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Bank if it were a Bank shall not be entitled to the benefits of Section 9.4 hereof unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 9.4 hereof as though it were a Bank.

(g) *Certain Pledges*. Any Bank may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Bank, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank or any other central banking authority; *provided* that no such pledge or assignment shall release such Bank from any of its obligations hereunder or substitute any such pledgee or assignee for such Bank as a party hereto.

(h) *Certain Funding Arrangements*. Notwithstanding anything to the contrary contained herein, any Bank (a *"Granting Bank"*) may grant to a special purpose funding vehicle which is an Affiliate of such Bank (a *"SPC"*), identified as such in writing from time to time by the Granting Bank to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Bank would otherwise be obligated to

make to the Borrower pursuant to this Agreement; *provided* that (i) nothing herein shall constitute a commitment by any SPC to make any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Bank shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Bank to the same extent, and as if, such Loan were made by such Granting Bank. Each party hereto hereby agrees that no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Bank). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPC, it will not institute against, or join any other person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 11.10, any SPC may (i) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Bank or to any financial institutions (consented to by the Borrower and the Administrative Agent) providing liquidity and/or credit support to or for the account of such SPC to support the funding or maintenance of Loans and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPC. This Section may not be amended without the written consent of the SPC.

(i) *Farm Credit System*. Notwithstanding anything in this Section to the contrary, any bank that is a member of the Farm Credit System that: (x) has purchased a participation in the minimum amount of $10,000,000 on or after the Restatement Effective Date, (y) is, by written notice to the Borrower and the Administrative Agent (*"Voting Participant Notification"*), designated by the selling Bank as being entitled to be accorded the rights of a Voting Participant hereunder (any bank that is a member of the Farm Credit System so designated being called a *"Voting Participant"*) and (z) receives the prior written consent of the Borrower and the Administrative Agent to become a Voting Participant, shall be entitled to vote (and the voting rights of the selling Bank shall be correspondingly reduced), on a dollar for dollar basis, as if such participant were a Bank, on any matter requiring or allowing a Bank to provide or withhold its consent, or to otherwise vote on any proposed action. To be effective, each Voting Participant Notification shall, with respect to any Voting Participant: (i) state the full name, as well as all contact information required of an Assignee as set forth in **Exhibit D** hereto, and (ii) state the dollar amount of the participation purchased. The Borrower and the Administrative Agent shall be entitled to conclusively rely on information contained in notices delivered pursuant to this paragraph.

Section 11.11 *Amendments*. Any provision of the Credit Documents may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by (a) the Borrower, (b) the Required Banks, and (c) if the rights or duties of the Administrative Agent are affected thereby, the Administrative Agent; *provided* that no amendment or waiver pursuant to this Section. 11.11 shall:

(i) (A) increase, decrease or extend any Commitment of any Bank without the consent of such Bank or (B) reduce the amount of or postpone any fixed date for payment of any principal of or interest on any Loan (including the Termination Date) or of any fee or other Obligation payable hereunder without the consent of each Bank; and

(ii) unless signed by each Bank, change this Section 11.11, or the definition of Required Banks, or affect the number of Banks required to take any action under the Credit Documents or, with respect to the pro rata sharing of payments, amend Section 4.1 hereof or any other provision hereof relating to the pro rata sharing of payments.

Section 11.12 *Headings*. Section headings used in this Agreement are for reference only and shall not affect the construction of this Agreement.

Section 11.13 *Legal Fees, Other Costs and Indemnification*. The Borrower agrees to pay all reasonable and properly documented out-of-pocket costs and expenses of the Arrangers and the Administrative Agent in connection with the preparation and negotiation of the Credit Documents (including past and future reasonable out-of-pocket expenses incurred by the Arrangers and the Administrative Agent in connection with the syndication of the transaction), including without limitation, the reasonable fees, charges and disbursements of counsel to the Administrative Agent, in connection with the preparation and execution of the Credit Documents, and any amendment, waiver or consent related hereto, whether or not the transactions contemplated herein are consummated. The Borrower further agrees to indemnify each Bank, the Administrative Agent, and their respective Affiliates, directors, agents, advisors, officers and employees, against all losses, claims, damages, penalties, judgments, liabilities and expenses (including, without limitation, all expenses of litigation or preparation therefor, whether or not the indemnified Person is a party thereto, and whether brought by a third-party or by the Borrower or any of its Affiliates) which any of them may incur or reasonably pay arising out of or relating to any Credit Document (including any relating to a misrepresentation by the Borrower under any Credit Document) or any of the transactions contemplated thereby or the direct or indirect application or proposed application of the proceeds of any Loan, other than to the extent arising from the gross negligence or willful misconduct of the party claiming indemnification as determined in a final, non-appealable judgment by a court of competent jurisdiction. The Borrower, upon demand by any of the Administrative Agent or a Bank at any time, shall reimburse the Administrative Agent or Bank for any reasonable legal or other expenses (including allocable fees and expenses of in-house counsel) incurred in connection with investigating or defending against any of the foregoing except if the same is directly due to the gross negligence or willful misconduct of the party to be indemnified as determined in a final, non-appealable judgment by a court of competent jurisdiction, *provided* that with respect to legal costs and expenses incurred in connection with the enforcement of the rights of the Administrative Agent and the Banks under this Section 11.13, the Borrower shall only be obligated to pay the legal fees of the Administrative Agent and not of any other Bank. To the fullest extent permitted by applicable law, the Borrower shall not assert, and the Borrower hereby waives, any claim against the Administrative Agent and its Affiliates, directors, agents, advisors, officers and employees, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Credit Agreement, any other Credit Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof.

Section 11.14 *Entire Agreement*. The Credit Documents constitute the entire understanding of the parties thereto with respect to the subject matter thereof and any prior or contemporaneous agreements, whether written or oral, with respect thereto are superseded thereby.

Section 11.15 *Construction*. The parties hereto acknowledge and agree that neither this Agreement nor the other Credit Documents shall be construed more favorably in favor of one than the other based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation of this Agreement and the other Credit Documents.

Section 11.16 *Governing Law*. This Agreement and the other Credit Documents, and the rights and duties of the parties hereto, shall be construed and determined in accordance with the internal laws of the State of New York.

Section 11.17 ***SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL***. THE BORROWER HEREBY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK AND OF ANY NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK FOR PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER CREDIT DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. THE BORROWER IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT AND ANY CLAIM THAT ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. THE BORROWER HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY CREDIT DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY.

Section 11.18 *Replacement of Bank*. Each Bank agrees that, upon the occurrence of any event set forth in Sections 9.1, 9.3 and 11.1 hereof, such Bank will use reasonable efforts to book and maintain its Loans through a different Lending Office or to transfer its Loans to an Affiliate with the objective of avoiding or minimizing the consequences of such event; *provided* that such booking or transfer is not otherwise disadvantageous to such Bank as determined by such Bank in its sole and absolute discretion. If any Bank has demanded to be paid additional amounts pursuant to Sections 9.1, 9.3 and 11.1 hereof, and the payment of such additional amounts are, and are likely to continue to be, more onerous in the reasonable judgment of the Borrower than with respect to the other Banks, then the Borrower shall have the right at any time when no Default or Event of Default shall have occurred and be continuing to seek one or more financial institutions which are not Affiliates of the Borrower (each, a *"Replacement Bank"*) to purchase with the written consent of the Administrative Agent (which consent shall not be (x) required if such proposed Replacement Bank is already a Bank, or an Affiliate of a Bank, or (y) unreasonably delayed or withheld) the outstanding Loans of such Bank (the *"Affected Bank"*), and if the Borrower locates a Replacement Bank, the Affected Bank shall, upon

(i) prior written notice to the Administrative Agent,

(ii) (i) payment to the Affected Bank of the purchase price agreed between it and the Replacement Bank (or, failing such agreement, a purchase price in the amount of the outstanding principal amount of the Affected Bank's Loans and accrued interest thereon to the date of payment) by the Replacement Bank plus (ii) payment by the Borrower of all Obligations (other than principal and interest with respect to Loans) then due to the Affected Bank or accrued for its account hereunder or under any other Credit Document,

(iii) satisfaction of the provisions set forth in Section 11.10 hereof, and

(iv) payment by the Borrower to the Affected Bank and the Administrative Agent of all reasonable out-of-pocket expenses in connection with such assignment and assumption (including the recordation fee described in Section 11.10 hereof),

be deemed without any further action to have assigned and delegated all its rights and obligations under this Agreement and any other Credit Document to which it is a party (including its outstanding Loans) to the Replacement Bank (such assignment to be made without recourse, representation or warranty), and the Replacement Bank shall assume such rights and obligations, whereupon the Replacement Bank shall in accordance with Section 11.10 hereof become a party to each Credit Document to which the Affected Bank is a party and shall have the rights and obligations of a Bank thereunder and the Affected Bank shall be released from its obligations hereunder and each other Credit Document to the extent of such assignment and delegation.

Notwithstanding the foregoing, with respect to a Bank that is a Defaulting Bank or an Impacted Bank, the Borrower or the Administrative Agent may obtain a Replacement Bank and execute an Assignment on behalf of such Defaulting Bank or an Impacted Bank at any time and without prior notice to such Defaulting Bank or an Impacted Bank and cause its Loans to be sold and assigned at par. Upon any such assignment and payment and compliance with the other provisions of Section 11.10 hereof, such replaced Bank shall no longer constitute a "Bank" for purposes hereof; provided, any rights of such replaced Bank to indemnification hereunder shall survive.

Section 11.19 *Confidentiality*. The Administrative Agent and the Banks shall hold all non-public information provided to them by the Borrower pursuant to or in connection with this Agreement in accordance with their customary procedures for handling confidential information of this nature, but may make disclosure to any of their agents, attorneys-in-fact, examiners, regulators, non-governmental self-regulatory authorities, Affiliates, outside auditors, counsel and other professional advisors in connection with this Agreement or any other Credit Document or as reasonably required by any potential bona fide transferee, participant or assignee, or in connection with the exercise of remedies under a Credit Document, or to any direct or indirect contractual counterparty in swap agreements or such contractual counterparty's professional advisor (so long as such contractual counterparty or professional advisor to such contractual counterparty agrees to be bound by the provisions of this Section 11.19), or to any nationally recognized rating agency that requires access to information about a Bank's investment portfolio in connection with ratings issued with respect to such Bank, or as requested by any governmental agency, non-governmental self-regulatory authority or representative thereof or pursuant to legal or regulatory process; *provided*, *however*, that unless specifically prohibited by applicable law or court order, or in connection with any supervising examination, the Administrative Agent and each Bank shall use reasonable efforts to promptly notify the Borrower of any request by any governmental agency or representative thereof (other than any such request in connection with an examination of the financial condition of the Administrative Agent or such Bank by such governmental agency) for disclosure of any such non-public information and, where practicable, prior to disclosure of such information. Prior to any such disclosure pursuant to this Section 11.19, the Administrative Agent and each Bank shall require any such bona fide transferee, participant and assignee receiving a disclosure of non-public information to agree, for the benefit of the Borrower, in writing to be bound by this Section 11.19; and to require such Person to require any other Person to whom such Person discloses such non-public information to be similarly bound by this Section 11.19. Notwithstanding anything herein to the contrary, "confidential information" shall not include, and the Administrative Agent and each Bank may disclose to any and all persons, without limitation of any kind, (i) information that has been publicly disclosed or has become public without breach of this Section 11.19 and (ii) information that now or hereafter becomes available to such Bank on a non-confidential basis from a source other than the Borrower.

EACH BANK ACKNOWLEDGES THAT CONFIDENTIAL INFORMATION AS DEFINED IN THE IMMEDIATELY PRECEDING PARAGRAPH FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC

INFORMATION CONCERNING THE BORROWER AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER AND ITS RELATED PARTIES OR ITS RESPECTIVE SECURITIES. ACCORDINGLY, EACH BANK REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.

Section 11.20 *Rights and Liabilities of Arrangers*. None of the Arrangers shall have any special rights, powers, obligations, liabilities, responsibilities or duties under this Agreement as a result of acting in the capacities of arranger or bookrunner, other than those applicable to them in their capacity as Banks hereunder (if any). Without limiting the foregoing, none of the Arrangers shall have or be deemed to have a fiduciary relationship with any Bank. Each Bank hereby makes the same acknowledgments and undertakings with respect to the Arrangers as it makes with respect to the Administrative Agent and any directors, officers, agents and employees of the Administrative Agent in Section 10.5 hereof.

Section 11.21 *Relationship*. Neither the Administrative Agent nor any Bank has any fiduciary relationship or duty to the Borrower or any of its Subsidiaries arising out of or in connection with, and there is no agency, tenancy or joint venture relationship between the Administrative Agent or any Bank and the Borrower or any of its Subsidiaries by virtue of, any Credit Document or any transaction contemplated therein. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against each of the Banks and their Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

The Borrower and each of its Subsidiaries understand that the Administrative Agent, each Bank and each of their respective affiliates (the Administrative Agent or such Bank, as the case may be, together with its affiliates, each referred to herein as a *"Group"*) are engaged in a wide range of financial services and businesses (including investment management, financing, securities trading, corporate and investment banking and research). Members

of each Group and businesses within each Group generally act independently of each other, both for their own account and for the account of clients. Accordingly, there may be situations where parts of a Group and/or their clients either now have or may in the future have interests, or take actions, that may conflict with the interests of the Borrower or one of its Subsidiaries. For example, a Group may, in the ordinary course of business, engage in trading in financial products or undertake other investment businesses for their own account or on behalf of other clients, including without limitation, trading in or holding long, short or derivative positions in securities, loans or other financial products of the Borrower, its Subsidiaries or its affiliates or other entities connected with the Loans or the transactions contemplated hereby.

In recognition of the foregoing, the Borrower, for itself and on behalf of its Subsidiaries, agrees no Group is required to restrict its activities as a result of this Agreement and that each Group may undertake any business activity without further consultation with or notification to the Borrower or any of its Subsidiaries. Neither this Agreement nor the receipt by the Administrative Agent or any Bank of confidential information nor any other matter will give rise to any fiduciary, equitable or contractual duties (including but not limited to any duty of trust or confidence) that would prevent or restrict a Group from acting on behalf of other customers or for its own account. Furthermore, the Borrower, for itself and on behalf of its Subsidiaries, agrees that no Group and no member or business of a Group is under a duty to disclose to the Borrower or any of its Subsidiaries or use on behalf of the Borrower or any of its Subsidiaries any information whatsoever about or derived from those activities or to account for any revenue or profits obtained in connection with such activities. However, consistent with each Group's long-standing policy to hold in confidence the affairs of its customers, no Group will use confidential information obtained from the Borrower or any of its Subsidiaries except in connection with its services to, and its relationship with, the Borrower and its Subsidiaries; *provided*, that each Group will be free to disclose information in any manner as required by law, regulation, regulatory authority or other applicable judicial or government order.

Section 11.22 *Severability of Provisions*. Any provision in this Agreement or any other Credit Document that is held to be inoperative, unenforceable, or invalid in any jurisdiction shall, as to that jurisdiction, be inoperative, unenforceable, or invalid without affecting the remaining provisions in that jurisdiction or the operation, enforceability, or validity of that provision in any other jurisdiction, and to this end the provisions of this Agreement and the other Credit Documents are declared to be severable.

Section 11.23 *Patriot Act Notice*. Each Bank that is subject to the Patriot Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Bank) hereby notifies the Borrower that pursuant to the requirements of the Patriot Act (Title III of Pub. L. 107 56 (signed into law October 26, 2001)) (the *"Patriot Act"*), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Bank or the Administrative Agent, as applicable, to identify the Borrower in accordance with the Patriot Act.

— Remainder of Page Intentionally Left Blank; Signature Page Follows —

In Witness Whereof, the parties hereto have caused this Agreement to be duly executed and delivered in New York, New York by their duly authorized representatives as of the day and year first above written.

BORROWER:

BLACK HILLS CORPORATION,
a South Dakota corporation

By: /s/ Richard W. Kinzley
Name: Richard W. Kinzley
Title: Senior Vice President and
Chief Financial Officer

EXISTING BORROWER:

SOURCEGAS LLC,
a Delaware limited liability company

By: /s/ Richard W. Kinzley
Name: Richard W. Kinzley
Title: Senior Vice President and
Chief Financial Officer

JPMORGAN CHASE BANK, N.A.,
as the Administrative Agent and a Bank

By: /s/ Justin Martin
Name: Justin Martin
Title: Authorized Officer

MUFG UNION BANK, N.A.,
as a Bank

By: /s/ Maria Ferradas
Name: Maria Ferradas
Title: Vice President

WELLS FARGO BANK, N.A.,
as a Bank

By: /s/ Keith Luettel
Name: Keith Luettel
Title: Director

EXHIBIT A

NOTE

[ ], 2016

FOR VALUE RECEIVED, the undersigned, Black Hills Corporation, a South Dakota corporation (*"Borrower"*), promises to pay to the order of [ ] (the *"Bank"*) on the Termination Date of the hereinafter defined Credit Agreement, at the principal office of JPMorgan Chase Bank, N.A., in accordance with Section 4.1 of the Credit Agreement (as hereafter defined), the aggregate unpaid principal amount of all Loans made by the Bank to the Borrower pursuant to the Credit Agreement, together with interest on the principal amount of each Loan from time to time outstanding hereunder at the rates, and payable in the manner and on the dates, specified in the Credit Agreement.

The Bank shall record on its books or records or on a schedule attached to this Note, which is a part hereof, each Loan made by it pursuant to the Credit Agreement, together with all payments of principal and interest and the principal balances from time to time outstanding hereon, whether the Loan is a Base Rate Loan or a Eurodollar Loan, and the interest rate and Interest Period applicable thereto, *provided* that prior to the transfer of this Note all such amounts shall be recorded on a schedule attached to this Note. The record thereof, whether shown on such books or records or on a schedule to this Note, shall be *prima facie* evidence of the same; *provided*, *however*, that the failure of the Bank to record any of the foregoing or any error in any such record shall not limit or otherwise affect the obligation of the Borrower to repay all Loans made to it pursuant to the Credit Agreement together with accrued interest thereon.

This Note is one of the Notes referred to in the Second Amended and Restated Term Loan Credit Agreement dated as of February 12, 2016, among, *inter alia*, the Borrower, JPMorgan Chase Bank, N.A., as Administrative Agent, and the financial institutions party thereto (as the same may be amended, restated, supplemented or otherwise modified from time to time, the *"Credit Agreement"*), and this Note and the holder hereof are entitled to all the benefits provided for thereby or referred to therein, to which Credit Agreement reference is hereby made for a statement thereof. All defined terms used in this Note, except terms otherwise defined herein, shall have the same meaning as in the Credit Agreement. This Note shall be governed by and construed in accordance with the internal laws of the State of New York.

Prepayments may be made hereon and this Note may be declared due prior to the expressed maturity hereof, all in the events, on the terms and in the manner as provided for in the Credit Agreement.

- Remainder of Page Intentionally Left Blank; Signature Page Follows -

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The Borrower hereby waives demand, presentment, protest or notice of any kind hereunder.

BORROWER:

BLACK HILLS CORPORATION,
a South Dakota corporation

By: ______________________________
Name: David R. Emery
Title: Chairman, President and CEO

EXHIBIT B

COMPLIANCE CERTIFICATE

This Compliance Certificate is furnished to JPMorgan Chase Bank, N.A., as Administrative Agent pursuant to the Second Amended and Restated Term Loan Credit Agreement dated as of February 12, 2016, among, *inter alia*, Black Hills Corporation, a South Dakota corporation (*"Borrower"*), JPMorgan Chase Bank, N.A., as Administrative Agent, and the financial institutions party thereto (as the same may be amended, restated, supplemented or otherwise modified from time to time, the *"Credit Agreement"*). Unless otherwise defined herein, the terms used in this Compliance Certificate have the meanings ascribed thereto in the Credit Agreement.

THE UNDERSIGNED HEREBY CERTIFIES THAT:

1. I am the duly elected or appointed   of the Borrower;

2. I have reviewed the terms of the Credit Agreement and I have made, or have caused to be made under my supervision, a detailed review of the transactions and conditions of the Borrower and its Subsidiaries during the accounting period covered by the attached financial statements;

3. The examinations described in paragraph 2 did not disclose, and I have no knowledge of, the existence of any condition or event which constitutes a Default or an Event of Default during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate, except as set forth below; and

4. **Schedule 1** attached hereto sets forth financial data and computations evidencing compliance with certain covenants of the Credit Agreement, all of which data and computations are true, complete and correct. All computations are made in accordance with the terms of the Credit Agreement.

Described below are the exceptions, if any, to paragraph 3 by listing, in detail, the nature of the condition or event, the period during which it has existed and the action which the Borrower has taken, is taking, or proposes to take with respect to each such condition or event:

The foregoing certifications, together with the computations set forth in Schedule 1 hereto and the financial statements delivered with this Certificate in support hereof, are made and delivered this   day of   , 20 .

SCHEDULE 1 TO COMPLIANCE CERTIFICATE
Compliance Calculations for Credit Agreement

CALCULATION AS OF   ,20

A.	Liens (Sec. 7.9(c), (d), and (g))			
	1.	Liens securing taxes or assessments or other government charges or levies equal to or less than $50,000,000 (Section 7.9(c))		(Answer should be yes)
	2.	Liens securing judgments or awards or surety or appeal bonds issued in connection therewith equal to or less than $50,000,000 (Section 7.9(d))		(Answer should be yes)
	3.	Is the aggregate amount of Indebtedness and other obligations consisting of (i) the deferred purchase price of newly acquired property or incurred to finance the acquisition of personal property of the Borrower used in the ordinary course of business of the Borrower, (ii) Capitalized Lease Obligations, and (iii) the performance of tenders, statutory obligations, bids, leases or other similar obligations (other than for borrowed money) entered into in the ordinary course of business or to secure obligations on performance bonds which is secured by Liens equal to or less than 5% of Consolidated Assets as reflected on the most recent balance sheet delivered by the Borrower (Section 7.9(g))		(Answer should be yes)
B.	Sale and Leasebacks (Section 7.11)			
	1.	Aggregate obligations under all Sale and Leasebacks arrangements (other than synthetic lease transactions excluded by Section 7.11)	$	(Line B1 not to exceed $50,000,000)
C.	Sale of Assets (Section 7.12)			

	1.	Net book value of assets (other than as permitted in Section 7.12(a)(i)-(v)) sold during this fiscal year	$	(Line C1 not to exceed 10% of total Consolidated Assets)
D.	Permitted Investments (Section 7.14)			
	1.	Aggregate amount of Investments in Persons engaged in the lines of business described in clause (xii) of Section 7.8 (Section 7.14(k))	$	(Line D1 not to exceed $50,000,000)
E.	Permitted Indebtedness (Section 7.15)			
	1.	Secured Indebtedness except as set forth on Schedule 7.15(c): (i) of BHP or CLF&P, (ii) evidencing the deferred purchase price of newly acquired property or incurred to finance the acquisition of personal property of the Borrower or a Subsidiary used in the ordinary course of business of the Borrower of a Subsidiary, (iii) constituting Capitalized Lease Obligations or with respect to synthetic (or similar type) lease transactions, or (iv) incurred in connection with the performance of tenders, statutory obligations, bids, leases or other similar obligations (other than for borrowed money) entered into in the ordinary course of business or to secure obligations on performance bonds (Section 7.15(c))	$	(Line E1 not to exceed 5% of Consolidated Assets)
	2.	Intercompany loans owing by the Borrower (Section 7.15(e)(i)(x))	$	(Must be subordinated to Obligations)
F.	Recourse Leverage Ratio (Section 7.17)		$	
	1.	Consolidated Indebtedness	$	
	2.	Non-Recourse Indebtedness	$	
	3.	Recourse Indebtedness (Line F1 minus Line F2)	$	
	4.	Consolidated Net Worth	$	
	5.	Capital (Line F3 plus Line F4)	$	
	6.	Recourse Leverage Ratio	:1.00	(ratio of (A) Line F3 to (B) Line F5 not to exceed 0.65 to 1.00 at the end of any fiscal quarter; *provided* that, solely for the first four fiscal quarters immediately following the SourceGas Acquisition (inclusive of the fiscal quarter in which the SourceGas Acquisition occurs), the maximum Recourse Leverage Ratio permitted under this Section 7.17 shall be increased to (i) 0.70 to 1.00 as at the end of any fiscal quarter during such four fiscal quarter period that the aggregate outstanding principal amount of the SourceGas Acquisition Debt Financing (after giving effect to any prepayments thereof) as of the end of such fiscal quarter is equal to or greater than $1,250,000,000 and less than $1,460,000,000 or (ii) 0.75 to 1.00 as at the end of any fiscal quarter during such four fiscal quarter period that the aggregate outstanding principal amount of the SourceGas Acquisition Debt Financing (after giving effect to any prepayments thereof) as of the end of such fiscal quarter is equal to or greater than $1,460,000,000)

EXHIBIT C

ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "Assignment and Assumption") 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"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the "Credit 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 and Assumption 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 Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Bank under the Credit 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 without limitation any letters of credit, guarantees, and swingline loans 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 Bank) against any Person, whether known or unknown, arising under or in connection with the Credit 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, but not limited to, 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 and Assumption, without representation or warranty by the Assignor.

1. Assignor:

2. Assignee:
[and is an Affiliate/Approved Fund of [identify Bank](1)**]**

3. Borrower(s): Black Hills Corporation

4. Administrative Agent: JPMorgan Chase Bank, N.A., as the administrative agent under the Credit Agreement

5. Credit Agreement: The Second Amended and Restated Term Loan Credit Agreement dated as of February 12, 2016 among, *inter alia*, Black Hills Corporation, the Banks parties thereto, and JPMorgan Chase Bank, N.A., as Administrative Agent, as amended.

(1) Select as applicable.

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6. Assigned Interest:

Amount of Loans of Assignor prior to Trade Date	Amount of Loans of Assignee prior to Trade Date	Amount of Loans Assigned	Amount of Loans of Assignor after Trade Date	Amount of Loans of Assignee after Trade Date
$	$	$	$	$

[7. Trade Date:]**(2)**

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

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

ASSIGNOR
[NAME OF ASSIGNOR]

By: ______________________________
Title:

ASSIGNEE
[NAME OF ASSIGNEE]

By: ______________________________
Title:

[Consented to and](3) Accepted:

JPMorgan Chase Bank, N.A., as
Administrative Agent

By: ______________________________
Title:

[Consented to:](4)

BLACK HILLS CORPORATION

By: ______________________________________
Title:

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(2) To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.
(3) To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.
(4) To be added only if the consent of the Borrower and/or other parties is required by the terms of the Credit Agreement.

ANNEX 1 to Assignment and Assumption

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

a. 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 and Assumption 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 Credit Agreement or any other Credit Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit 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 Credit 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 Credit 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 and Assumption and to consummate the transactions contemplated hereby and to become a Bank under the Credit Agreement, (ii) it meets all requirements of an Eligible Assignee under the Credit Agreement (subject to receipt of such consents as may be required under the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Bank thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Bank thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 7.6 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Bank, and (v) if it is not a United States person (as defined in Section 7701(a)(30) of the Code), it shall have attached to the Assignment and Assumption the documentation specified in Section 11.1(b) of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Bank, 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 Credit Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Credit Documents are required to be performed by it as a Bank.

b. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignee whether such amounts have accrued prior to, on or after the Effective Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by the Administrative Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves.

c. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption 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 and Assumption by telecopy

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shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

EXHIBIT D

FORM OF VOTING PARTICIPANT NOTIFICATION AND CONSENT

Voting Participant Notification and Consent

Reference is made to the Second Amended and Restated Term Loan Credit Agreement dated as of February 12, 2016 by and among, *inter alia*, Black Hills Corporation, a South Dakota corporation (*"Borrower"*), JPMorgan Chase Bank, N.A., as Administrative Agent, and the financial institutions party thereto (as the same may be amended, restated, supplemented or otherwise modified from time to time, the *"Credit Agreement"*). Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Credit Agreement.

Pursuant to Section 11.10(i) of the Credit Agreement, the Bank identified below hereby notifies Administrative Agent that it is designating the participant identified below as being entitled to be accorded the rights of a Voting Participant.

Bank:

Voting Participant:(5)
Full Legal Name:
Address for Notices:

Attention:
Amount of Participation Purchased: $

(5) Voting Participants must be members of the Farm Credit System, have purchased a participation in the minimum amount of $[ ] on or after the Effective Date and have received the written consent of the Borrower and the Administrative Agent.

Date of Notification:

Voting Participant Notification and Consent

Bank

By:
Name:
Title:

Voting Participant

By:
Name:
Title:

Pursuant to Section [ ] of the Credit Agreement, the undersigned hereby consent to the institution identified herein becoming a Voting Participant.

[Borrower]

By:
Name:
Title:

[Administrative Agent]

By:
Name:
Title:

SCHEDULE 2.1
COMMITMENTS

Bank	Commitment Amount	Pro Rata Share
JPMorgan Chase Bank, N.A.	$ 121,430,000	35.715%
MUFG Union Bank, N.A.	121,430,000	35.715%
Wells Fargo Bank, N.A.	97,140,000	28.570%
TOTALS	**$ 340,000,000**	**100.000**%

SCHEDULE 4
ADMINISTRATIVE AGENT'S NOTICE AND PAYMENT INFORMATION

Part A — Payments

Loan Repayments, Interest, Fees:

Bank Name:	JPMorgan Chase Bank, N.A.
ABA/Routing No.:	XXXXXXXXX
Account No.:	# XXXXXXXXXXXXXXX
Account Name:	LS2 Incoming Account
Reference:	Black Hills Corporation
Attn:	Dustin Thompson

Part B — Notices

Address for notices related to commitments, covenants or extensions of expiry/termination dates, notices related to Loans and Fees and for all Required Executed Documentation and Financial Information:

JPMorgan Chase Bank, N.A.
Loan Operations
10 South Dearborn, Floor L2
Chicago, IL, 60603-2300
Mail Code IL1-0010
Attention: Dustin Thompson
Facsimile No.: (888) 292-9533
Phone No.: (312) 732-1162
Email: dustin.thompson@jpmchase.com

with a copy to (except with respect to routine borrowing notices, etc.):

JPMorgan Chase Bank, N.A.
10 South Dearborn, Floor 09
Mail Code IL1-0090
Chicago, IL 60603-2300
Attention: Justin Martin
Credit Executive, Corporate Client Banking, Power and Utilities
Facsimile No.: (312) 732-1762
Phone No.: (312) 732-4441
Email: justin.2.martin@jpmorgan.com

and

JPMorgan Chase Bank, N.A.
Portfolio Management Administration
10 South Dearborn, 9th Floor
Mail Code IL1-0874
Chicago, IL 60603
Attention: Michelle Reese
Facsimile No.: (312) 325-3150
Phone No.: (312) 325-3153
Email: michelle.reese@jpmchase.com

SCHEDULE 5.2(6)
EXISTING SUBSIDIARIES; MATERIAL SUBSIDIARIES

BLACK HILLS CORPORATION SUBSIDIARIES

As of 08/06/15

	Subsidiary Name	State of Origin	BHC's Ownership	Description of Subsidiary's Authorized Capital Stock, if not wholly owned	Material Subsidiary
1.	Black Hills Cabresto Pipeline, LLC	Delaware	100%	N/A	No
2.	Black Hills/Colorado Electric Utility Company, LP	Delaware	100%	N/A	Yes
3.	Black Hills/Colorado Gas Utility Company, LP	Delaware	100%	N/A	Yes
4.	Black Hills/Colorado Utility Company, LLC	Colorado	100%	N/A	Yes
5.	Black Hills/Colorado Utility Company II, LLC	Colorado	100%	N/A	Yes
6.	Black Hills Colorado IPP, LLC	South Dakota	100%	N/A	Yes
7.	Black Hills Electric Generation, LLC	South Dakota	100%	N/A	Yes
8.	Black Hills Exploration and Production, Inc.	Wyoming	100%	N/A	Yes
9.	Black Hills Gas Resources, Inc.	Colorado	100%	N/A	No
10.	Black Hills Gas Holdings Corp.	Colorado	100%	N/A	No
11.	Black Hills/Iowa Gas Utility Company, LLC	Delaware	100%	N/A	Yes
12.	Black Hills/Kansas Gas Utility Company, LLC	Kansas	100%	N/A	Yes
13.	Black Hills Midstream, LLC	South Dakota	100%	N/A	No
14.	Black Hills/Nebraska Gas Utility Company, LLC	Delaware	100%	N/A	Yes
15.	Black Hills Non-regulated Holdings, LLC	South Dakota	100%	N/A	Yes
16.	Black Hills Northwest Wyoming Gas Utility Company, LLC	Wyoming	100%	N/A	No
17.	Black Hills Plateau Production, LLC	Delaware	100%	N/A	No
18.	Black Hills Power, Inc.	South Dakota	100%	N/A	Yes
19.	Black Hills Service Company, LLC	South Dakota	100%	N/A	No
20.	Black Hills Shoshone Pipeline, LLC	Wyoming	100%	N/A	No
21.	Black Hills Utility Holdings, Inc.	South Dakota	100%	N/A	Yes
22.	Black Hills Wyoming, LLC	Wyoming	100%	N/A	No
23.	Cheyenne Light, Fuel and Power Company	Wyoming	100%	N/A	Yes
24.	Generation Development Company, LLC	South Dakota	100%	N/A	No

25. Mallon Oil Company, Sucursal Costa Rica	Costa Rica	100%	N/A	No
26. Wyodak Resources Development Corp.	Delaware	100%	N/A	No

(6) Borrower to update all schedules.

SCHEDULE 5.5
LITIGATION

None.

SCHEDULE 5.11
ENVIRONMENTAL MATTERS

None.

SCHEDULE 6.1
MATERIAL INDEBTEDNESS

SCHEDULE 7.9
EXISTING LIENS

1. BHP has granted a first mortgage lien in favor of the trustee on substantially all of the properties used in its electric utility business pursuant to that certain Restated and Amended Indenture of Mortgage and Deed of Trust dated as of September 1, 1999 between BHP and The Chase Manhattan Bank, as trustee (and any successor trustee thereunder), together with all amendments and supplemental indentures thereto.

2. CLF&P has granted a first mortgage lien in favor of the trustee on substantially all of the properties used in its electric utility business pursuant to the CLF&P Indenture, together with all amendments and supplemental indentures thereto.

3. Black Hills Exploration and Production, Inc. has granted security interests in various certificates of deposits for oil and gas leases and operations totaling less than $10,000 in aggregate.

4. Wyodak Resources Development Corp. has granted a security interest in (a) a Treasury Note in the amount of $400,000 to secure its self-insurance permit for black lung liability and (b) certain equipment/software component package purchased from RDO Equipment Co.

SCHEDULE 7.14
EXISTING INVESTMENTS

As of 6/30/15

1. The Borrower holds investments in life insurance policies and nonqualified deferred compensation plan accounts in the amount of $6,041,869.

2. BHP holds investments in life insurance policies and nonqualified deferred compensation plan accounts in the amount of $4,680,943.

3. Wyodak Resources Developmental Corp. holds investments in life insurance policies in the amount of $648,812.

4. Black Hills Exploration and Production, Inc. holds investments in affiliates in the amount of $315,901.

SCHEDULE 7.15(c)
EXISTING SECURED INDEBTEDNESS

None.

SCHEDULE 7.18
RESTRICTIONS ON DISTRIBUTIONS

1. BHP's Restated and Amended Indenture of Mortgage and Deed of Trust dated as of September 1, 1999 between BHP and The Chase Manhattan Bank, as trustee (and any successor trustee thereunder), together with all amendments and supplemental indentures thereto, requires that it only declare and pay dividends in cash or property out of unreserved and unrestricted retained earnings and it will not pay dividends when it is insolvent or the payment would render insolvency.

2. The CLF&P Indenture requires that it only declare and pay dividends in cash or property out of unreserved and unrestricted retained earnings and it will not pay dividends when it is insolvent, the payment would render insolvency, or if an Event of Default exists or would exist immediately after declaring such dividend.

3. If any of the following Subsidiaries incurs Indebtedness for borrowed money, unless authorized by the Public Utility Commissions or equivalent governmental authority in Kansas, Nebraska, Iowa and Colorado, such Subsidiary will be prohibited from paying dividends if such payment would reduce its stand-alone equity below 40% of its total long-term capitalization:

    a. Black Hills/Colorado Electric Utility Company, LP
    b. Black Hills/Colorado Gas Utility Company, LP
    c. Black Hills/Colorado Utility Company, LLC
    d. Black Hills/Colorado Utility Company II, LLC
    e. Black Hills/Iowa Gas Utility Company, LLC
    f. Black Hills/Kansas Gas Utility Company, LLC
    g. Black Hills/Nebraska Gas Utility Company, LLC

As of the date hereof, no such Subsidiaries have Indebtedness for borrowed money.

Exhibit 10.4

EXECUTION COPY

AMENDMENT NO. 3 TO AMENDED AND RESTATED CREDIT AGREEMENT

THIS AMENDMENT NO. 3 (this "Amendment") is made as of February 12, 2016 (the "Effective Date") by and among BLACK HILLS CORPORATION, a South Dakota corporation (the "Borrower"), the financial institutions listed on the signature pages hereto (the "Banks") and U.S. BANK NATIONAL ASSOCIATION, as Administrative Agent (in such capacity, the "Administrative Agent"), under that certain Amended and Restated Credit Agreement, dated as of May 29, 2014 (as amended, supplemented or otherwise modified from time to time prior to the date hereof, the "Credit Agreement"), by and among the Borrower, the Banks party thereto and the Administrative Agent. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Credit Agreement, as amended by this Amendment (the "Amended Credit Agreement").

WHEREAS, the Borrower has requested that the Banks and the Administrative Agent agree to make certain modifications to the Credit Agreement; and

WHEREAS, the Borrower, the Banks and the Administrative Agent have so agreed on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower, the Banks and the Administrative Agent hereby agree as follows.

ARTICLE I- AMENDMENT

Effective as of the Effective Date but subject to the satisfaction of the conditions precedent set forth in Article III below, the Credit Agreement is hereby amended as follows:

1.1 The definition of "*Guarantee*" in Section 1.1 of the Credit Agreement is hereby amended and restated in its entirety to read as follows:

> *"Guarantee"* means, in respect of any Person, any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Indebtedness of another Person, including, without limitation, by means of an agreement to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or to maintain financial covenants, or to assure the payment of such Indebtedness by an agreement to make payments in respect of goods or services regardless of whether delivered, or otherwise, *provided*, that the term *"Guarantee"* shall not include endorsements for deposit or collection in the ordinary course of business; and such term when used as a verb shall have a correlative meaning.

ARTICLE II- REPRESENTATIONS AND WARRANTIES

The Borrower hereby represents and warrants as follows:

2.1 This Amendment and the Amended Credit Agreement constitute legal, valid and binding obligations of the Borrower and are enforceable against the Borrower in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally.

2.2 As of the date hereof and after giving effect to the terms of this Amendment, (i) the Borrower shall be in full compliance with all of the terms and conditions of the Amended Credit Agreement, and no Default or Event of Default shall have occurred and be continuing and (ii) each of the representations and warranties of the Borrower set forth in the Amended Credit Agreement are true and correct in all material respects (unless such representation or warranty is already qualified with respect to materiality, in which case it shall be and remain true and correct in all respects) as of the date hereof, except that if any such representation or warranty relates solely to an earlier date it need only remain true in all material respects (unless such representation or warranty is already qualified with respect to materiality, in which case it shall be and remain true and correct in all respects) as of such date.

ARTICLE III- CONDITIONS PRECEDENT

This Amendment shall become effective on the Effective Date, *provided*, *however*, that the effectiveness of this Amendment is subject to the satisfaction of each of the following conditions precedent:

3.1 The Administrative Agent shall have received:

a. Counterparts of this Amendment duly executed by the Borrower, the Administrative Agent and the Required Banks; and

b. Such other documents and information as the Administrative Agent may reasonably request.

3.2 All legal matters incident to the execution and delivery of this Amendment shall be satisfactory to the Required Banks.

3.3 There has been no material adverse change in the business, assets, operations, performance or condition, financial or otherwise, of the Borrower and its subsidiaries taken as a whole, since the last day of the most recently audited financial year of the Borrower.

ARTICLE IV- GENERAL

4.1 Expenses. The Borrower agrees to reimburse the Administrative Agent upon demand for all reasonable out-of-pocket expenses paid or incurred by the Administrative Agent, including, without limitation, reasonable fees, charges and disbursements of outside counsel to the Administrative Agent incurred in connection with preparation, negotiation and execution of this Amendment and any other document required to be furnished herewith.

4.2 Counterparts. This Amendment may be executed in any number of counterpart signature pages, and by the different parties on different counterparts, each of which when executed shall be deemed an original but all such counterparts taken together shall constitute one

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and the same instrument. Delivery of an executed counterpart hereof via facsimile or electronic means shall for all purposes be as effective as delivery of an original counterpart.

4.3 Severability of Provisions. Any provision in this Amendment that is held to be inoperative, unenforceable, or invalid in any jurisdiction shall, as to that jurisdiction, be inoperative, unenforceable, or invalid without affecting the remaining provisions in that jurisdiction or the operation, enforceability, or validity of that provision in any other jurisdiction, and to this end the provisions of this Amendment are declared to be severable.

4.4 Governing Law. This Amendment, and the rights and duties of the parties hereto, shall be construed and determined in accordance with the internal laws of the State of New York.

4.5 Successors; Enforceability. The terms and provisions of this Amendment shall be binding upon the Borrower, the Administrative Agent and the Banks and their respective successors and assigns, and shall inure to the benefit of the Borrower, the Administrative Agent and the Banks and the successors and assigns of the Administrative Agent and the Banks.

4.6 Reference to and Effect on the Credit Agreement.

a. Upon the effectiveness of this Amendment, on and after the date hereof, each reference in the Amended Credit Agreement to “this Agreement,” “hereunder,” “hereof,” “herein” or words of like import shall mean and be a reference to the Credit Agreement, as amended and modified hereby.

b. Except as specifically amended above, the Credit Agreement and all other documents, instruments and agreements executed and/or delivered in connection therewith (including, without limitation, all of the Loan Documents) shall remain in full force and effect and are hereby ratified and confirmed.

c. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Administrative Agent or the Banks, nor constitute a waiver of any provision of the Amended Credit Agreement or any other documents, instruments and agreements executed and/or delivered in connection therewith.

d. This Amendment shall constitute a Credit Document.

4.7 Headings. Section headings used in this Amendment are for reference only and shall not affect the construction of this Amendment.

(signature pages follow)

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

BLACK HILLS CORPORATION, as the Borrower

By: /s/ Richard W. Kinzley
Name: Richard W. Kinzley
Title: Senior Vice President and Chief Financial Officer

U.S. BANK NATIONAL ASSOCIATION,
as a Bank and as Administrative Agent

By: /s/ John M. Eyerman
Name: John M. Eyerman
Title: Vice President

THE BANK OF NOVA SCOTIA,
as a Bank

By: /s/ David Dewar
Name: David Dewar
Title: Director

Signature Page to
Amendment No. 3 to
Black Hills Amended and Restated Credit Agreement

MUFG UNION BANK, N.A.,
as a Bank

By: /s/ Maria Ferradas
Name: Maria Ferradas
Title: Vice President

Signature Page to
Amendment No. 3 to
Black Hills Amended and Restated Credit Agreement

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as a Bank

By: /s/ Keith Luettel
Name: Keith Luettel
Title: Director

Signature Page to
Amendment No. 3 to
Black Hills Amended and Restated Credit Agreement

ROYAL BANK OF CANADA,
as a Bank

By: /s/ Frank Lambrinos
Name: Frank Lambrinos
Title: Authorized Signatory

Signature Page to
Amendment No. 3 to
Black Hills Amended and Restated Credit Agreement

COBANK, ACB,
as a Bank

By: /s/ John H. Kemper
Name: John H. Kemper
Title: Vice President

Signature Page to
Amendment No. 3 to
Black Hills Amended and Restated Credit Agreement

JPMORGAN CHASE BANK, N.A.,
as a Bank

By: /s/ Justin Martin
Name: Justin Martin
Title: Authorized Officer

Signature Page to
Amendment No. 3 to
Black Hills Amended and Restated Credit Agreement

BMO HARRIS FINANCING, INC.,
as a Bank

By: /s/ Kevin Utsey
Name: Kevin Utsey
Title: Director

Signature Page to
Amendment No. 3 to
Black Hills Amended and Restated Credit Agreement

Credit Suisse AG, CAYMAN ISLANDS BRANCH,
as a Bank

By: /s/ Mikhail Faybusovich
Name: Mikhail Faybusovich
Title: Authorized Signatory

By: /s/ Gregory Fantoni
Name: Gregory Fantoni
Title: Authorized Signatory

Signature Page to
Amendment No. 3 to
Black Hills Amended and Restated Credit Agreement

BANK OF AMERICA, N.A.,
as a Bank

By: /s/ Carlos Morales
Name: Carlos Morales
Title: SVP

Signature Page to
Amendment No. 3 to
Black Hills Amended and Restated Credit Agreement

AMENDMENT NO. 2 TO CREDIT AGREEMENT

This AMENDMENT NO. 2 TO CREDIT AGREEMENT (this "Amendment") is made as of February 12, 2016 (the "Effective Date") by and among BLACK HILLS CORPORATION, a South Dakota corporation (the "Borrower"), the financial institutions listed on the signature pages hereto (the "Banks") and JPMORGAN CHASE BANK, N.A., as Administrative Agent (in such capacity, the "Administrative Agent"), under that certain Credit Agreement, dated as of April 13, 2015 (as amended, supplemented or otherwise modified from time to time prior to the date hereof, the "Credit Agreement"), by and among the Borrower, the Banks party thereto and the Administrative Agent. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Credit Agreement, as amended by this Amendment (the "Amended Credit Agreement").

WHEREAS, the Borrower has requested that the Banks and the Administrative Agent agree to make certain modifications to the Credit Agreement; and

WHEREAS, the Borrower, the Banks and the Administrative Agent have so agreed on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower, the Banks and the Administrative Agent hereby agree as follows.

ARTICLE I- AMENDMENT

Effective as of the Effective Date but subject to the satisfaction of the conditions precedent set forth in Article III below, the Credit Agreement is hereby amended as follows:

1.1 The definition of "*Guarantee*" in Section 1.1 of the Credit Agreement is hereby amended and restated in its entirety to read as follows:

"*Guarantee*" means, in respect of any Person, any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Indebtedness of another Person, including, without limitation, by means of an agreement to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or to maintain financial covenants, or to assure the payment of such Indebtedness by an agreement to make payments in respect of goods or services regardless of whether delivered, or otherwise, *provided*, that the term "*Guarantee*" shall not include endorsements for deposit or collection in the ordinary course of business; and such term when used as a verb shall have a correlative meaning.

ARTICLE II- REPRESENTATIONS AND WARRANTIES

The Borrower hereby represents and warrants as follows:

2.1 This Amendment and the Amended Credit Agreement constitute legal, valid and binding obligations of the Borrower and are enforceable against the Borrower in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally.

2.2 As of the date hereof and after giving effect to the terms of this Amendment, (i) the Borrower shall be in full compliance with all of the terms and conditions of the Amended Credit Agreement, and no Default or Event of Default shall have occurred and be continuing and (ii) each of the representations and warranties of the Borrower set forth in the Amended Credit Agreement are true and correct in all material respects (unless such representation or warranty is already qualified with respect to materiality, in which case it shall be and remain true and correct in all respects) as of the date hereof, except that if any such representation or warranty relates solely to an earlier date it need only remain true in all material respects (unless such representation or warranty is already qualified with respect to materiality, in which case it shall be and remain true and correct in all respects) as of such date.

ARTICLE III- CONDITIONS PRECEDENT

This Amendment shall become effective on the Effective Date, *provided*, *however*, that the effectiveness of this Amendment is subject to the satisfaction of each of the following conditions precedent:

3.1 The Administrative Agent shall have received:

a. Counterparts of this Amendment duly executed by the Borrower, the Administrative Agent and the Required Banks; and

b. Such other documents and information as the Administrative Agent may reasonably request.

3.2 All legal matters incident to the execution and delivery of this Amendment shall be satisfactory to the Required Banks.

3.3 There has been no material adverse change in the business, assets, operations, performance or condition, financial or otherwise, of the Borrower and its subsidiaries taken as a whole, since the last day of the most recently audited financial year of the Borrower.

ARTICLE IV- GENERAL

4.1 Expenses. The Borrower agrees to reimburse the Administrative Agent upon demand for all reasonable out-of-pocket expenses paid or incurred by the Administrative Agent, including, without limitation, reasonable fees, charges and disbursements of outside counsel to the Administrative Agent incurred in connection with preparation, negotiation and execution of this Amendment and any other document required to be furnished herewith.

4.2 Counterparts. This Amendment may be executed in any number of counterpart signature pages, and by the different parties on different counterparts, each of which when executed shall be deemed an original but all such counterparts taken together shall constitute one and the same instrument.

Delivery of an executed counterpart hereof via facsimile or electronic means shall for all purposes be as effective as delivery of an original counterpart.

4.3 Severability of Provisions. Any provision in this Amendment that is held to be inoperative, unenforceable, or invalid in any jurisdiction shall, as to that jurisdiction, be inoperative, unenforceable, or invalid without affecting the remaining provisions in that jurisdiction or the operation, enforceability, or validity of that provision in any other jurisdiction, and to this end the provisions of this Amendment are declared to be severable.

4.4 Governing Law. This Amendment, and the rights and duties of the parties hereto, shall be construed and determined in accordance with the internal laws of the State of New York.

4.5 Successors; Enforceability. The terms and provisions of this Amendment shall be binding upon the Borrower, the Administrative Agent and the Banks and their respective successors and assigns, and shall inure to the benefit of the Borrower, the Administrative Agent and the Banks and the successors and assigns of the Administrative Agent and the Banks.

4.6 Reference to and Effect on the Credit Agreement.

a. Upon the effectiveness of this Amendment, on and after the date hereof, each reference in the Amended Credit Agreement to “this Agreement,” “hereunder,” “hereof,” “herein” or words of like import shall mean and be a reference to the Credit Agreement, as amended and modified hereby.

b. Except as specifically amended above, the Credit Agreement and all other documents, instruments and agreements executed and/or delivered in connection therewith (including, without limitation, all of the Loan Documents) shall remain in full force and effect and are hereby ratified and confirmed.

c. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Administrative Agent or the Banks, nor constitute a waiver of any provision of the Amended Credit Agreement or any other documents, instruments and agreements executed and/or delivered in connection therewith.

d. This Amendment shall constitute a Credit Document.

4.7 Headings. Section headings used in this Amendment are for reference only and shall not affect the construction of this Amendment.

(signature pages follow)

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their duly authorized representatives as of the day and year first above written.

BORROWER:

BLACK HILLS CORPORATION,
a South Dakota corporation

By: /s/ Richard W. Kinzley
Name: Richard W. Kinzley
Title: Senior Vice President and
Chief Financial Officer

JPMORGAN CHASE BANK, N.A.,
as the Administrative Agent and a Bank

By: /s/ Justin Martin
Name: Justin Martin
Title: Authorized Officer

COBANK, ACB,
as a Bank

By: /s/ John H. Kemper
Name: John H. Kemper
Title: Vice President

SCOTIABANK (IRELAND) LIMITED,
as a Bank

By: /s/ Wilson Muzorewa
Name: Wilson Muzorewa
Title: SRO

By: /s/ Mark Allen
Name: Mark Allen
Title: Company Secretary

THE BANK OF NOVA SCOTIA,
as a Bank

By: /s/ David Dewar
Name: David Dewar
Title: Director

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.,
as a Bank

By: /s/ Maria Ferradas
Name: Maria Ferradas
Title: Vice President

U.S. BANK NATIONAL ASSOCIATION,
as a Bank

By: /s/ John M. Eyerman
Name: John M. Eyerman
Title: Vice Prersident

WELLS FARGO BANK, N.A.,
as a Bank

By: /s/ Keith Luettel
Name: Keith Luettel

Title: Director