IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
NEW GULF RESOURCES, LLC, *et al*.	)	Case No. 15-12556 (BLS)
Debtors.[1]	)	Jointly Administered
	)	**Ref. Docket No. 268**

PLAN SUPPLEMENT TO THE DEBTORS' FIRST AMENDED JOINT PLAN OF REORGANIZATION PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE

PLEASE TAKE NOTICE that, pursuant to the *Debtors' First Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* (the "Plan") [Docket No. 268] and related Disclosure Statement,[2] the Debtors file the attached exhibits comprising the Plan Supplement.

PLEASE TAKE FURTHER NOTICE that this Plan Supplement includes the following documents, as may be modified, amended or supplemented from time to time:

Exhibit A	Schedule of Rejected Contracts
Exhibit B	Description of Restructuring Transactions
Exhibit C	Form of LLC Agreement of NGR Management Company LLC
Exhibit D	Form of Operating Agreement of New Gulf Resources, LLC
Exhibit E	Form of Charter of NGR Finance Corp.
Exhibit F	Form of Operating Agreement of NGR Texas, LLC

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: NGR Holding Company LLC (1782), New Gulf Resources, LLC (1365); NGR Finance Corp. (5563) and NGR Texas, LLC (a disregarded entity for tax purposes). The Debtors' mailing address is 10441 S. Regal Boulevard, Suite 210, Tulsa, Oklahoma 74133.

[2] Capitalized terms not defined herein have the meaning given to them in the Plan.

Exhibit G	Modification of "First Lien" Debt Basket for New First Lien Notes Being Offered in Rights Offering
Exhibit H	Form of New First Lien Notes Indenture
Exhibit I	Form of New ENXP Note
Exhibit J	Form of Reorganized NGR Holding Management Incentive Plan
Exhibit K	Managers/Directors and Officers of the Reorganized Debtors
Exhibit L	Retained Causes of Action

PLEASE TAKE FURTHER NOTICE that the documents contained in this Plan Supplement remain subject to continuing negotiations among the Debtors and interested parties with respect thereto. The Debtors, with the consent of the Requisite Supporting Noteholders, reserve all rights to amend, revise or supplement the Plan Supplement, and any of the documents and designations contained herein**.**

PLEASE TAKE FURTHER NOTICE that the Debtors will seek confirmation of the Plan at a hearing scheduled for **Monday, April 11, 2016 at 10:00 a.m. (Eastern Time)** before the Honorable Brendan L. Shannon for the United States Bankruptcy Court for the District of Delaware, at which time and at which place you may appear if you so desire.

[Remainder of Page Intentionally Left Blank]

Dated: March 17, 2016
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Justin P. Duda

M. Blake Cleary (No. 3614)
Ryan M. Bartley (No. 4985)
Justin P. Duda (No. 5478)
1000 N. King Street
Rodney Square
Wilmington, Delaware 19801
Telephone: (302) 571-6600
mbcleary@ycst.com
rbartley@ycst.com
jduda@ycst.com

- and -

BAKER BOTTS L.L.P.
C. Luckey McDowell (admitted *pro hac vice*)
Ian E. Roberts (admitted *pro hac vice*)
Meggie S. Gilstrap (admitted *pro hac vice*)
2001 Ross Avenue
Dallas, Texas 75201
Telephone: (214) 953-6500
luckey.mcdowell@bakerbotts.com
ian.roberts@bakerbotts.com
meggie.gilstrap@bakerbotts.com

Counsel for Debtors and Debtors in Possession

Exhibit A

Schedule of Rejected Contracts

None.

The Debtors, with the consent of the Requisite Supporting Noteholders, reserve the right to add contracts to the list of Rejected Contracts to the extent any Cure Disputes are resolved or determined unfavorably to the Debtors or the Reorganized Debtors.

Exhibit B

Draft
March 17, 2016

Description of Restructuring Transactions[1]

On, and subject to the occurrence of, the Effective Date, the following transactions will take place pursuant to the Plan:

- All existing Equity Interests in (i) NGR Holding LLC, a Delaware limited liability company ("NGR Holding"), and (ii) New Gulf Resources, LLC, a Delaware limited liability company ("New Gulf"), will be cancelled, discharged, and of no further force or effect and any right of any holder of Equity Interests in respect thereof, including any Claim related thereto, shall be deemed cancelled, discharged and of no force or effect.
- NGR Holding, as reorganized pursuant to the Plan, will be renamed NGR Management Company LLC ("NGR Management") and will continue to be a Delaware limited liability company (treated as a corporation for tax purposes), and NGR Management will issue (i) 87.5% of the New Equity Interests in NGR Management to holders of Allowed Second Lien Notes Claims and (ii) 12.5% of the New Equity Interests in NGR Management to holders of Allowed Subordinated PIK Notes Claims.[2] NGR Management will be managed by the Board of Managers of NGR Management, to be appointed in accordance with the Plan and the terms of the Amended and Restated Limited Liability Company Agreement of NGR Management to take effect on the Effective Date.
- New Gulf, as reorganized pursuant to the Plan ("Reorganized New Gulf"), will continue to be a Delaware limited liability company and will be treated as a partnership for tax purposes, and Reorganized New Gulf will issue (i) 5% of the New Equity Interests in Reorganized New Gulf to NGR Management, (ii) 83.125% of the New Equity Interests in Reorganized New Gulf to holders of Allowed Second Lien Notes Claims and (iii) 11.875% of the New Equity Interests in Reorganized New Gulf to holders of Allowed Subordinated PIK Notes Claims (and, with respect to clauses (i), (ii) and (iii), such issuances shall be subject to dilution by the Dilution Events, including as a result of the conversion of the new secured notes issued under the Plan (the "New Secured Notes") to New Equity Interests and awards issued under the Reorganized NGR Holding Management Incentive Plan).[3] Reorganized New Gulf will be managed by the Board of

[1] Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Debtors' *First Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* (the "Plan").

[2] These percentages assume that Class 6 (Subordinated PIK Notes Claims) votes to accept the Plan. If Class 6 (Subordinated PIK Notes Claims) does not vote to accept the Plan, NGR Management will issue (i) 95% of the New Equity Interests in NGR Management to holders of Allowed Second Lien Notes Claims and (ii) 5% of the New Equity Interests in NGR Management to holders of Allowed Subordinated PIK Notes Claims.

[3] These percentages assume that Class 6 (Subordinated PIK Notes Claims) votes to accept the Plan. If Class 6 (Subordinated PIK Notes Claims) does not vote to accept the Plan, Reorganized New Gulf will issue (i) 5% of the New Equity Interests in Reorganized New Gulf to NGR Management, (ii) 90.25% of the New Equity Interests in Reorganized New Gulf to holders of Allowed Second Lien Notes Claims and (iii) 4.75% of the New Equity Interests in Reorganized New Gulf to holders of Allowed Subordinated PIK Notes Claims (and, with respect to clauses (i), (ii) and (iii), such issuances shall be subject to dilution by the Dilution Events, including as a result of the conversion of New Secured Notes to New Equity Interests and awards issued under the Reorganized NGR Holding

Managers of Reorganized New Gulf (the "Board"), to be appointed in accordance with the Plan and the terms of the Amended and Restated Limited Liability Company Agreement of Reorganized New Gulf to take effect on the Effective Date.

- NGR Management and Reorganized New Gulf will enter into a management services agreement, pursuant to which NGR Management will agree to make available certain executives who are approved by the Board to serve as senior management of Reorganized New Gulf, subject to supervision by the Board.
- Reorganized New Gulf will continue to own 100% of the Equity Interests in (i) NGR Texas, LLC, a Delaware limited liability company and (ii) NGR Finance Corp., a Delaware corporation.
- The relevant organizational documents of the Debtors will be amended and/or amended and restated in order to reflect the transactions contemplated hereunder and in the Plan.
- Reorganized New Gulf will issue the New Secured Notes, which shall be convertible in accordance with the terms of the definitive documents governing such New Secured Notes into New Equity Interests in Reorganized New Gulf. Such conversion shall not dilute any New Equity Interests of Reorganized New Gulf issued or issuable under the Reorganized NGR Holding Management Incentive Plan.

The Restructuring Transactions contemplated herein may be amended, modified or supplemented in all respects by the Debtors with the prior written consent of the Requisite Supporting Noteholders. This summary description is qualified in its entirety by reference to the definitive documents that will effect the Restructuring Transactions described herein.

Management Incentive Plan). In either case, the aggregate amount of New Equity Interests of Reorganized New Gulf (*i.e.*, including such New Equity Interests held indirectly through such holders' interests in NGR Management) issued to the holders of the Allowed Second Lien Notes Claims and the holders of Allowed Subordinated PIK Claims on the Effective Date shall equal the amounts contemplated by the Plan (87.5% and 12.5% or 95% and 5%, as applicable),

Exhibit C

NGR MANAGEMENT COMPANY LLC

SECOND AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

DATED AS OF
[_____] [__], 2016

THE SECURITIES CONTEMPLATED BY THIS SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT, AS IT MAY BE AMENDED FROM TIME TO TIME, ARE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH HEREIN, HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH SECURITIES MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR PURSUANT TO A VALID EXEMPTION THEREFROM, AND COMPLIANCE WITH THE PROVISIONS SET FORTH HEREIN.

CERTAIN SECURITIES CONTEMPLATED BY THIS SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT, AS IT MAY BE AMENDED FROM TIME TO TIME, MAY ALSO BE SUBJECT TO VESTING PROVISIONS, REPURCHASE RIGHTS, ADDITIONAL RESTRICTIONS ON TRANSFER, OFFSET RIGHTS, FORFEITURE PROVISIONS, VOTING ARRANGEMENTS AND OTHER SIMILAR PROVISIONS SET FORTH IN A SEPARATE AGREEMENT AMONG CERTAIN PERSONS TO WHOM SUCH SECURITIES WERE ORIGINALLY ISSUED. A COPY OF SUCH AGREEMENT MAY BE OBTAINED BY THE HOLDER OF SUCH SECURITIES UPON WRITTEN REQUEST TO NGR MANAGEMENT COMPANY LLC AND WITHOUT CHARGE.

TABLE OF CONTENTS

NGR MANAGEMENT COMPANY LLC

SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT

THIS SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (as amended, supplemented, amended and restated or otherwise modified from time to time in accordance with the provisions hereof, this "Agreement") of NGR Management Company LLC, f/k/a NGR Holding Company LLC ("NGR Management") is entered into as of [_____] [__], 2016 (the "Effective Date") by and among the Members. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in ARTICLE XIV.

WHEREAS, NGR Management was formed as a limited liability company in accordance with the Delaware Act on December 4, 2015 by filing a Certificate of Formation (as amended prior to the date hereof, and hereafter amended from time to time in accordance with this Agreement, the "Certificate") with the Secretary of State of Delaware;

WHEREAS, New Gulf Resources, LLC, a Delaware limited liability company ("New Gulf"), as the initial member of NGR Management, adopted that certain Limited Liability Company Agreement of NGR Management, effective as of December 4, 2015 (the "Original LLC Agreement");

WHEREAS, the Original LLC Agreement was amended and restated in its entirety as of December 14, 2015, pursuant to that certain Amended and Restated Limited Liability Company Agreement (the "Existing LLC Agreement"), in connection with a merger of NGRHC Acquisition LLC, a Delaware limited liability company and a wholly owned subsidiary of NGR Management ("Merger Sub") with and into New Gulf, with New Gulf surviving as a wholly owned subsidiary of NGR Management (the "Merger");

WHEREAS, as a result of the Merger, NGR Management issued its Series A Units to former holders of Series A Units of New Gulf and issued Series A Warrants to former holders of Series A Warrants of New Gulf (collectively, "New Gulf Holders") and admitted each such New Gulf Holder as a Member of NGR Management;

WHEREAS, on December 17, 2015, NGR Management, New Gulf and their affiliated co-debtors (collectively, including NGR Management and New Gulf, the "Debtors") filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code, thereby commencing Case No. 15-12566 (BLS) with the United States Bankruptcy Court for the District of Delaware;

WHEREAS, in connection with the restructuring transactions contemplated by the Joint Chapter 11 Plan of Reorganization of the Debtors (the "Plan"), which became effective on the Effective Date, (i) all equity interests in NGR Management, consisting of the Series A Units and Series A Warrants issued to New Gulf Holders in connection with the Merger, have been cancelled and extinguished as of the Effective Date, and (ii) NGR Management issued Membership Interests to the Members as of the Effective Date in accordance with the terms of this Agreement; and

WHEREAS, in connection with the consummation of the transactions contemplated by the Plan, and as required pursuant to the Plan, as a condition to the receipt of the Membership Interests, NGR Management and the Members are entering into this Agreement, which amends and restates the Existing LLC Agreement in its entirety, to provide for certain rights and obligations among them.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members, intending to be legally bound, hereby agree as follows.

ARTICLE I

ORGANIZATIONAL MATTERS

Section 1.1 Formation, Continuation and Term of NGR Management. NGR Management was formed on December 4, 2015 pursuant to the provisions of the Delaware Act by the filing of the Certificate. The Members as of the Effective Date have agreed to continue NGR Management from and as of the Effective Date as a "limited liability company" under, and pursuant to, the Delaware Act and this Agreement. NGR Management shall continue until its dissolution and termination in accordance with the provisions of ARTICLE XI. At any time that the Board approves an amendment or restatement of the Certificate in accordance with the terms of this Agreement, any Officer is hereby authorized, as an "authorized person" within the meaning of the Delaware Act, to promptly execute, deliver and file such amendment or restatement in accordance with the Delaware Act.

Section 1.2 Limited Liability Company Agreement. The Members have executed this Agreement for the purpose of establishing and regulating, in accordance with its terms, the affairs of NGR Management, the conduct of NGR Management's business, the governance and management of NGR Management, certain relationships between NGR Management and the Members, and certain relationships among the Members. The Members hereby agree that during the term of NGR Management set forth in Section 1.1, the rights, powers and obligations of the Members with respect to NGR Management will be determined in accordance with the terms and conditions of this Agreement and, except where the Delaware Act provides that such rights, powers and obligations specified in or granted by the Delaware Act shall apply "unless otherwise provided in a limited liability company agreement" (or words of similar effect) and such rights, powers and obligations are actually addressed, set forth in or negated by this Agreement, the Delaware Act. For the avoidance of doubt, notwithstanding the foregoing and anything else to the contrary in this Agreement, (i) each Member's rights pursuant to Section 18-305(a) of the Delaware Act (entitled "Access to and Confidentiality of Information; Records") are fully expressed and embodied in Section 7.2 and (ii) Section 18-210 of the Delaware Act (entitled "Contractual Appraisal Rights") shall not apply to NGR Management, or be incorporated into this Agreement, and each Member hereby expressly waives any and all rights under such Section of the Delaware Act. This Agreement alone shall constitute the sole and exclusive "limited liability company agreement" (as that term is defined in the Delaware Act) of NGR Management.

Section 1.3 Name. The name of NGR Management shall be "NGR Management Company LLC". The Board may change the name of NGR Management at any time and from time to time. NGR Management's business may be conducted under its name and/or any other name or names deemed advisable by the Board.

Section 1.4 Purpose; Powers. The purpose of NGR Management shall be to engage in any lawful act or activity for which limited liability companies may be validly organized under the Delaware Act, including holding (directly or indirectly) certain limited liability company interests in New Gulf and [providing certain management and operational services to New Gulf pursuant to the Management Services Agreement] and exercising all rights and powers related thereto. NGR Management shall have any and all powers which are necessary or desirable to carry out the purpose of NGR Management and the operation of its business, to the extent the same may be legally exercised by limited liability companies under the Delaware Act. Notwithstanding anything herein to the contrary, nothing set forth herein shall be construed as authorizing NGR Management to possess any purpose or power, or to do any act or thing, forbidden by Law to a limited liability company organized under the Laws of the State of Delaware.

Section 1.5 Registered Office; Registered Agent; Principal Office; Other Offices. The registered office of NGR Management required by the Delaware Act to be maintained in the State of Delaware shall be the office of the initial registered agent named in the Certificate or such other office (which need not be a place of business of NGR Management) as the Board may designate from time to time in the manner provided by Law. The registered agent of NGR Management in the State of Delaware shall be the initial registered agent named in the Certificate or such other Person or Persons as the Board may designate from time to time in the manner provided by Law. The principal office of NGR Management shall be at such place as the Board may designate from time to time, which need not be located in the State of Delaware; NGR Management shall maintain its records there; and all business and activities of NGR Management shall be deemed to have occurred at its principal office unless otherwise determined by the Board. NGR Management may have such other offices as the Board may designate from time to time, which offices need not be located in the State of Delaware.

Section 1.6 Tax Classification. NGR Management has made an election effective as of December 4, 2015 to be classified as an association taxable as a corporation for U.S. federal income tax purposes. NGR Management will make a similar election for purposes of applicable state and local income tax purposes if any additional election is needed so that NGR Management is taxed as a corporation for applicable state and local income tax purposes whenever possible. The Board and the Members shall take all reasonable actions as may reasonably be required in order for NGR Management to qualify for classification as a corporation for U.S. federal and applicable state, local and foreign income tax purposes. Absent unanimous consent of the Board, NGR Management shall not (i) make an election to change its tax classification to other than as an association taxable as a corporation, (ii) dissolve or liquidate or (iii) distribute its interest in New Gulf prior to December 31, 2017.

ARTICLE II

MEMBERS; MEMBERSHIP INTERESTS

Section 2.1 Powers of Members. Each Member shall have the power to exercise any and all rights or powers granted to such Member pursuant to (a) the express terms of this Agreement or (b) the terms of the Delaware Act that grant rights or powers to Members with respect to matters not otherwise addressed, superseded or negated by this Agreement, or delegated to the Board pursuant to this Agreement. Notwithstanding anything to the contrary in the Delaware Act, no Member shall have the authority to bind NGR Management by virtue of such Person's status as a Member.

Section 2.2 Additional Members. A Person may be admitted to NGR Management as an Additional Member only as contemplated under this ARTICLE II and only upon furnishing to NGR Management (a) a joinder in the form of Exhibit A hereto (a "Joinder") or counterpart to this Agreement in form and substance acceptable to the Board pursuant to which such Person shall agree to be bound by this Agreement as a Member, and (b) such other documents or instruments as may be deemed necessary or appropriate by the Board to effect such Person's admission as a Member. Except as otherwise provided in an Equity Agreement, any Person not a Member that (x) with the approval of the Board, subscribes for Membership Interests in accordance with this Agreement, (y) pays the purchase price of such subscription and issuance and (z) duly and validly executes this Agreement (or a counterpart of this Agreement or a Joinder thereto) shall be admitted as a Member and bound as such by this Agreement. Such admission shall become effective on the date on which the Board determines that such conditions have been satisfied. The Board shall cause the Membership Interest Ownership Ledger to be amended and updated as of the effective date thereof to reflect any such admission of an Additional Member (which amendment and update shall not be deemed an amendment of this Agreement for any other purpose or require the consent or approval of any Person other than the Board).

Section 2.3 Substituted Members. In connection with any Transfer of Membership Interests by a Member permitted by, and in accordance with, the terms of ARTICLE IX and Section 10.1(b)(v) and Section 10.3 and (if applicable) an Equity Agreement and the other agreements contemplated by such Equity Agreement, the Transferee in such Transfer shall become a Substituted Member (if such Transferee was not already a Member) on the effective date of such Transfer. The Board shall cause the Membership Interest Ownership Ledger to be amended and updated as of the effective date thereof to reflect any such admission of a Substituted Member (which amendment and update shall not be deemed an amendment of this Agreement for any other purpose or require the consent or approval of any Person other than the Board).

Section 2.4 Withdrawal and Resignation of Members. No Member shall have the power or right to withdraw or otherwise resign as a Member prior to the dissolution and winding up of NGR Management pursuant to ARTICLE XI without the prior written consent of the Board, except as otherwise expressly permitted by this Agreement. Notwithstanding the foregoing, upon a Transfer of all of a Member's Membership Interests in a Transfer permitted by, and in accordance with, this Agreement and (if applicable) an Equity Agreement, subject to the provisions of Section 9.5, such Member shall automatically cease to be a Member without any further action on behalf of any Person and NGR Management shall cause the Membership Interest Ownership Ledger to be amended and updated to reflect such withdrawal and resignation (and any related admission as a Substituted Member) (which amendment and update shall not be deemed an amendment of this Agreement for any other purpose or require the consent of any

other Person). In the event either (i) the Board approves the withdrawal or resignation of a Member or (ii) a Member Transfers all of such Member's Membership Interests in accordance with the second sentence of this Section 2.4, notwithstanding any provision of the Delaware Act, the withdrawing, resigning or Transferring Member, as the case may be, shall not be entitled to any Distribution from NGR Management as a result thereof unless otherwise provided expressly in this Agreement or in an Equity Agreement.

Section 2.5 Membership Interest Ownership Ledger; Certificates. NGR Management shall create and maintain a Membership Interest Ownership ledger (the "Membership Interest Ownership Ledger") in the form attached hereto as Exhibit B. The Membership Interest Ownership Ledger shall set forth the date as of which the Membership Interest Ownership Ledger is effective, the name, address, facsimile number and e-mail address of each Member, and the number of Membership Interests held of record by each such Member. Upon any change in the number or ownership of outstanding Membership Interests (whether upon an issuance of Membership Interests, a Transfer of Membership Interests, a repurchase, redemption or cancellation of Membership Interests or otherwise), the Board shall cause the Membership Interest Ownership Ledger to be amended and updated to reflect such transactions (and any such amendment or update shall not be deemed an amendment of this Agreement for any purpose and shall not require the consent of any Person other than the Board). Any reference in this Agreement to the Membership Interest Ownership Ledger (other than one that specifically references the Effective Date) shall be deemed a reference to the Membership Interest Ownership Ledger as amended and in effect from time to time. Subject to Section 6.7(b), upon written request from a Member, NGR Management shall deliver a copy of the then effective Membership Interest Ownership Ledger to such requesting Member. Absent fraud or manifest error, the ownership interests recorded on the Membership Interest Ownership Ledger shall be the conclusive record of the outstanding Membership Interests and the record owners thereof. [Unless the Board determines that the Membership Interests shall be certificated, NGR Management shall not issue certificates representing the Membership Interests held by the Members.]

Section 2.6 Initial Membership Interests. The initial membership interests in NGR Management shall consist of a single class of Membership Interests in the amounts set forth on the Membership Interest Ownership Ledger as of the Effective Date, and each of the holders thereof will be deemed admitted as Members of NGR Management as of the Effective Date.

Section 2.7 Issuance of Additional Equity Securities; Certain Persons Bound by this Agreement. Subject to compliance with this ARTICLE II and Section 5.1(b)(i), the Board shall have the right at any time and from time to time to cause NGR Management to create and/or issue Equity Securities (including other Membership Interests, or series thereof, having such rights, powers, and/or obligations as may from time to time be established by the Board, including rights, powers, and/or obligations different from, senior or junior to or more or less favorable than existing classes, groups and series of then existing Membership Interests or Equity Securities). Subject to Section 5.1(c)(iv) and Section 13.2, the Board shall have the power to amend this Agreement and/or the Membership Interest Ownership Ledger to reflect any such additional issuances and to make any such other amendments as it deems necessary or desirable (in its sole discretion) to reflect such additional issuances (including amending this Agreement to authorize a new class, group or series of Equity Securities and to incorporate the terms of such

new class, group or series of Equity Securities, including economic and governance rights which may be different from, senior or junior to or more or less favorable than the other existing Equity Securities), in each case without the approval or consent of any other Person. In connection with any issuance of Membership Interests (whether on or after the date hereof), the Person who acquires such Membership Interests shall execute a counterpart to this Agreement accepting and agreeing to be bound by all terms and conditions hereof as a Member, and shall enter into such other documents, instruments and agreements, including an Equity Agreement (to the extent such Member is, or upon such issuance is to be become, a Management Investor), to effect such issuance as are required by the Board. Each Person who acquires Membership Interests (other than in exchange for outstanding Membership Interests held by such Person) shall, in exchange for such Membership Interests, pay a subscription price to NGR Management in an amount to be determined by the Board (which amount may be zero) and shall be admitted as an Additional Member (if such Person was not already a Member) upon satisfaction of the conditions set forth in Section 2.2. Any Person that validly acquires in any manner whatsoever any interest in any Membership Interests or any other Equity Security of NGR Management, irrespective of whether such Person has accepted and adopted in writing the terms and provisions of this Agreement, including by accepting and not returning to NGR Management any certificate representing such Membership Interests or Equity Securities delivered to such Person, shall be deemed by the acceptance of such certificate and/or the benefits of the acquisition of Membership Interests or Equity Securities (including pursuant to the Plan), to have agreed to be subject to and bound by all of the terms, conditions and obligations of this Agreement.

Section 2.8 Transfer by a Member of All of Such Member's Membership Interests. Upon a Transfer of all of a Member's Membership Interests in a Transfer permitted by this Agreement (and, if applicable, an Equity Agreement), subject to the applicable provisions of Section 6.1, Section 6.3, Section 6.5, Section 7.2, Section 9.5 and Section 13.2(c), such Member shall cease to have any rights under this Agreement (including any right to a Distribution).

Section 2.9 Preemptive Rights.

(a) Except for:

(i) issuances of Membership Interests pursuant to the Plan as of the Effective Date;

(ii) the issuance of Equity Securities in accordance with this Agreement as consideration (whether partial or otherwise) for the purchase by NGR Management or any of its Subsidiaries of assets constituting a business unit or of the stock or other Equity Securities of any Person or Persons that is a bona fide commercial operating entity or holding company thereof (including in connection with the formation of a partnership, joint venture or other strategic transaction with such a Person), so long as such Equity Securities are only issued to a counterparty of such purchase and in no event to any Member or any Affiliate or Related Fund of any Member (unless such Member (or Affiliate or Related Fund of such Member) is a counterparty to such purchase and such purchase is an Affiliate Transaction effected in compliance with Section 5.1(g));

(iii) issuances of Equity Securities upon exercise, conversion or exchange of (A) other Equity Securities which were issued in compliance with this Section 2.9 or (B) Equity Securities which were issued in an Exempt Issuance (as defined below), so long as the issuance of the Equity Securities contemplated by this clause (iii) is being made in accordance with the express terms (including any anti-dilution provisions) of the Equity Securities described in subclause (A) or (B) (as such terms existed on the date such Equity Securities were originally issued);

(iv) Equity Securities issued to officers, directors, consultants, employees or other service providers to NGR Management or any of NGR Management's other Subsidiaries (other than any such person employed by, or affiliated with, a Member or any of its Affiliates or Related Funds) pursuant to Equity Agreements or incentive or other compensation plans approved by the Board;

(v) Equity Securities issued to any lender in connection with any debt financing of NGR Management or any of its Subsidiaries (which issuance and debt financing have been approved by the Board), so long as such Equity Securities are only issued to such lender and in no event to any Member or any Affiliate or Related Fund of any Member (unless such Member (or Affiliate or Related Fund of such Member) is such lender and such debt financing transaction is an Affiliate Transaction effected in compliance with Section 5.1(g));

(vi) Equity Securities issued pursuant to a Corporate Conversion effected in accordance with (and subject to the terms of) Section 10.1 of this Agreement or otherwise in connection with a Public Offering; or

(vii) Equity Securities issued in connection with any Membership Interest split or Membership Interest combination in which holders of Membership Interests participate on a Pro Rata Basis (each of the foregoing items (i) through (vii), an "Exempt Issuance");

in the event that (A) NGR Management or any of its Subsidiaries offers to issue or sell any Equity Securities to any Person (an "Offeree") and (B) any Member is to participate (other than pursuant to the exercise of rights pursuant to this Section 2.9) in such offering by receiving or purchasing any such Equity Securities (any such Member, a "Participating Member," and such Equity Securities to be received or purchased by all Participating Members in such offering, the "Available Securities"), then NGR Management shall (or NGR Management shall cause its Subsidiary to, as applicable) offer to issue and/or sell to each Significant Interest Holder (so long as each Member included in the definition of such Significant Interest Holder remains an Accredited Investor) such Member's share, on a Pro Rata Basis relative to all other Significant Interest Holders, of such Available Securities. Each such Significant Interest Holder shall be entitled to purchase such offered Available Securities at the same price and on the same terms as such Available Securities are offered to Participating Members; provided that if the Participating Members are also purchasing other securities or Indebtedness of NGR Management or any of its Subsidiaries as a strip or unit with such Available Securities, then any Member exercising its rights under this Section 2.9 shall be required to also purchase such Member's share, on a Pro Rata Basis relative to all other Significant Interest Holders, of the same strip or unit of securities (at the same price and on the same terms and conditions) that the Participating Members are

purchasing as a strip or unit with such Available Securities. The purchase price for all securities purchased under this Section 2.9 shall be payable in cash.

(b) In order to exercise its purchase rights hereunder, a Significant Interest Holder having preemptive rights pursuant to this Section 2.9 must, within [14] calendar days following delivery to such Member of written notice from NGR Management describing in reasonable detail the material terms of the securities being offered, including the type of securities being offered, the purchase price of such securities (which may be a price range), the payment terms, the maximum amount and percentage of the offering such Person is eligible to purchase pursuant to Section 2.9(a) and the identity of the Offeree (a "Preemptive Rights Notice"), deliver a written notice to NGR Management irrevocably exercising such Member's rights to acquire securities pursuant to this Section 2.9 and stating therein the quantity or percentage of securities elected to be purchased by such Member. In the event that any Member with rights under this Section 2.9 elects to purchase less than the maximum amount of Available Securities such Member is entitled to purchase pursuant to Section 2.9(a), then NGR Management shall notify in writing each other Member that has validly elected to purchase the full portion of the Available Securities such Member is entitled to purchase pursuant to Section 2.9(a) ("Exercising Members") of such fact and the portion thereof not so elected to be purchased (the "Unsubscribed Offered Securities") may be purchased by each Exercising Member, by delivering a written notice to NGR Management within [two (2)] Business Days after delivery to such Exercising Member of the written notice from NGR Management described in this sentence, in an amount equal to (x) the number of Unsubscribed Offered Securities multiplied by (y) a fraction, the numerator of which is the amount of Available Securities such Exercising Member was initially entitled to purchase pursuant to Section 2.9(a) and the denominator of which is the amount of Available Securities all Exercising Members were entitled to purchase pursuant to Section 2.9(a). To the extent the procedure described in the preceding sentence does not result in the purchase of all Unsubscribed Offered Securities, such procedure shall be repeated until there are no Unsubscribed Offered Securities or until no Member has elected to purchase Unsubscribed Offered Securities as set forth in this Section 2.9(b). Significant Interest Holders may designate one or more of their respective Affiliates and/or Related Funds (so long as such Affiliates or Related Funds are Accredited Investors) to exercise all or a portion of their respective rights under this Section 2.9, and each such designee shall, if not already a Member, become an Additional Member pursuant to Section 2.2.

(c) Upon the expiration of the offering periods described above in this Section 2.9, NGR Management or its applicable Subsidiary shall be entitled to sell such securities which the Significant Interest Holders have not elected to purchase during the [30] calendar days following such expiration to the Offeree at a price not less than the price, and on other terms and conditions not materially more favorable to the Offeree, in each case, than those offered to such Members in the Preemptive Rights Notice. Any securities to be offered or sold by NGR Management or any such Subsidiary after such [30]-day period must be reoffered pursuant to the terms of this Section 2.9 to the extent this Section 2.9 applies to such offering at such time.

(d) The purchase rights of any Member under this Section 2.9 shall terminate immediately prior to, but contingent on, the consummation of the first to occur of an IPO and a Sale Transaction.

Section 2.10 Purchase of Membership Interests by NGR Management. Subject to compliance with the other applicable provisions of this Agreement, the Board may cause NGR Management or its Subsidiaries to purchase or otherwise acquire Membership Interests or other outstanding Equity Securities; provided that this provision shall not in and of itself obligate any Member to sell any Membership Interests or Equity Securities to NGR Management or its Subsidiaries. So long as any Membership Interests or Equity Securities are owned by NGR Management or its Subsidiaries, such Membership Interests or Equity Securities will not be considered or treated as outstanding for any purpose.

ARTICLE III

CAPITAL CONTRIBUTIONS

Section 3.1 Capital Contributions. Contemporaneously with the effectiveness of this Agreement, each Member has paid, or is deemed to have paid, the subscription price for such Member's Initial Membership Interest and to have made a Capital Contribution in such amount. No Member shall make or be required to make any additional contributions to NGR Management with respect to such Member's Membership Interests.

Section 3.2 No Withdrawal. No Person shall be entitled to withdraw any part of such Person's Capital Contributions or to receive any Distribution from NGR Management, except as expressly provided herein.

Section 3.3 Loans by Members. Loans by Members to NGR Management shall not be considered Capital Contributions. The amount of any such loans shall be Indebtedness of NGR Management to such Member and shall be payable or collectible in accordance with the terms and conditions upon which such loans are made. Except as required by the last proviso of the penultimate sentence of Section 2.9(a), no Member shall be required to make any loans to NGR Management/or any of its Subsidiaries.

ARTICLE IV

DISTRIBUTIONS

Section 4.1 Distributions.

(a) Distributions Other Than in Connection with a Liquidation Event. Except as otherwise set forth in Section 4.1(b), to the extent NGR Management holds cash or other liquid assets that are (x) legally available for distribution by NGR Management to the Members and (y) not restricted under NGR Management's or its Subsidiaries' credit agreements or any other agreements relating to their Indebtedness (other than any Indebtedness to a Member), in each case, as determined by the Board in good faith, NGR Management may (but shall not be obligated to) make Distributions at such time, in such amounts and in such form (including in-kind property) as determined by the Board. Except as provided in Section 4.1(c), Distributions (whether in cash or other property) shall be made to the holders of Membership Interests (as determined immediately prior to such Distribution) at the same time in proportion to their Membership Interests.

(b) Distributions in Connection with a Liquidation Event. [Notwithstanding anything in Section 4.1(a) to the contrary, in the event any Distribution is made by NGR Management in connection with (w) any voluntary or involuntary Insolvency Event, (x) any liquidation or dissolution pursuant to Section 11.2, (y) any Sale Transaction or (z) any Corporate Conversion or IPO pursuant to Section 10.1, (each of the foregoing, a "Liquidation Event"), each holder of Membership Interests shall receive (after payment in full of any liquidation preference in respect of any other Membership Interests or Equity Securities subsequently approved by the Board in accordance with this Agreement that have a preference in liquidation ranking senior to the Membership Interests), an aggregate amount of cash and, solely in the event of an IPO, the common stock of a corporate entity pursuant to a Corporate Conversion under Section 10.1 or securities exchangeable into common stock of a corporate Member, received by the holders of Membership Interests having a value (determined using the price in such IPO, net of any underwriting or similar commissions incurred by NGR Management in connection therewith) equal to the greater of the aggregate amount such Member would receive with respect to such Membership Interests if such Distribution was made pursuant to Section 4.1(a), taking into consideration for purposes of such comparison any indemnification and other contingent liabilities and any expenses and fees incurred in connection with the consummation of such transaction.][1]

(c) Distributions with Respect to Unvested Membership Interests. Each Unvested Membership Interest shall, upon the occurrence of a Liquidation Event, be accelerated and, for the purpose of any Distribution pursuant to Section 4.1(b), be treated as outstanding. The portion of any Distribution pursuant to Section 4.1(a) that would otherwise be made with respect to any Unvested Membership Interest shall not be distributed with respect to such Unvested Membership Interest and shall instead be distributed solely with respect to Vested Membership Interests pursuant to Section 4.1(a) applied as though no Unvested Membership Interests were outstanding; provided that, upon and only to the extent of the next Distribution(s) (whether pursuant to Section 4.1(a), Section 4.1(b) or Section 10.1) subsequent to the vesting (including upon the occurrence of a Liquidation Event) of such then Unvested Membership Interests, NGR Management shall, prior to any Distributions (whether pursuant to Section 4.1(a), Section 4.1(b) or Section 10.1) to the holders of Membership Interests following such vesting, make a Distribution of any amounts that were not distributed with respect to such Unvested Membership Interest pursuant to this sentence (without any interest thereon) such that on a cumulative basis Distributions with respect to such Membership Interest shall equal the Distributions that would have been made with respect to such Membership Interest if it had been a Vested Membership Interest beginning on the date of its original issue; provided that if such Unvested Membership Interest is repurchased or forfeited (or otherwise becomes incapable of vesting) pursuant to an Equity Agreement pursuant to which such Unvested Membership Interest was granted, then such Unvested Membership Interest shall not be entitled to receive or retain any Distributions after the time of such repurchase or forfeiture other than the amount, if any, paid or payable as consideration to repurchase such Unvested Membership Interest.

(d) Conditions Applicable to Distributions. NGR Management may impose on all Members certain terms and conditions on the receipt of any Distributions hereunder (including the repayment or return of all or any portion of such Distributions to NGR

[1] NTD: May be revised.

Management in order to satisfy NGR Management's indemnification and other obligations in connection with the divestiture of any assets of NGR Management or any of its Subsidiaries) so long as such terms and conditions are imposed on the same basis on all Members receiving any such Distribution, other than any discrepancies that are consistent with the manner in which the portion of such Distribution paid to each Membership Interest was determined in accordance with this Agreement. All Distributions shall be further subject to the retention and establishment of reserves, or payment to third parties, of such funds as the Board deems necessary with respect to the reasonable business needs and obligations of NGR Management (which obligations shall include the obligations under the terms and conditions of any indebtedness for borrowed money incurred by NGR Management or any of its Subsidiaries). Distributions shall be made only if, and only to the extent that, the amounts are (i) legally available for Distribution by NGR Management to Members and (ii) permitted under NGR Management's or its Subsidiaries' credit agreements or any other agreements relating to their Indebtedness (other than any Indebtedness to a Member not governed by an agreement entered into in compliance with Section 5.1(g)), in each case, as determined by the Board in good faith.

(e) Distribution Mechanics. Each Distribution shall be made to the Persons shown on the Membership Interest Ownership Ledger as of the date of such Distribution or a record date established by the Board that is not less than [5] Business Days prior to the date of Distribution; provided, however, that any Transferor and Transferee of Membership Interests may mutually agree as to which of them should receive payment of any Distribution, so long as such agreement is in writing and a copy thereof is provided to NGR Management prior to the date of Distribution or such earlier record date, as applicable. In the event that any restrictions on Transfer or change in beneficial ownership of Membership Interests set forth in this Agreement or any Equity Agreement have been breached, NGR Management may withhold Distributions in respect of the affected Membership Interests until such breach has been cured (as determined by the Board in good faith).

Section 4.2 Indemnification and Reimbursement for Payments on Behalf of a Member. Except as otherwise provided in this Section 4.2 and Section 6.1, if NGR Management is required by Law to make any payment to a Governmental Entity that is specifically attributable to a Member or a Member's status as such (including federal, state and local withholding Taxes, state personal property Taxes, and state and local unincorporated business Taxes), then such Member shall indemnify and contribute to NGR Management in full for the entire amount paid (including interest, penalties and related expenses). The Board may offset Distributions to which a Person is otherwise entitled under this Agreement against such Person's obligation to indemnify NGR Management under this Section 4.2 or with respect to any other amounts owed by the Member to NGR Management or any of its Subsidiaries. A Member's obligation to indemnify and make contributions to NGR Management under this Section 4.2 shall survive the termination, dissolution, liquidation and winding up of NGR Management, and for purposes of this Section 4.2, NGR Management shall be treated as continuing in existence. NGR Management may pursue and enforce all rights and remedies it may have against each Member under this Section 4.2, including instituting a lawsuit to collect such indemnification and contribution, with interest calculated at a rate equal to the Base Rate plus three percentage points per annum (but not in excess of the highest rate per annum permitted by Law), compounded on the last day of each Fiscal Quarter.

ARTICLE V

MANAGEMENT[2]

Section 5.1 Management of NGR Management Generally; Authority of Board; Powers of the Board and of Managers.

(a) Except for situations in which the approval of all or a subset of the Members is expressly required by this Agreement (including Section 5.1(g)), notwithstanding anything to the contrary in the Delaware Act, without any vote, consent or approval of any Member or group or class of Members or other Person:

(i) the Board shall conduct, direct and exercise full control over all activities of NGR Management (including all decisions relating to the issuance of additional Equity Securities, redemption or repurchase of Equity Securities and the voting and sale of, and the exercise of other rights with respect to, the Equity Securities of NGR Management and NGR Management's Subsidiaries);

(ii) all management powers over the business and affairs of NGR Management shall be exclusively vested in the Board;

(iii) the Board, acting as such (and not any Manager individually), shall have the sole power to take any action on behalf of NGR Management, and the Board shall exercise all rights and powers of NGR Management (including all rights and powers to take actions, give or withhold consents or approvals, waive or require the satisfaction of conditions, or make determinations, opinions, judgments, or other decisions, and whether such rights and powers are granted to NGR Management or under the terms of an agreement to which NGR Management is a party, or arise as a result of NGR Management's direct or indirect ownership of securities or otherwise) which are granted to NGR Management under any Equity Agreements, the Employment Agreements, this Agreement, the Plan and the agreements, instruments or documents contemplated by the Plan; and

(iv) [On or before the Effective Date, NGR Management will enter into a management services agreement with New Gulf, in the form of Exhibit F attached hereto (the "Management Services Agreement"). [Pursuant to the Management Services Agreement, some or all of NGR Management's executive officers will be appointed as executive officers of New Gulf.] The Board, in connection with the Management Services Agreement, will oversee certain management services provided by NGR Management's executive officers to New Gulf.]

(b) Actions Requiring Supermajority Approval of the Board. Notwithstanding anything contained in this Agreement to the contrary, the following actions shall only be authorized upon obtaining the approval of at least five of the seven Managers on the Board (or at least 2/3 of the Managers if the Board consists of more than seven Managers):

(i) the issuance or approval of the issuance of any Membership Interests or Equity Securities of NGR Management;

[2] This Article is subject to further review and change.

(ii) acquisition by NGR Management or any of its Subsidiaries of stock or assets of any other Person having a value, as determined by the Board, of more than $[65] million;

(iii) any sale, lease, transfer, pledge or other disposition of any assets of NGR Management or any of its Subsidiaries having a value, as determined by the Board, of more than $[65] million;

(iv) incurrence by NGR Management or its Subsidiaries after the Effective Date of any Indebtedness in a principal amount having a value, as determined by the Board, of more than $[65] million; or

(v) subject to Section 1.6, make any material tax elections, change any tax elections, adopt or change any tax accounting methods, or take any actions in any tax audit, tax examination, tax litigation or other tax proceeding involving NGR Management or its Subsidiaries.

(c) Supermajority Holder Approval. Notwithstanding anything contained in this Agreement to the contrary, without obtaining the approval of the Supermajority Holders, the Board shall not, and shall not cause NGR Management to:

(i) increase or decrease the size of the Board pursuant to Section 5.2(a);

(ii) sell, lease or otherwise dispose of all or substantially all the assets of NGR Management or any of its Subsidiaries (other than pursuant to any Approved Sale pursuant to Section 9.4, or other than to NGR Management or a wholly owned Subsidiary of NGR Management);

(iii) approve any merger, consolidation, conversion, recapitalization, reorganization or other business combination transaction involving NGR Management or any of its Subsidiaries (other than pursuant to any Approved Sale pursuant to Section 9.4, or other than a merger, consolidation, conversion, recapitalization, reorganization or other business combination transaction involving only NGR Management and a wholly owned Subsidiary of NGR Management);

(iv) make any amendments to this Agreement pursuant to Section 13.2 that affect this Section 5.1(c); or

(v) voluntarily terminate the Management Services Agreement.

(d) Limitation on Delegation of Authority. Except for any decision-making powers that the Board in its good faith and informed judgment deems appropriate to delegate to any (i) committee of the Board or any committee of any Subsidiary Governing Body or (ii) Officer or any officer of any Subsidiary of NGR Management, all decisions with respect to matters that are not in the ordinary course of business of NGR Management or any Subsidiary of NGR Management, or that are material to the business and affairs of NGR Management or any

Subsidiary of NGR Management (as applicable), shall be made by the Board or the applicable Subsidiary Governing Body.

(e) Power to Bind NGR Management. Each Manager shall be a "manager" (as that term is defined in the Delaware Act) of NGR Management, but, notwithstanding the foregoing, unless the Board consists of only one Manager, no Manager (acting in his capacity as such) shall have any authority to bind NGR Management to any third party with respect to any matter, except pursuant to a resolution expressly authorizing such authority duly adopted by the Board by the necessary affirmative vote required with respect to such matter pursuant to the terms of this Agreement. No Manager shall have any rights or powers beyond the rights and powers granted to such Manager in this Agreement. Managers need not be residents of the State of Delaware.

(f) Supervision of Officers; Management Services Agreement. The management of the business and affairs of NGR Management by the Officers and the exercising of their powers shall be conducted at all times under the supervision of and, when applicable, subject to the approval of the Board. On or prior to the Effective Date, NGR Management will enter into the Management Services Agreement with New Gulf, pursuant to which NGR Management will agree to make available certain officers of NGR Management to serve as management of New Gulf, subject to supervision of the Board of Managers of NGR Management.[3]

(g) Affiliate Transactions. Subject to, and without limiting the provisions of, Section 13.11(b), NGR Management shall not, and shall cause each of its Subsidiaries not to, enter into any transaction or other arrangement with any Affiliate of NGR Management or any Affiliate (which term shall also include, solely for purposes of this Section 5.1(g), each employee, officer, director, manager and partner of such Affiliate, and any member of such individual's Family Group) of any Subsidiary of NGR Management (any such transaction or arrangement, an "Affiliate Transaction") other than (i) purchases of Equity Securities by Significant Interest Holders as described in Section 2.9 and (ii) any Affiliate Transaction (A) that is entered into on an arms' length basis, (B) that is on terms at least as favorable to NGR Management and/or such Subsidiary as could reasonably be obtained from an independent third party that is not an Affiliate of NGR Management or any Subsidiary of NGR Management (and is not an employee, officer, director, manager or partner of an Affiliate of NGR Management or any Subsidiary of NGR Management or any member of such individual's Family Group), (C) with respect to which all material terms and conditions of which (including the facts relating to the nature of such Affiliate's interest in such Affiliate Transaction) are disclosed to the Board or any Subsidiary Governing Body (as applicable) prior to NGR Management or such Subsidiary authorizing and/or entering into such Affiliate Transaction, and (D) that is approved by a majority of the Managers that are disinterested with respect to such Affiliate Transaction.

Section 5.2 Composition of the Board.

[3] NTD: Provisions to be added making clear that management is responsible for the day-to-day operations of the business, subject to the supervision of the Board.

(a) Number of Managers; Appointment Rights. The Board shall consist of seven (7) Managers. The number of Managers may be changed from time to time by resolution of the Board with the approval of the Supermajority Holders pursuant to Section 5.1(c)(i), but shall not be less than five (5) managers.

(b) Initial Board. The following individuals shall serve as the initial Managers:

(i) the Chairman and Chief Executive Officer of NGR Management (the "Company Manager");

(ii) three (3) Managers designated by Värde;

(iii) one (1) Manager designated by Millstreet;

(iv) one (1) Manager designated by PennantPark; and

(v) one (1) Manager designated by the Ad Hoc Committee;

and each such individual shall serve until the time of the next annual meeting and until his or her respective successor is duly elected, designated or otherwise qualified, or until his or her earlier death, resignation or removal.

(c) Term in Office. Each Manager shall serve a one (1) year term and will serve until a successor is appointed, designated, elected or otherwise qualified in accordance with the terms hereof or until such Manager's earlier resignation, death or removal. An individual shall become a Manager effective upon receipt by NGR Management of a written notice (or at such later time or upon the happening of some other event specified in such notice) of such individual's designation by the Person or Persons validly entitled to designate such Manager pursuant to Section 5.2(d) or Section 5.2(d). A Manager may resign at any time by delivering written notice to NGR Management. Such resignation shall be effective upon receipt unless it is specified in the resignation notice to be effective at some other time or upon the happening of some other event.

(d) Manager Designations: New Managers shall be designated or elected, as applicable, on an annual basis prior to the end of the term of the existing Board. Selection of Managers for subsequent terms will be determined in accordance with this Section 5.2(d) based on each Specified Initial Interest Holder's then-current percentage ownership of Membership Interests that were issued on the Effective Date (subject to Adjustments) at the time of the applicable annual meeting of holders of Membership Interests. The Specified Initial Interest Holders will have the following Manager designation rights, it being agreed that the rights of Specified Initial Interest Holders to designate one or more Managers pursuant to this Section 5.2(d) is granted solely to the Specified Initial Interest Holders and is not transferable or assignable to any Transferee or other Member:

(i) [Each Specified Initial Interest Holder that holds, at the time of any such annual meeting, [25]% or more of the Membership Interests issued as of the Effective Date

(subject to Adjustments), shall be entitled to designate three (3) Managers for the next one-year term;]

(ii) [Each Specified Initial Interest Holder that holds, at the time of any such annual meeting, [15]% or more but less than [25]% of the Membership Interests issued as of the Effective Date (subject to Adjustments), shall be entitled to designate two (2) Managers for the next one-year term; and]

(iii) [Each Specified Initial Interest Holder that holds, at the time of any such annual meeting, [7.5]% or more but less than [15]% of the Membership Interests issued as of the Effective Date (subject to Adjustments), shall be entitled to designate one (1) Manager for the next one-year term.]

(iv) [Notwithstanding the foregoing, in no event will all Specified Initial Interest Holders have the right to elect more than six (6) Managers.]

(v) To the extent one or more seats on the Board are not filled at an Annual Meeting by designation by Specified Initial Interest Holders pursuant to this to Section 5.2(d), such seats shall be filled by the affirmative vote of the Majority Holders.

(e) Removal of Managers. If the Company Manager ceases to be an officer and full-time employee of NGR Management or ceases to be the chairman or the senior most executive officer of NGR Management (as determined by the Board), then such person shall be removed automatically from the Board and each committee thereof upon such cessation of employment (without any action on the part of the Company Manager, the Board, such committees or any other Person). If any Person or group of Persons that is entitled to designate one or more Managers pursuant to Section 5.2(d) ceases to be entitled to designate such Manager(s) in accordance with the terms of Section 5.2(d), the Manager(s) appointed by such Person or group of Persons who ceased to have the right to appoint such Manager(s) shall be removed automatically from the Board and each committee thereof upon such cessation (without any action on the part of any other Manager, the Board, such committees or any other Person). Except as otherwise provided in Section 5.2(d) and this Section 5.2(e), the removal from the Board or any committees (with or without cause) of any Manager shall be upon (and only upon) the written designation of the Person or group of Persons entitled to appoint such Manager pursuant to Section 5.2(d).

(f) Board Vacancies. A vacancy on the Board because of resignation, death, disability or removal of a Manager shall be filled by the Person or Persons entitled to designate such Manager pursuant to Section 5.2(d); provided, however, if any Manager is removed from the Board under the circumstances described in the second sentence of Section 5.2(e), then such vacancy shall be filled by the affirmative vote of the Majority Holders (except that, in the event such vacancy arises during the three-month period preceding an Annual Meeting, the remaining Managers may elect a Manager to fill such vacancy until such Annual Meeting). If any Person or Persons having the right to designate a Manager pursuant to Section 5.2(d) fails to make such designation, such position on the Board shall remain vacant until such Person or Persons exercise the right to designate a Manager as provided hereunder; provided that if the consent of such Manager is required under this Agreement with respect to a particular matter, then if such

position remains vacant for more than [ten (10)] days after delivery of notice to the Person(s) entitled to designate such Manager (at the address for such Person set forth on the then effective Membership Interest Ownership Ledger), then, notwithstanding any other provision of this Agreement, such Manager's consent shall no longer be required with respect to any matter after such [ten (10)] day period has elapsed, or, until such time as the vacancy is filled. Except as set forth in the first sentence of this Section 5.2(f), vacancies shall be filled by the applicable Person(s) validly entitled to designate such Manager pursuant to Section 5.2(d) by delivery by such Person(s) of a written notice to NGR Management of the identity of the individual to be designated as a Manager. Newly-created positions on the Board resulting from any increase in the authorized number of Managers shall be filled pursuant to Section 5.2(d).

(g) Lead Manager. The Board may designate one of the Managers to serve as chair of its meetings (the "Lead Manager"). The Lead Manager shall preside at all meetings of the Board, unless otherwise determined by the Board. If the Lead Manager is absent from a meeting of the Board, the Managers in attendance shall elect another Manager to serve as chair for that meeting. It is understood that the Lead Manager shall not be deemed an Officer unless otherwise determined by the Board in a resolution.

(h) Reimbursement. NGR Management shall pay, or shall cause one of its Subsidiaries to pay, the reasonable out-of-pocket costs and expenses incurred by each Manager in the course of his or her service to NGR Management and/or its Subsidiaries, including in connection with attending regular and special meetings of the Board, any Subsidiary Governing Body and/or any of their respective committees, in each case subject to NGR Management's or the applicable Subsidiaries' policies and procedures with respect thereto (including the requirement of reasonable documentation thereof).

(i) Compensation of Managers. In addition to reimbursement of reasonable out-of-pocket costs and expenses pursuant to Section 5.2(h), Managers shall be compensated for their services as Managers as determined by the Board from time to time.

(j) Subsidiary Governing Bodies; Board or Subsidiary Governing Body Committees.

(i) The composition of any Subsidiary Governing Body (or committee thereof) shall be determined by the Board.

(ii) The composition of any committee of any Subsidiary Governing Body shall be determined by the Board.

(k) Observers. The Board shall have the right (but not the obligation) to authorize observers (each an "Observer", and collectively, the "Observers") to attend any meeting of the Board, each Subsidiary Governing Body, and each committee of the Board and each Subsidiary Governing Body (each such meeting, a "Meeting"). Each such Observer shall be entitled to participate in discussions of any matters presented at any Meeting, but shall not be entitled to vote on any such matters. NGR Management, or the applicable Subsidiary of NGR Management, shall give the Observers advance notice of all Meetings and all materials given to members of the Board, any Subsidiary Governing Body and any such committee of any of them.

Notwithstanding the foregoing, (i) the Board or any Subsidiary Governing Body (or any committee of any of them) may restrict any Person's attendance as an Observer at any portion of a Meeting if the Board, any Subsidiary Governing Body (or any committee of any of them), as applicable, makes a good faith determination, upon advice of outside legal counsel, that such Person has a conflict of interest with respect to the subject matter of such portion of the Meeting or that the attendance by such Person at such portion of the Meeting would cause NGR Management or any of its Subsidiaries to lose the benefit of protection in respect of what would otherwise be privileged communications, and (ii) the failure of any Observer to attend any meeting of the Board, any Subsidiary Governing Body or any committee of any of them shall not prevent any such Meeting from proceeding or otherwise affect the validity of such Meeting or any actions taken at such Meeting. The right of an Observer to observe Meetings is not Transferable or otherwise assignable to any other Person, and any purported Transfer shall be void *ab initio*.

Section 5.3 Board Actions; Meetings. Each Manager shall have one (1) vote on all matters submitted to the Board or any committee thereof (whether the consideration of such matter is taken at a meeting, by written consent or otherwise). Except as otherwise provided in Section 5.2(f) and Section 5.2(h), the affirmative vote of the Managers holding at least a majority of the votes of all Managers then serving on the Board (i.e., excluding any vacancies on the Board) shall constitute the valid and legally binding act of the Board. Except as otherwise provided in Section 5.2(h) and Section 5.1(g) or as otherwise provided by the Board when establishing any committee, the affirmative vote of a majority of the Managers then serving on such committee shall be the act of such committee. Meetings of the Board and any committee thereof shall be held at the principal office of NGR Management or at such other place as may be determined by the Board or such committee. Regular meetings of the Board shall be held on such dates and at such times as shall be determined by the Board, and notice of such dates and times shall be provided in writing to all Managers not less than [three (3)] Business Days prior to any such meeting. Except as otherwise determined by the Board to be held on a more frequent basis, NGR Management shall hold at least one regular meeting of the Board each calendar quarter. Special meetings of the Board may be called by the Lead Manager, the Company Manager or any two Managers and special meetings of any committee may be called by the Lead Manager or any two Managers on such committee. Notice of each special meeting of the Board or committee stating the date, place and time of such meeting shall be given to each Manager (in the case of a Board meeting) or each Manager on such committee (in the case of a committee meeting) by hand, telephone, electronic mail, telecopy or overnight courier at least [twenty-four (24)] hours prior to such meeting. Managers and members of any committee of the Board shall be permitted to participate in any meetings by telephone conference or similar communications equipment by means of which all individuals participating in such meeting can be heard, and such method of participation shall be made available for all such meetings. Notice may be waived before or after a meeting and shall be waived automatically by attendance by a Manager without protest at such meeting. The actions taken by the Board or any committee at any meeting (as opposed to by written consent), however called and noticed, shall be as valid as though taken at a meeting duly held after regular call and notice if (but not until), either before, at or after the meeting, the Managers as to whom it was improperly called or noticed either sign a written waiver of notice or a consent to the holding of such meeting, attend the meeting without protest of how it was called or noticed, or approve the minutes of such meeting. The actions by the Board or any committee thereof may be taken by vote of the Board or any committee at a meeting thereof or

by written consent (without a meeting, without notice and without a vote) so long as such consent is signed by at least the Managers holding the number of votes that would be necessary to authorize or take such action at a meeting of the Board or such committee in which all Managers then serving on the Board or such committee, as the case may be, were present. Prompt notice of any action so taken without a meeting shall be given to those Managers who have not consented in writing. The Board and any committee may adopt such other procedures governing meetings and the conduct of business at such meetings as it shall deem appropriate, but that are not otherwise inconsistent with the terms of this Section 5.3.

Section 5.4 Delegation of Authority. Subject to the terms of Section 5.1(d), the Board may, from time to time, delegate to one or more Persons (including any Member or Officer and including through the creation and establishment of one or more other committees) such authority and duties as the Board may deem advisable. Any delegation pursuant to this Section 5.4 may be revoked at any time by the Board.

Section 5.5 Officers.

(a) Initial Officers. On the Effective Date, the Officers of NGR Management shall be those persons who were Officers of NGR Management immediately prior to the occurrence of the Effective Date, subject to the execution by NGR Management and any such Officer of an amended and restated employment contract (to the extent applicable) acceptable to such Officer and the Board.

(b) Designation and Appointment. The Board may (but need not), from time to time, designate and appoint one or more persons as an Officer of NGR Management. No Officer need be a resident of the State of Delaware, a Member or a Manager. Subject to the terms of Section 5.1(d), any Officers so designated shall have such authority and perform such duties as the Board may, from time to time, designate or delegate to them. The Board may assign titles to particular Officers (including Chairman, Chief Executive Officer, President, Chief Financial Officer, Chief Operating Officer, Vice President, Executive Vice President, Secretary, Assistant Secretary, Treasurer, or Assistant Treasurer). Unless the Board otherwise decides, if the title is one commonly used for officers of a corporation formed under the Laws of the State of Delaware, the assignment of such title shall constitute the delegation to such Officer of the authority and duties that are normally associated with that office, subject to (i) any specific delegation or negation of authority and/or duties made to such Officer by the Board pursuant to the third sentence of this Section 5.5(b) and Section 5.6(b), (ii) any delegation of authority and duties made to one or more Officers pursuant to the terms of Section 5.4 and (iii) the specific limitations set forth in this Agreement. Each Officer shall hold office until such Officer's successor shall be duly designated or until such Officer's death or until such Officer shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same individual. The salaries or other compensation, if any, of the Officers and agents of NGR Management shall be fixed from time to time by the Board (subject to any contract rights of the applicable Officer).

(c) Resignation; Removal; Vacancies. Any Officer (subject to any contract rights available to NGR Management, if applicable) may resign as such at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no

time be specified, at the time of its receipt by the Board. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Any Officer may be removed as such, either with or without cause, by the Board in its discretion at any time; provided, however, that such removal shall be without prejudice to the contract rights, if any, of the individual so removed. Designation of an Officer shall not of itself create contract rights. Any vacancy occurring in any office of NGR Management may be filled by the Board and shall remain vacant until filled by the Board.

Section 5.6 Standard of Duty.

(a) [Board Standard of Duty. To the fullest extent permitted by applicable Law, no Member or Manager, in their capacity as such shall have any duty (fiduciary or otherwise) to NGR Management, New Gulf or any of their Subsidiaries or to any other Member otherwise existing at law or in equity. Notwithstanding anything to the contrary in this Agreement, to the extent that, at law or in equity, a Member or Manager has duties (including fiduciary duties) and liabilities relating thereto to NGR Management, New Gulf or any of their Subsidiaries or any Member or any other Person, such Member or Manager acting under this Agreement or in connection with NGR Management, New Gulf or any of their Subsidiaries shall not be liable to NGR Management, New Gulf or any of their Subsidiaries or to any Member or any other Person that is bound by this Agreement for breach of any such duty with respect to any act or omission that is taken or omitted in good faith reliance on the provisions of this Agreement. Each of the parties to this Agreement hereby agrees that the provisions of this Agreement, including this Section 5.6, to the extent that they limit or eliminate the duties (including fiduciary duties) and liability of a Member or Manager to NGR Management, New Gulf or any of their Subsidiaries or any other Person who is bound by this Agreement otherwise existing at law or in equity, shall replace all such other duties and liabilities of such Member or Manager. Notwithstanding the foregoing, this Section 5.6 (i) shall not eliminate the obligation of each Member to act in compliance with the express terms of this Agreement and (ii) shall not be deemed to eliminate the implied contractual covenant of good faith and fair dealing. In furtherance of the foregoing provisions of this Section 5.6 (but subject to the immediately preceding sentence), when any Member or Manager takes any action under this Agreement or in connection with NGR Management, New Gulf or any of their Subsidiaries to give or withhold its consent or approval, such Member or Manager shall have no duty (fiduciary or otherwise) to consider the interests of NGR Management, New Gulf or any of their Subsidiaries or any other Members, and may act exclusively in its own interest. For the avoidance of doubt, the duties of any of the Officers of NGR Management, in their capacities as such, shall not be limited or affected in any respect by this Section 5.6 to the extent of any duties they may have under the Act or otherwise under applicable law. Each Member acknowledges and agrees that no Manager shall, as a result of being a Manager (as such), be bound to devote all of his business time to the affairs of NGR Management, New Gulf or any of their Subsidiaries, and that he or she and his or her Affiliates do and will continue to engage for their own account and for the accounts of others in other business ventures.][4]

(b) [Reserved]

[4] NTD: Standard of conduct for Managers, Members and Officers to be conformed.

(c) Other Duties Excluded. Except as expressly set forth in Section 5.6(a) with respect to certain Managers and as expressly set forth in Section 5.6(b) with respect to Officers, to the maximum extent permitted by applicable Law, NGR Management and each Member agrees that none of the Board, the Managers, the Officers, the Members or any of their respective Affiliates, officers, employees, partners, members, managers, shareholders, employees, agents or representatives shall owe any fiduciary duty to NGR Management or its Subsidiaries or any other Member. Each Member hereby waives, to the fullest extent permitted by the Delaware Act, any claim or cause of action against the Board, each Manager, each Member (in their capacity as such) and their respective Affiliates, officers, employees, partners, members, managers, shareholders, employees, agents or representatives for any claims relating to any breach of any fiduciary duty to NGR Management or the Members, or any of the Subsidiaries, by any such Person; provided that, with respect to actions or omissions by a Management Investor in such Person's capacity as a Manager, an Officer, director, employee or service provider of NGR Management or any of its Subsidiaries, such waiver shall not apply to the extent the act or omission was attributable to such Management Investor's breach of the standard of duty set forth in Section 5.6(b) above or a violation of the duties set forth in an Equity Agreement or Employment Agreement, in each case as determined by a final judgment, order or decree of an arbitrator or a court of competent jurisdiction (which is not appealable or with respect to which the time for appeal therefrom has expired and no appeal has been perfected). Each Member acknowledges and agrees that in the event of any conflict of interest, each such Person (other than a Management Investor) may act in the best interests of such Person or its Affiliates, officers, employees, partners, members, managers, shareholders, employees, agents or representatives (subject to the limitations set forth above in this Section 5.6(c)). In furtherance of the foregoing, except as expressly set forth in Section 5.6(a), it is the intent and agreement of the Members that all fiduciary duties be, and hereby are, eliminated and no fiduciary duties shall apply to any action or omission taken by the Board, any Manager, any Member or any of their respective Affiliates, officers, employees, partners, members, managers, shareholders, employees, agents or representatives hereunder or in connection with NGR Management.

(d) Effect on Equity Agreements and Employment Agreements. This shall not in any way affect, limit or modify any Management Investor's rights, powers, entitlements, liabilities, obligations, duties or responsibilities under any Employment Agreement, and/or Equity Agreement or any other agreement with respect to the provision of services to NGR Management and/or any of its Subsidiaries.

Section 5.7 Lack of Authority of Members. Except as expressly set forth herein (e.g., rights expressly and specifically granted to the Majority Holders), no Member in its capacity as such has the authority or power to act for or on behalf of NGR Management in any manner or way, to bind NGR Management, or do any act that would be (or could be construed as) binding on NGR Management, in any manner or way, or to make any expenditures on behalf of NGR Management, unless (subject to the terms of Section 5.1(d)) such specific authority and power has been expressly granted to and not revoked from such Member by the Board or pursuant to this Agreement, and the Members hereby consent to the exercise by the Board of the powers conferred on it by the Delaware Act, this Agreement and other applicable Law.

Section 5.8 Members Actions.

(a) Except for any consent of a group of Members expressly and specifically provided in this Agreement (for example, the consent of any Person required under Section 5.1(c) or Section 13.2), no Member shall have any right to vote on, approve or consent to the taking of any action by or on behalf of NGR Management. Notwithstanding anything in this Section 5.8 or elsewhere in this Agreement to the contrary, and without limiting the first sentence of this Section 5.8, except as expressly provided in this Agreement, the vote, consent and approval of Members is being waived to the greatest extent permitted by the Delaware Act, such that wherever the Delaware Act permits actions to be taken without the vote, consent or approval of "members" (as defined therein), or any group or class of members, this Agreement shall be construed to have otherwise provided that such vote, consent or approval may be made solely by the Board, without the need for any vote, consent or approval of any Members, group of Members or class of Members. The actions, approvals, consents, designations and appointments by the Members (or a subset of Members (e.g., the Majority Holders, Specified Initial Interest Holders and/or the Significant Interest Holders)) required or permitted under this Agreement may be taken (a) at a meeting called by the Board on at least 24 hours prior written notice to each Member entitled to vote on such matter, which notice shall state the purpose or purposes for which such meeting is being called, or (b) by written consent without a meeting or a vote (or advance notice thereof), so long as such consent is signed by Members holding at least the required number of Membership Interests to approve or consent to such matter, to make such appointment or designation, or to take such action under this Agreement. Any defect in providing notice of any meeting or of any action by written consent may be cured if the affected Member signs a written waiver of such defect. Prompt notice of any action taken by written consent shall be given to all Members entitled to vote on any matter considered at such meeting. Except as otherwise expressly and specifically provided in this Agreement, the Members shall vote their Membership Interests together as a single class on any matters required under this Agreement to be submitted to a vote of Members, and each such Membership Interest shall have one vote on any such matter.

Section 5.9 Member Voting Agreement. On the Effective Date, it is expected that the Specified Initial Interest Holders will enter into a customary voting agreement obligating each of the Specified Initial Interest Holders to vote its Membership Interests in accordance with such voting agreement under certain circumstances. Voting by the Specified Initial Interest Holders with respect to the election of Managers will be subject to the terms of such voting agreement.

ARTICLE VI

LIMITED LIABILITY, EXCULPATION, AND INDEMNIFICATION[5]

Section 6.1 Limitation of Liability of Members.

(a) Limitation of Liability. Except as otherwise required by applicable Law, the debts, liabilities, commitments and other obligations of NGR Management and its Subsidiaries, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of NGR Management and its Subsidiaries, and no Member shall have any liability whatsoever in its capacity as a Member, whether to NGR Management, to any of the other

[5] NTD: This Article is subject to further review and change.

Members, to the creditors of NGR Management or to any other Person, for the debts, liabilities, commitments or any other obligations of NGR Management or any of its Subsidiaries, or for any losses of NGR Management. No Member shall, in its capacity as such, be deemed to owe any fiduciary duty to NGR Management or any other Member, it being understood that it is intended by the Members that all such fiduciary duties be, and hereby are, fully and irrevocably eliminated.

(b) Observance of Formalities. Notwithstanding anything contained herein or the Delaware Act to the contrary, the failure of NGR Management or any of its Subsidiaries, or any Manager, Member or Officer to observe any formalities or procedural or other requirements relating to the exercise of its powers or management of NGR Management's or any of its Subsidiaries' business and affairs under this Agreement or the Delaware Act shall not be grounds for imposing liability on any of the Members.

(c) Return of Distributions. [In accordance with the Delaware Act and the other Laws of the State of Delaware, a "member" of a limited liability company may, under certain circumstances, be required to return amounts previously distributed to such member. It is the intent of the Members that no Distribution to any Member pursuant to ARTICLE IV hereof shall be deemed a return of money or other property paid or distributed in violation of the Delaware Act. The payment of any such Distribution of money or property to a Member shall be deemed to be a compromise within the meaning of the Delaware Act, and, unless otherwise agreed in writing by such Member in connection with such Distribution, the Member receiving any such money or property shall not be required to return to any Person any such money or property. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Member is obligated to make any such payment, such obligation shall be the obligation solely of such Member and not of any other Member or Manager. Notwithstanding the foregoing, a Member will be required to return to NGR Management any Distribution to the extent made to it in clear and manifest accounting, clerical, or other similar error (as determined in good faith by the Board).]

Section 6.2 No Right of Partition. No Member shall have the right to seek or obtain partition by court decree or operation of Law of any NGR Management property, or the right to own or use particular or individual assets of NGR Management (including all or a portion of its Subsidiaries or Affiliates).

Section 6.3 [Exculpation of Managers and Certain Other Covered Persons. The personal liability of any (a) Manager, (b) Member, (c) Affiliate or Related Fund of any Member, (d) Person serving or having served as a Manager, member of any committee of the Board or any Subsidiary Governing Body, (e) Observer and (f) Person who is or was a partner, shareholder, member, officer, director, manager, controlling person, employee, consultant, counsel, representative or agent of any of the foregoing (each of the Persons in (a) through (f), a "Covered Person") to any other Manager, NGR Management or to any Member for any loss suffered by any of them for any monetary damages for breach of fiduciary duties as a Manager is hereby eliminated to the fullest extent permitted by the Delaware Act. The Managers shall not be liable for errors in judgment. Any Manager may consult with counsel and accountants and any Member, Manager, officer, director, employee or committee of NGR Management or its Subsidiaries or any other professional expert in respect of the affairs of NGR Management or its

Subsidiaries, and provided the Manager acts in good faith reliance upon the advice or opinion of such counsel or accountants or other Persons, the Manager shall not be liable to any Person for any loss suffered by NGR Management or any other Person in reliance thereon. If the Delaware Act is hereafter amended or interpreted to permit further limitation of the liability of a Covered Person beyond the foregoing (but subject to the exceptions set forth above), then this paragraph shall be interpreted to limit the personal liability of such Covered Person to the fullest extent permitted by the Delaware Act, as amended (but, in the case of any such amendment, only to the extent that such amendment permits NGR Management to limit the personal liability of the Covered Persons to a greater extent than that permitted by said Law prior to such amendment). In furtherance of, and without limiting the generality of the foregoing, no Covered Person shall be (x) personally liable for the debts, obligations or liabilities of NGR Management, including any such debts, obligations or liabilities arising under a judgment, decree or order of a court, (y) required to return all or any portion of any Capital Contribution or deemed Capital Contribution or (z) required to lend or contribute any funds to NGR Management.][6]

Section 6.4 [Reserved].

Section 6.5 Right to Indemnification.

(a) Reserved.

(b) [Members, Managers or Observers. Subject to Section 4.2 and the limitations and conditions set forth in this ARTICLE VI, each Person who is a Member, Manager or Observer of NGR Management or a legal representative of any Member, Manager or Observer of NGR Management (including any Person who served as a Member, Manager or Observer of NGR Management or a legal representative of a Member, Manager or Observer of NGR Management on or at any time after May 1, 2014) (other than an Officer or employee to which Section 6.5(a) shall apply) who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed Proceeding, or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact that such Person, or another Person of whom such Person is the legal representative, is or was a Member, Manager or Observer of NGR Management, or, while a Member, Manager or Observer of NGR Management, is or was serving at the request of NGR Management as a manager, director, partner, member, stockholder, joint venturer, proprietor, trustee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise and any Affiliate or Related Fund of any of the foregoing, and any Person who is or was a partner, shareholder, member, officer, director, manager, controlling person, employee, consultant, counsel, representative or agent of any of the foregoing (each of the foregoing, together with each Officer and employee indemnified pursuant to Section 6.5(a), an "Indemnified Person") shall be indemnified by NGR Management to the fullest extent permitted by the Delaware Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits NGR Management to provide broader indemnification rights than said Law permitted NGR Management to provide prior to such amendment) against judgments, penalties (including excise and similar Taxes and punitive

[6] NTD: Exculpation standard for Managers, Members and Officers to be conformed.

damages), fines, settlements and reasonable expenses (including attorneys' fees and expenses) actually incurred by such Person in connection with such Proceeding, and indemnification under this ARTICLE VI shall continue as to a Person who has ceased to serve in the capacity that initially entitled such Person to indemnity hereunder; provided that no such Person shall be indemnified for any judgments, penalties, fines, settlements or expenses (i) to the extent attributable to such Person's fraud or intentional violation of Law (or, if the Delaware Act is hereafter amended or interpreted to permit a higher required standard of culpability for conduct subject to indemnification, to the extent not in violation of such higher required standard), (ii) for any present or future breaches of any representations, warranties or covenants by such Person contained in this Agreement or in any other agreement with NGR Management, (iii) in any action (except an action to enforce the indemnification rights set forth in this Section 6.5) brought by such Person, such Person's Affiliates or the Person of whom he or she is the legal representative or (iv) with respect to a Manager, for any matter as to which such Manager is not exculpated pursuant to Section 6.3. It is expressly acknowledged that the indemnification provided in this Article could involve indemnification for negligence or under theories of strict liability.][7]

(c) Indemnification of Other Agents. NGR Management, by adoption of a resolution of the Board, may indemnify and advance expenses to any agents of NGR Management or its Subsidiaries (including any Person who served as an agent of NGR Management or its Subsidiaries on or at any time after May 1, 2014) who are not or were not Managers, Officers or employees of NGR Management or its Subsidiaries but who are or were serving at the request of NGR Management or its Subsidiaries as a manager, director, officer, partner, member, joint venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against liabilities and expenses asserted against such Person and incurred by such Person in such a capacity or arising out of their status as such a Person, to the same extent that it may indemnify and advance expenses to Managers, Officers and employees under this ARTICLE VI.

(d) Contract with NGR Management. The rights granted pursuant to this ARTICLE VI shall be deemed contract rights, and no amendment, modification or repeal of this Article shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings arising prior to any amendment, modification or repeal.

(e) Advance Payment. The right to indemnification conferred in this ARTICLE VI shall include the right to be paid or reimbursed by NGR Management the reasonable expenses incurred by a Person of the type entitled to be indemnified by NGR Management under this ARTICLE VI who was, is or is threatened to be made a named defendant or respondent in a Proceeding in advance of the final disposition of the Proceeding and without any determination as to the Person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such Person in advance of the final disposition of a Proceeding shall be made only upon delivery to NGR Management of a written affirmation by such Person of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under this ARTICLE VI and a written undertaking, by or

[7] NTD: Indemnification standard for Managers, Members and Officers to be conformed.

on behalf of such Person, to repay all amounts so advanced if it shall ultimately be determined by a final, non-appealable judgment of a court of competent jurisdiction that such Indemnified Person is not entitled to be indemnified under this ARTICLE VI or otherwise.

(f) Appearance as a Witness. Notwithstanding any other provision of this Agreement, NGR Management may pay or reimburse expenses incurred by a Manager, Officer or employee in connection with the appearance as a witness or other participation in a Proceeding at a time when such Manager, Officer or employee is not a named defendant or respondent in the Proceeding.

(g) Non-exclusivity of Rights. The right to indemnification and the advancement and/or reimbursement of expenses conferred in this Section 6.5 shall not be exclusive of any other right which any Person may have or hereafter acquire under any statute, agreement, Law, vote of the Board or otherwise (such other rights, "Supplemental Indemnification Rights"). If NGR Management grants any Manager any Supplemental Indemnification Rights, then NGR Management shall grant all other Managers the same Supplemental Indemnification Rights. The Board may grant any rights comparable to any of those set forth in this Section 6.5 to such other Persons (including agents of NGR Management, its Subsidiaries and their respective predecessors for the period beginning May 1, 2014) as the Board may determine. In the event any provider of Supplemental Indemnification Rights pays any amount with respect to any Indemnified Person, such provider of Supplemental Indemnification Rights shall be subrogated to such Indemnified Person's rights to indemnification hereunder to the extent of payment made by such holder of Supplemental Indemnification Rights on behalf of such Indemnified Person.

(h) Primacy of Obligations. NGR Management and each Member acknowledge and agree that the indemnification and advancement and reimbursement of expenses obligations of NGR Management hereunder, and under any insurance policy procured pursuant to Section 6.5(i), shall be deemed primary coverage and in no event shall NGR Management (or any provider of insurance pursuant to Section 6.5(i)) be entitled to any contribution from any provider of Supplemental Indemnification Rights. In furtherance of Section 6.5(g), NGR Management acknowledges that certain Indemnified Persons may have rights to indemnification, advancement and/or reimbursement of expenses or insurance provided by Persons other than NGR Management (collectively, the "Outside Indemnitors"). NGR Management hereby agrees (i) that NGR Management (or any of its insurers) is the indemnitor of first resort (i.e., its obligations to such Indemnified Persons are primary, and any obligation of the Outside Indemnitors to advance and/or reimburse expenses or to provide indemnification for the same expenses or liabilities incurred by such Indemnified Persons are secondary), (ii) that NGR Management shall be required to advance and/or reimburse the full amount of expenses incurred by such Indemnified Persons and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of this Agreement (or any other agreement between NGR Management and such Indemnified Persons), without regard to any rights such Indemnified Persons may have against the respective Outside Indemnitors, and (iii) that NGR Management irrevocably waives, relinquishes and releases the Outside Indemnitors from any and all claims against the Outside Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. NGR Management further agrees that no advancement or payment by the Outside Indemnitors

on behalf of any such Indemnified Person with respect to any claim for which such Indemnified Person has sought indemnification or advancement or reimbursement of expenses from NGR Management shall affect the foregoing, and the Outside Indemnitors shall have a right of contribution and/or be subrogated to the extent of any such advancement, reimbursement or payment to all of the rights of recovery of such Indemnified Person against NGR Management. NGR Management agrees that the Outside Indemnitors are express third party beneficiaries of the terms of this Section 6.5(h).

(i) Insurance. [NGR Management shall maintain, or cause to be maintained, insurance, at NGR Management's or its Subsidiaries' expense, to protect any Indemnified Person against any expense, liability or loss of the nature described in Section 6.5(a) or Section 6.5(b) above, whether or not NGR Management would have the power to indemnify such Indemnified Person against such expense, liability or loss under the provisions of this ARTICLE VI. Each Manager shall be entitled to the same benefits under such insurance as each other Manager. NGR Management shall ensure that any such insurance policies comply with Section 6.5(g) and Section 6.5(h), including that there be no right of contribution against any provider of Supplemental Indemnification Rights and that providers of Supplemental Indemnification Rights are subrogated to an Indemnified Person's rights under such insurance policies.][8]

(j) Limitation. Notwithstanding anything contained herein to the contrary (including in this Section 6.5(j)), any indemnification by NGR Management relating to the matters covered in this Section 6.5 shall be provided out of, and only to the extent of, NGR Management's or its Subsidiaries' assets only, and no Member (unless such Member otherwise agrees in writing or is found in a final decision by a court of competent jurisdiction to have personal liability on account thereof) shall have personal liability on account thereof or shall be required to make additional Capital Contributions, loans or other advances to help satisfy such indemnity of NGR Management (except as otherwise expressly provided herein).

(k) Savings Clause. If this Section 6.5 (or any portion hereof) shall be invalidated on any ground by any court of competent jurisdiction, then NGR Management shall nevertheless indemnify and hold harmless each Indemnified Person pursuant to this Section 6.5 to the fullest extent permitted by any applicable portion of this Section 6.5 that shall not have been invalidated and to the fullest extent permitted by applicable Law. In addition, this Section 6.5 may not be retroactively amended to adversely affect the rights of any Indemnified Persons arising in connection with any acts, omissions, facts or circumstances occurring prior to such amendment.

Section 6.6 Prohibited Positions; Investment Opportunities and Conflicts of Interest.

(a) [No Person may hold a Prohibited Position (i) during such time as such Person is an Officer of NGR Management (or holds any equivalent position at a Subsidiary Governing Body) and (ii) until the earlier to occur of (1) [six (6)] months after such Person ceases to hold any position referred to in clause (i) and (2) the consummation of a Sale Transaction. For the avoidance of doubt, the "Person" referred to in the immediately preceding sentence shall only mean the Person serving as an Officer of NGR Management (or holding any

[8] NTD: May be revised to reflect coverage available under standard, market D&O insurance.

equivalent position at a Subsidiary Governing Body) and not any other Person (including any of such Person's colleagues, associates, employers, employees, partners or Affiliates, or any Investment Fund with which such Person may be associated). For the avoidance of doubt, nothing herein shall supersede or be deemed or construed to supersede or alter any obligations any Person may have under applicable Law including, The Sherman Antitrust Act of 1890, as amended, or The Clayton Antitrust Act of 1914, as amended.][9]

(b) [Unless the Board otherwise agrees in writing, each Management Investor, for so long as such Management Investor is employed by NGR Management, New Gulf or their respective Subsidiaries, shall, and shall cause each of such Person's Affiliates to, bring to NGR Management or New Gulf all investment or business opportunities of which such Management Investor becomes aware and which are (y) within the scope and investment objectives related to the Business as then conducted by NGR Management, New Gulf or their respective Subsidiaries, or (z) otherwise competitive with the Business as then conducted by NGR Management, New Gulf or their respective Subsidiaries.][10] The Members expressly acknowledge and agree that, subject to Section 6.6: (a) the Members (and their respective Affiliates and Related Funds) that are not Management Investors and their and their Affiliates' and Related Funds' respective managers, directors, officers, shareholders, partners, members, employees, representatives, and agents (including any of their representatives serving on the Board or on any Subsidiary Governing Body or as an Officer of NGR Management or an officer of any of its Subsidiaries) (collectively, the "Specified Persons") are permitted (i) to have and develop, and may presently or in the future have and develop, investments, transactions, business ventures, contractual, strategic or other business relationships, prospective economic advantages or other opportunities (the "Business Opportunities") in the Business (other than through NGR Management or New Gulf or their Subsidiaries) or in businesses that are or may be competitive or complementary with the Business (an "Other Business"), for their own account or for the account of any Person other than NGR Management or New Gulf or their Subsidiaries or any other Member, and (ii) to direct any such Business Opportunities to any other Person, in each case, regardless of whether such Business Opportunities are presented to a Specified Person in his, her or its capacity as a Member, Manager, director or manager on any Subsidiary Governing Body, an Officer of NGR Management or New Gulf or an officer of any of their Subsidiaries, or otherwise; (b) none of the Specified Persons will be prohibited by virtue of their investments in NGR Management or New Gulf or any of their Subsidiaries, or their service as a Manager or on any Subsidiary Governing Body, an Officer of NGR Management or New Gulf or an officer of any of their Subsidiaries, or otherwise, from pursuing and engaging in any such activities or consummating transactions related thereto; (c) none of the Specified Persons will be obligated to inform NGR Management or New Gulf or any of their Subsidiaries or the Board or any Subsidiary Governing Body or any other Member of any such Business Opportunity or present such Business Opportunity to any of them; (d) none of NGR Management, New Gulf, any of their Subsidiaries or the other Members will have or acquire or be entitled to any interest or expectancy or participation (such right to any interest, expectancy or participation, if any, being hereby renounced and waived) in any Business Opportunity as a result of the involvement therein of any of the Specified Persons; and (e) the involvement of any of the Specified Persons in any Business Opportunity will not constitute a conflict of interest, breach of fiduciary duty (including breach of the duty of loyalty), or breach

[9] NTD: Subject to discussion.
[10] NTD: Exceptions for existing interests to be scheduled; de minimis exception to be added.

of this Agreement by such Persons with respect to NGR Management or any of its Subsidiaries or the other Members. This Section 6.6 shall not in any way affect, limit or modify any liabilities, obligations, duties or responsibilities of any Person under any Employment Agreement.

(c) Subject to Section 5.1(g), NGR Management may transact business with any Manager, Member or Officer or any Affiliate thereof.

Section 6.7 Confidentiality.

(a) Each Member recognizes and acknowledges that it has, and may in the future receive, certain confidential and proprietary information and trade secrets of NGR Management and its Subsidiaries (including their predecessors) (collectively, the "Confidential Information"). Except as otherwise consented to by the Board in writing, each Member (on behalf of itself and, to the extent that such Member would be responsible for the acts of the following Persons under principles of agency Law, its managers, directors, officers, shareholders, partners, employees, agents and members) agrees that, during the period commencing on the Effective Date and ending on the [first] anniversary of the date on which such Member (and its Affiliates or Related Funds) no longer beneficially owns, holds or controls any Membership Interests or Equity Securities of NGR Management or any of its Subsidiaries, it will not, whether directly or indirectly through an Affiliate or otherwise, disclose Confidential Information to any Person for any reason or purpose whatsoever, except (i) to authorized directors, officers, representatives, agents and employees of NGR Management or New Gulf or their Subsidiaries and as otherwise may be proper in the course of performing such Member's obligations, or enforcing such Member's rights, under this Agreement and the agreements expressly contemplated hereby, (ii) as part of such Member's normal reporting, rating or review procedure (including normal credit rating and pricing process), or in connection with such Member's (or such Member's Affiliates' or Related Funds') normal fundraising, marketing, informational or reporting activities, or to such Member's (or any of its Affiliates' or Related Funds') Affiliates, managers, officers, directors, employees, partners, members, auditors, accountants, attorneys or other agents; provided that, in each case of any such permitted disclosure, such Person that such information is disclosed to is informed of, and directed to comply with, the non-disclosure obligations of such Member under this Section 6.7(a) and such Member shall remain liable for the breach of such obligations by any such Person other than (A) any such Person that has a professional obligation of confidentiality with respect to such Member (provided that such Member shall enforce such professional obligations against such Person in the event of any breach thereof) and (B) any such Person that enters into a separate confidentiality agreement with NGR Management, (iii) to any bona fide prospective purchaser of the equity or assets of such Member or its Affiliates or Related Funds or the Membership Interests held by such Member, or prospective merger partner of such Member or its Affiliates or Related Funds; provided that such purchaser or merger partner agrees to be bound by a confidentiality agreement approved by the Board (such approval not to be unreasonably withheld, conditioned or delayed) or (iv) as is required to be disclosed by order of a court of competent jurisdiction, administrative body or governmental body, or by subpoena, summons or legal process, or by Law, rule or regulation; provided that the Member required to make such disclosure pursuant to clause (iv) above shall provide to NGR Management prompt written notice of such disclosure to enable NGR Management to seek an appropriate protective order or

confidential treatment with respect to the Confidential Information required to be disclosed. For purposes of this Section 6.7, the term "Confidential Information" shall not include any information of which (x) such Person learns from a source other than NGR Management or New Gulf or their Subsidiaries, or any of their respective representatives, employees, agents or other service providers, and in each case who is not known by such Person to be bound by a confidentiality obligation to NGR Management or New Gulf or any of their Subsidiaries, (y) at the time of disclosure is or thereafter becomes generally available to the public other than as a result of disclosure directly or indirectly by such Person or any of such Person's Affiliates, Related Funds, employees or representatives or (z) is independently developed by such Person without use of or reference to any Confidential Information. Nothing in this Section 6.7 shall in any way limit or otherwise modify any confidentiality covenants entered into by the Management Investors pursuant to any Employment Agreement, Equity Agreement or other agreement entered into with NGR Management or New Gulf or any of their Subsidiaries.

(b) Each Management Investor acknowledges and agrees that the individual ownership of Membership Interests by each Management Investor is sensitive and Confidential Information and that information regarding the individual ownership of NGR Management or New Gulf by Management Investors relates to such Person's compensation as an employee of NGR Management and/or New Gulf or their Subsidiaries. Therefore, notwithstanding anything in this Agreement to the contrary, in no event shall any Management Investor have the right, and each Management Investor hereby waives any right, whether by contract or under applicable Law, to the fullest extent of the Law, to have access to or receive any information with respect to what Equity Securities are, or have been, issued to or held by any other Management Investor, including the Membership Interest Ownership Ledger. In no event shall any Management Investor request, or be entitled to receive, any such information (including the Membership Interest Ownership Ledger and any other books and records with respect to ownership of the Equity Securities of NGR Management or New Gulf); provided that nothing in this Section 6.7(b) shall prohibit any Management Investor from receiving (a) a capitalization schedule showing the aggregate number of each class or series and type of Equity Securities of NGR Management that are outstanding as of any particular date or (b) the number and type of Equity Securities or New Gulf held by such Management Investor and such Management Investor's Permitted Transferees. Nothing in this Section 6.7(b) shall restrict any Manager's right to receive information as a member of the Board or any Person's express right to receive information pursuant to any contract with NGR Management or New Gulf or any of their Subsidiaries, regardless of whether such Person is also a Management Investor.

(c) Notwithstanding any other statement in this Agreement or any confidentiality agreement contemplated by (or required to be entered into pursuant to) this Agreement, NGR Management, each Manager or Officer, the Board and each committee thereof, and their respective advisors, authorize each Member and each of its employees, representatives or other agents, from and after the commencement of any discussions with any such party, to disclose to any and all Persons, without limitation of any kind, the U.S. income and franchise tax treatment and U.S. income and franchise tax structure of NGR Management and any transaction entered into by NGR Management and all materials of any kind (including tax opinions or other tax analyses) reasonably relating to such tax treatment or tax structure that are provided to such Member, insofar as such treatment and/or structure relates to a U.S. income or franchise tax strategy provided to such Member by NGR Management, any Officer or Manager, the Board or

any committee thereof, or any of their respective advisors, except for any information identifying any Officer or Manager, or any other Member, or (except to the extent relevant to such tax structure or tax treatment) any non-public commercial or financial information.

ARTICLE VII

BOOKS, RECORDS, ACCOUNTING AND REPORTS; INSPECTION

Section 7.1 Records and Accounting. NGR Management shall keep, or cause to be kept, appropriate books and records with respect to NGR Management's business, including all books and records necessary to provide any information, lists and copies of documents required to be provided pursuant to Section 7.2 or pursuant to applicable Laws. All matters concerning (a) the determination of the relative amount of allocations and distributions among the Members pursuant to ARTICLE III and ARTICLE IV not specifically and expressly provided by the terms of this Agreement, and (b) accounting procedures and determinations shall be determined by the Board, whose determination shall be final and conclusive as to all of the Members absent manifest clerical error.

Section 7.2 Reports. Subject to Section 6.7, NGR Management shall deliver or cause to be delivered:[11]

(a) to each Member, as soon as practicable after the end of each Fiscal Year (and NGR Management shall use its commercially reasonable efforts to make such delivery no later than delivery of the materials contemplated by Section 7.2(b)), an annual report containing a statement of changes in the Member's Membership Interests (or other Equity Securities) during such Fiscal Year;

(b) to each Member, as soon as available (and NGR Management shall use its commercially reasonable efforts to make such delivery no later than [90] days) after the end of each Fiscal Year, a copy of (x) an unaudited consolidated balance sheet of NGR Management and its Subsidiaries as of the end of such Fiscal Year, and the related statements of income or operations, members' equity and cash flows for such Fiscal Year, all prepared in accordance with GAAP, together with management's reasonably detailed discussion and analysis of NGR Management's and its Subsidiaries' financial condition and results of operations (an "MD&A") reflected in such financial statements and including period to period comparisons of the financial statements contained therein and (y) financial information with respect to New Gulf and its Subsidiaries furnished to members of New Gulf with respect to such Fiscal Year;

(c) to each Member, as soon as available (and NGR Management shall use its commercially reasonable efforts to make such delivery no later than [45] days) after the end of each of the first, second and third quarters of each Fiscal Year, a copy of (x) the unaudited balance sheet of NGR Management and its Subsidiaries as of the end of such quarter and the related statements of income, members' equity and cash flows for such quarter and the year to date period, all prepared in accordance with GAAP, together with an "MD&A" with respect to such financial statements and including period to period comparisons of the financial statements

[11] NTD: Reporting requirements subject to discussion.

contained therein and (y) financial information with respect to New Gulf and its Subsidiaries furnished to members of New Gulf with respect to such quarter;

(d) to each Significant Interest Holder, as soon as available (and NGR Management shall use its commercially reasonable efforts to make such delivery within 30 days of Board approval), a copy of the annual budget of NGR Management and its Subsidiaries for such Fiscal Year, as approved by the Board; and

(e) without in any way expanding the circumstances in which a Member is entitled to Transfer Membership Interests hereunder, and until such time as NGR Management or any of its Subsidiaries is subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act, to each Significant Interest Holder that has agreed in writing to be bound by the terms and conditions of this Agreement, upon the reasonable request of such Significant Interest Holder, a brief description of the nature of NGR Management's business and such other information as is reasonably necessary in order to permit compliance with the information requirements of Rule 144A(d)(4) under the Securities Act in connection with any Transfer of Membership Interests or Equity Securities permitted hereunder; provided, that the Transferee shall have agreed to be bound by a written confidentiality agreement in form and substance reasonably satisfactory to NGR Management with respect to such information.

Notwithstanding anything in this Section 7.2 to the contrary, NGR Management shall not be obligated (unless required by applicable Law) to provide any information pursuant to Section 7.2 to any Member whom the Board has reasonably determined in good faith is in breach in any material respect of any confidentiality, non-competition or non-solicitation agreement or covenant with NGR Management or any of its Subsidiaries.

For the purposes of determining the rights of any Member pursuant to Section 7.2(b), Section 7.2(c), Section 7.2(e), Section 7.2(e) and Section 7.3, and without limiting the provisions set forth in the second sentence of the definition of Significant Interest Holder, the ownership of Membership Interests by such Member shall be aggregated with the ownership of Membership Interests by such Member's Affiliates and Related Funds and each of their respective Permitted Transferees.

Section 7.3 Access to Management. The Significant Interest Holders shall have an opportunity on a quarterly basis to discuss the performance and operations of NGR Management and its Subsidiaries with senior management of NGR Management and its Subsidiaries (a "Management Discussion"), and NGR Management shall cause such senior management to be reasonably available for such Management Discussions; provided, however, that NGR Management shall not be obligated to hold a Management Discussion more frequently than once per Fiscal Quarter. Following the written request of any Significant Interest Holder to hold such a quarterly Management Discussion, such quarterly Management Discussion shall be held at such time and date, and by telephone conference or at such place, as the Board shall reasonably determine (but if the Management Discussion is to take place in person, then a telephone conference option must be made available); provided that each Management Discussion shall be held during business hours (between 9:00 a.m. – 6:00 p.m. (prevailing Eastern time)) on a Business Day and shall not be held earlier than the [third (3rd)] Business Day following the date on which NGR Management provides notice of such Management Discussion to the Significant

Interest Holders or later than [fifteen (15)] Business Days after receipt by NGR Management of any written request for a Management Discussion.

ARTICLE VIII

TAX MATTERS

Section 8.1 Preparation of Tax Returns. NGR Management shall arrange for the preparation and timely filing of all Tax returns required to be filed by NGR Management, including making the elections described in Section 8.2.

Section 8.2 Tax Elections. The Taxable Year shall be the Fiscal Year unless the Board shall determine otherwise. The Board shall determine whether to make or revoke any available election pursuant to the Code.

ARTICLE IX

TRANSFER OF MEMBERSHIP INTERESTS

Section 9.1 [Transfers Generally.

(a) Until the earliest to occur of (x) a Sale Transaction, (y) an IPO and (z) the fifth anniversary of the Effective Date, no Member shall Transfer any interest (whether economic, voting or otherwise) in any Membership Interests without (i) complying with the terms of Section 9.6 and, in the case of any Management Investor, the terms of any applicable Equity Agreement and/or Employment Agreement and (ii) complying with Section 9.2, except that Members may Transfer Membership Interests without compliance with Section 9.2 (A) pursuant to Section 9.3, Section 9.4 and Section 10.1, (B) pursuant to the forfeiture, redemption and repurchase provisions set forth in any applicable Equity Agreement and/or Employment Agreement, (C) to a Permitted Transferee or (D) to an Specified Initial Interest Holder (clauses (A), (B), (C) and (D) being referred to herein as "Exempt Transfers"); provided that if a Member Transfers any Membership Interests to a Permitted Transferee and such Transferee ceases to be a Permitted Transferee of such Member, then such Transferee shall, prior to ceasing to be a Permitted Transferee, Transfer such interest to the Member who made such Transfer (unless otherwise determined by the Board in its sole discretion). Any Transfer permitted pursuant to this Section 9.1(a) must comply with the remainder of the provisions of this ARTICLE IX, to the extent applicable.

(b) No Member shall directly or indirectly seek to avoid the provisions of this Agreement (including this ARTICLE IX) by issuing, or permitting the issuance of, or Transferring, or permitting the Transfer of, any direct or indirect equity, debt or other security or beneficial interest in such Member (or any right to acquire the same) (including any Blocker Corporation Shares), in each such case, in a manner which would fail to comply with this ARTICLE IX if any such interests were treated as Membership Interests hereunder and such Member had Transferred or sought to Transfer Membership Interests, unless such Member first complies with the terms of this ARTICLE IX with respect to such interests; provided, however, that, in each case, with respect to a Member that is either (x) an Investment Fund, (y) a Blocker

Corporation that is owned (directly or indirectly) by an Investment Fund (or a group of investors in such Investment Fund), or (z) owned (directly or indirectly) by an Investment Fund or a Blocker Corporation that is owned (directly or indirectly) by an Investment Fund (or a group of investors in such Investment Fund), the following shall not be deemed to violate this Section 9.1(b): (i)(A) any bona fide Transfer of any direct or indirect security or interest in such Investment Fund or such Blocker Corporation, (B) any bona fide issuance of any direct or indirect security or interest in such Investment Fund or such Blocker Corporation (including those made in the course of such Investment Fund's normal fundraising activities or the funding of capital commitments in such Investment Fund), in each case in the ordinary course consistent with such Investment Fund's past practice, and (C) any repurchases or forfeitures of any direct or indirect security or interest in such Investment Fund or such Blocker Corporation from any departing, withdrawing or defaulting investor in such Investment Fund or such Blocker Corporation, and (ii) any issuance or Transfer of any direct or indirect security or interest in any such Member, Investment Fund or Blocker Corporation made for tax or regulatory reasons, or to comply with any court order or applicable Law; provided, further, that no such transaction referred to in clauses (i) and (ii) above shall be made or consummated with the purpose or intent of avoiding the provisions of this ARTICLE IX. For purposes of clauses (i)(A), (i)(B) and (i)(C) set forth in the first proviso of the immediately preceding sentence, a bona fide issuance, Transfer, repurchase or forfeiture of any direct or indirect security or interest in a Blocker Corporation referred to in such clauses shall only include (1) in the case of a Transfer, a Transfer by an investor of a direct or indirect security or interest in such Blocker Corporation that is made as part of the Transfer by such investor of a pro rata portion of its overall investment in, and/or commitments to, the related Investment Fund, and (2) in the case of an issuance, repurchase or forfeiture, an issuance, repurchase or forfeiture by such Blocker Corporation or Investment Fund of securities or interests in such Blocker Corporation to or from an investor that is made as part of with such investor's overall investment in, and/or commitment to, the related Investment Fund.

(c) Each Member or Blocker Corporation that has been formed for the purpose of making an investment in NGR Management or for which the ownership interest in NGR Management constitutes a substantial portion of the assets of such Member (each, a "Newco Member") shall not permit any Transfer of Equity Securities of such Newco Member or the issuance of Equity Securities in such Newco Member to the extent such Transfer has the purpose of avoiding or is otherwise undertaken in contemplation of avoiding or, at least in part, to avoid, the restrictions on Transfers in this Agreement (it being understood that the purpose of this Section 9.1(c) is to prohibit the Transfer of Equity Securities of such Newco Member or issuances of Equity Securities of such Newco Member that has the result and effect that such Newco Member has indirectly made a Transfer of Membership Interests or Equity Securities of NGR Management that would not have been directly permitted as a Transfer under this Section 9.1).]

Section 9.2 [Right of First Refusal.[12]

(a) Right of First Refusal. Subject to the terms and conditions specified in this Section 9.2, NGR Management and each Significant Interest Holder shall have a right of

[12] NTD: ROFR may be revised to make clear the interaction between it and tag and drag provisions.

first refusal if any other Member (the "Transferring Member"), receives an offer from an Independent Third Party that the Transferring Member desires to accept to purchase all or any portion of the Membership Interests owned by the Transferring Member (the "Offered Membership Interests"). Each time the Transferring Member receives an offer for any of its Membership Interests, the Transferring Member shall first make an offering of the Offered Membership Interests to NGR Management and the Significant Interest Holders in accordance with the following provisions of this Section 9.2 prior to Transferring such Offered Membership Interests to the Independent Third Party [(other than Transfers that are permitted by Section 9.3, Section 9.4, or Section 10.1,)] (ii) to a Permitted Transferee, subject to compliance with all other provisions of this Agreement (including Section 9.1(a)), or (iii) transfers among Specified Initial Interest Holders).

(b) Offer Notice.

(i) The Transferring Member shall, within [five] Business Days of receipt of an offer from the Independent Third Party that the Transferring Member desires to accept, give written notice (the "Offer Notice") to NGR Management stating that it has received a bona fide offer from an Independent Third Party and specifying: (w) the number of Offered Membership Interests to be sold by the Transferring Member; (x) the name of the person or entity who has offered to purchase such Offered Membership Interests; (y) the price for the Offered Membership Interest (which for the avoidance of doubt shall be cash) and the other material terms and conditions of the sale; and (z) the proposed date, time and location of the closing of the Transfer, which shall not be less than [__] Business Day from the date of the Offer Notice. NGR Management shall deliver the Offer Notice to the Significant Interest Holders within [two] Business Days after receipt of the Offer Notice by NGR Management.

(ii) The Offer Notice shall constitute the Transferring Member's offer to Transfer the Offered Membership Interests to NGR Management and the Significant Interest Holders, which offer shall be irrevocable until the end of the ROFR Notice Period.

(iii) By delivering the Offer Notice, the Transferring Member represents and warrants to NGR Management and each Significant Interest Holders that: (x) the Transferring Member has full right, title and interest in and to the Offered Membership Interests; (y) the Transferring Member has all the necessary power and authority and has taken all necessary action to sell such Offered Membership Interests as contemplated by this Section 9.2; and (z) the Offered Membership Interests are free and clear of any and all Liens other than those arising as a result of or under the terms of this Agreement.

(c) Exercise of Right of First Refusal.

(i) NGR Management's Election. NGR Management may (upon the approval of the Board) elect to purchase all (but not less than all) of the Offered Membership Interests at the price and on the other terms set forth in the Offer Notice, by delivering written notice of such election to the Transferring Member within [__] Business Days following receipt by NGR Management of the Offer Notice.

(ii) Significant Interest Holder Election. If NGR Management does not elect to purchase all of the Offered Membership Interests, then within [__] days following receipt by NGR Management of the Offer Notice it will notify each Significant Interest Holder of such fact. The Significant Interest Holders may elect to purchase all (but not less than all) of the Offered Membership Interests at the price and on the other terms set forth in the Offer Notice, by delivering written notice (the "ROFR Offer Notice") of such election to the Transferring Member within [__] Business Days after delivery to NGR Management of the Offer Notice (the "ROFR Notice Period"). Any ROFR Offer Notice shall be binding upon delivery and irrevocable by the applicable Significant Interest holder. If more than one Significant Interest Holder delivers a ROFR Offer Notice, each such Significant Interest Holder (each a "Purchasing Significant Interest Holder") shall be entitled to purchase the number of Offered Membership Interests equal to the lesser of (a) the number of Offered Membership Interests it elected to purchase; and (b) the number of Offered Membership Interests multiplied by a fraction, the numerator of which is equal to the number of Offered Membership Interests elected to be purchased by such Purchasing Significant Interest Holder, and the denominator of which is the aggregate number of Offered Membership Interests proposed to be purchased by all Purchasing Significant Interest Holders.

(iii) Each Significant Interest Holder that does not deliver a ROFR Offer Notice during the ROFR Notice Period shall be deemed to have waived all of such Significant Interest Holder's rights to purchase the Offered Membership Interests under this Section 9.2,

(d) Consummation of Sale. If (i) NGR Management does not elect to purchase Offered Membership Interests pursuant to Section 9.2(c)(c)(i) or (ii) no Significant Interest Holder delivers a ROFR Notice in accordance with Section 9.2(c), the Transferring Member may, during the [__] Business Day period immediately following the expiration of the ROFR Notice Period (which period may be extended for a reasonable time not to exceed [__] Business Days to the extent reasonably necessary to obtain any government approvals) (the "Waived ROFR Transfer Period"), and subject to the provisions of Section 9.2 with respect to those Significant Interest Holders who have not delivered ROFR Offer Notices, Transfer all of the Offered Membership Interests to the Independent Third Party on terms and conditions no more favorable to the Independent Third Party than those set forth in the Offer Notice. If the Transferring Member does not Transfer the Offered Membership Interests within such period or, if such Transfer is not consummated within the Waived ROFR Transfer Period, the rights provided hereunder shall be deemed to be revived and the Offered Membership Interests shall not be Transferred to the Independent Third Party unless the Transferring Member sends a new Offer Notice in accordance with, and otherwise complies with, this Section 9.2.

(e) Cooperation. Each Significant Interest Holder shall take all actions as may be reasonably necessary to consummate the sale contemplated by this Section 9.2 including, without limitation, entering into agreements and delivering certificates and instruments and consents as may be deemed necessary or appropriate.

(f) Closing. At the closing of any sale and purchase pursuant to this Section 9.2, the Transferring Member shall deliver to the Purchasing Significant Interest Holder(s) certificate or certificates representing the Offered Membership Interests to be sold (if any),

accompanied by evidence of transfer and all necessary transfer taxes paid and stamps affixed, if necessary, against receipt of the purchase price therefore from such Purchasing Significant(s) by certified or official bank check or by wire transfer of immediately available funds.

(g) Pledges. Notwithstanding anything to the contrary in this Agreement, Members may pledge, or grant security interests in or liens on, interests in Membership Interests as security for a loan or debt financing without satisfying any conditions in this Section 9.2, or complying with any other restrictions on the Transfers of Membership Interests in this Agreement; provided, however, that any Transfer of Membership Interests resulting from an exercise of remedies pursuant to any such pledge, security interest or lien shall be subject to the procedures and restrictions of this Agreement unless otherwise determined by the Board.

(h) Termination. This Section 9.2 shall terminate upon the earlier to occur of (i) a Sale Transaction, (ii) an IPO and (iii) the [fifth] anniversary of the Effective Date.]

Section 9.3 Tag Along Rights.

(a) Participation Right. Except for Transfers (i) pursuant to Section 9.4 or Section 10.1, (ii) to a Permitted Transferee or (iii) among Significant Interest Holders, in the event that one or more Significant Interest Holders (individually and collectively, the "Tag Along Selling Member") desire to Transfer Membership Interests or other Equity Securities representing more than [40]% of the then outstanding Membership Interests or other Equity Securities (the "Tag Along Securities") to any Transferee in any transaction or a related series of transactions (any such transaction subject to this Section 9.3, a "Tag Along Sale"), then such Tag Along Selling Member shall give NGR Management written notice (the "Tag Along Sale Notice") specifying in reasonable detail the material terms and conditions of the Tag Along Sale, including the identity of the prospective Transferee(s), the number and class of Tag Along Securities to be Transferred and the proposed amount and form of consideration to be paid in connection with such Tag Along Sale. Within [two (2)] Business Days after receipt of the Tag Along Sale Notice, NGR Management shall deliver the Tag Along Sale Notice (together with a statement as to the total number of outstanding Vested Membership Interests (and other Equity Securities that have vested, or are not subject to vesting, in accordance with the terms of the applicable Equity Agreement pursuant to which they were issued) held by the Tag Along Selling Member and all of the Tag Along Rights Holders) to each Member (other than the Tag Along Selling Member and any Management Investor) that has agreed in writing to be bound by the terms and conditions of this Agreement (the "Tag Along Rights Holders"). Each Tag Along Rights Holder may irrevocably elect to sell in such Tag Along Sale, up to an aggregate amount of Membership Interests and/or Equity Securities equal to the product of (x) the number of Tag Along Securities proposed to be sold in the contemplated Tag Along Sale and (y) a fraction, the numerator of which is the number of Vested Membership Interests (and other Equity Securities that have vested, or are not subject to vesting, in accordance with the terms of the applicable Equity Agreement pursuant to which they were issued) held by such Tag Along Rights Holder, and the denominator of which is the total number of outstanding Vested Membership Interests (and other Equity Securities that have vested, or are not subject to vesting, in accordance with the terms of the applicable Equity Agreement pursuant to which they were issued) held by the Tag Along Selling Member and all of the Tag Along Rights Holders, by giving written notice of such irrevocable election to NGR Management within [__] days of receipt by such Tag Along Rights

Holders of the Tag Along Sale Notice (which notice NGR Management will promptly deliver to the Tag Along Selling Member within [15] days after delivery of the Tag Along Sale Notice to the Tag Along Rights Holders by NGR Management (such Members delivering such notice of election in accordance with this Section 9.3, collectively, the "Electing Members").

(b) Participation Amounts. In the event that any Tag Along Rights Holder elects to sell less than the maximum amount of Membership Interests or other Equity Securities such Tag Along Rights Holder is entitled to sell pursuant to Section 9.3(a) (including if any Tag Along Rights Holder elects to sell no Membership Interests or other Equity Securities, or if any Tag Along Rights Holder fails to give written notice of its election to sell Membership Interests or other Equity Securities within the [15]-day period referred to in Section 9.3(a)), then NGR Management shall notify in writing each other Tag Along Rights Holder that has validly elected to sell the full portion of the Membership Interests or other Equity Securities such Tag Along Rights Holder is entitled to sell pursuant to Section 9.3(a) ("Fully Electing Members") and the Tag Along Selling Member of such fact and a portion thereof not so elected to be sold (the "Unsubscribed Tag Along Securities") may be sold by each of the Fully Electing Members and the Tag Along Selling Member, by delivering a written notice to NGR Management within [two (2)] Business Days after delivery of the written notice from NGR Management described in this sentence, in an amount equal to (i) the number of Unsubscribed Tag Along Securities multiplied by (ii) a fraction, (1) the numerator of which is the amount of Tag Along Securities such Fully Electing Member was initially entitled to sell pursuant to Section 9.3(a) (or, in the case of the Tag Along Selling Member, the number of Tag Along Securities less the aggregate number of Tag Along Securities that the Tag Along Rights Holders would be entitled to sell pursuant to Section 9.3(a) if each such Tag Along Rights Holder was a Fully Electing Member) and (2) the denominator of which is equal to (A) the amount of Tag Along Securities all Fully Electing Members were entitled to sell pursuant to Section 9.3(a) plus (B) the number of Tag Along Securities less (C) the aggregate number of Tag Along Securities that the Tag Along Rights Holders would be entitled to sell pursuant to Section 9.3(a) if each such Tag Along Rights Holder was a Fully Electing Member. To the extent the procedure described in the preceding sentence does not result in the sale of all Unsubscribed Tag Along Securities, such procedure shall be repeated until no Fully Electing Member has further elected to sell any then remaining Unsubscribed Tag Along Securities as set forth in this Section 9.3(b), in which case the Tag Along Selling Member shall be entitled to sell all such remaining Unsubscribed Tag Along Securities. Subject to the other terms set forth in this Section 9.3, each Electing Member participating in such Tag Along Sale shall Transfer its Membership Interests or other Equity Securities on the same terms and conditions as the Tag Along Selling Member, with the aggregate consideration to be paid for all Transferred Membership Interests or other Equity Securities in such Tag Along Sale allocated among each Transferred Membership Interest or other Equity Security based on such Transferred Membership Interest's (or other Transferred Equity Security's) Pro Rata Share, which shall be determined based on the Total Equity Value implied by the price offered in the Tag Along Sale and taking into account such Equity Securities, including, if applicable, on an as converted or as exercised basis, and any related conversion or exercise price. If the Tag Along Rights Holders have not elected to participate in the contemplated Tag Along Sale (through notice to such effect or expiration of the [15] days after delivery of the Tag Along Sale Notice to the Tag Along Rights Holders by NGR Management without providing written notice of election to participate to NGR Management within such period), then the Tag Along Selling Member may Transfer the Tag Along Securities

specified in the Tag Along Sale Notice at a price not more than the price, and on other terms and conditions not materially more favorable to the Tag Along Selling Member, in each case, than those specified in the Tag Along Sale Notice during the [90]-day period beginning on the expiration of such [15]-day period. Any of the Tag Along Securities not Transferred during such [90]-day period shall be subject to the provisions of this Section 9.3 upon subsequent Transfer. The election (or failure to elect) by any Tag Along Rights Holder to sell or not to sell all or any portion of such Tag Along Rights Holder's Membership Interests or Equity Securities in any Tag Along Sale shall not adversely affect such Tag Along Rights Holder's right to participate in any future Tag Along Sale.

(c) Participation Procedure; Conditions. With respect to any Tag Along Sale, the Tag Along Selling Member shall use commercially reasonable efforts to obtain the agreement of the Transferee to the participation of the Electing Members in such contemplated Tag Along Sale (with the Tag Along Securities being reduced by and substituted with the Membership Interests and Equity Securities elected by such Electing Members to be sold in such Tag Along Sale), and the Tag Along Selling Member shall not Transfer any of the Tag Along Securities to any prospective Transferee pursuant to such Tag Along Sale if such prospective Transferee(s) declines to allow the participation of the Electing Members on the terms provided herein, unless in connection with such Tag Along Sale, the Tag Along Selling Member purchases the number and class of Membership Interests or Equity Securities from each Electing Member that such Electing Member would have been entitled to sell pursuant to Section 9.3(a) and Section 9.3(b) at the same price (including amount and form of consideration) and on the same terms and conditions on which such Membership Interests or Equity Securities were intended to be sold to the Transferee(s) as set forth in the Tag Along Sale Notice; provided that the Tag Along Selling Member shall not be obligated to purchase any Blocker Corporation Shares pursuant to Section 9.3(e).

(d) Indemnification; Expenses. Notwithstanding anything herein to the contrary, the Electing Members shall be obligated to join in any indemnification or escrow obligation the Tag Along Selling Member has agreed to in connection with such Tag Along Sale (including any such indemnification obligations that relate specifically to a particular Member, such as indemnification with respect to representations and warranties given by a Member regarding such Member's title to and ownership of Membership Interests); provided that no Electing Member shall be liable for any indemnification, or be required to participate in any escrow arrangement, relating to the Tag Along Sale in excess of the amount of proceeds payable to such Electing Member in connection with such Tag Along Sale (or in an amount that is disproportionate to the liability or participation of the Tag Along Selling Member or any other Electing Member, taking into account the Pro Rata Share of each Membership Interest or Equity Security to be sold in such Tag Along Sale by the Tag Along Selling Member and each Electing Member); provided further that, unless the prospective Transferees permit a Member to give a guarantee, letter of credit or other mechanism (which shall be dealt with on an individual basis), any escrow of proceeds of any such transaction shall be withheld from participating Members based on their respective Tag Along Indemnity Pro Rata Shares and, if applicable, shall be subsequently distributed to participating Members based on their respective Pro Rata Shares; and provided further that the Tag Along Selling Member and the Electing Members shall share on a several (and not joint) basis in indemnification liabilities related to such Tag Along Sale (other than liabilities (if any) related solely to a participating Member which will be borne entirely

(subject to the limitations set forth in the first proviso above) by such participating Member) based on their respective Tag Along Indemnity Pro Rata Shares. Subject to the foregoing, the Tag Along Selling Member and each Electing Member shall enter into any reasonable indemnification or contribution or other agreement reasonably requested by the Tag Along Selling Member to ensure compliance with this Section 9.3(d), and the Tag Along Selling Member will provide draft copies of any such agreement to the Electing Members as part of the Tag Along Sale Notice. The Tag Along Selling Member and each Electing Member shall pay its Tag Along Indemnity Pro Rata Share of the expenses incurred by the participating Members pursuant to a Tag Along Sale to the extent such expenses are incurred for the benefit of all Members (including the costs and expenses (including reasonable attorney's fees and expenses) incurred in connection with enforcing or implementing the terms and provisions of this Section 9.3(d)) and are not otherwise paid by NGR Management, any of its Subsidiaries or the Transferee. Expenses incurred by any Member on its own behalf (including the fees and disbursements of counsel, advisors and other Persons retained by such Member in connection with the Tag Along Sale) will not be considered costs incurred for the benefit of all Members and, to the extent not paid by NGR Management, will be the responsibility of such Member. ["Tag Along Indemnity Pro Rata Share" means, with respect to any Tag Along Sale and any Member, the application of such Member's Pro Rata Share determined based on giving reverse effect to the application of Section 4.1(b) contemplated by the definition of Pro Rata Share (e.g., last proceeds out are to be the first returned, withheld or reduced) with respect to the Total Equity Value implied by the price offered in the Tag Along Sale as the actual proceeds of such Tag Along Sale are reduced by any escrow, indemnification, expenses or similar amounts as contemplated by this Section 9.3(d)].

(e) [Blocker Corporation. If any Electing Member is, or is owned by, a Blocker Corporation, then the Tag Along Selling Member shall request that the prospective Transferee(s) allow the holders of the shares of, or interests in, such Blocker Corporation ("Blocker Corporation Shares") to sell such Blocker Corporation Shares in lieu of such Electing Member's Membership Interests (but otherwise on the terms and conditions set forth in this Section 9.3); provided that such sale would not result in any adverse economic impact to, or the imposition of any liability on, any Person (including NGR Management, the Tag Along Selling Member or any other Member) other than such Blocker Corporation, the pre-Tag Along Sale holders of such Blocker Corporation Shares of such Blocker Corporation or the prospective Transferee(s); provided further that, if the holders of any Blocker Corporation Shares of any Blocker Corporation that is included in the definition of "Tag Along Selling Member" are entitled to sell Blocker Corporation Shares in connection with any Tag Along Sale, then all holders of Blocker Corporation Shares of any other Blocker Corporation that is, or owns, an Electing Member shall be entitled to sell such Blocker Corporation Shares in connection with such Tag Along Sale on the same basis as the holders of the Blocker Corporation Shares of such Significant Interest Holder Blocker Corporation. For the avoidance of doubt, notwithstanding this Section 9.3 or anything else in this Agreement to the contrary, the prospective Transferee(s) shall be free, in its sole discretion, to elect to purchase, or not to purchase, any Blocker Corporation Shares.]

(f) Termination. This Section 9.3 shall terminate upon the earlier to occur of (i) a Sale Transaction and (ii) an IPO.

Section 9.4 Approved Sale; Drag Along Obligations.

(a) Approved Sale. If at any time prior to the consummation of an IPO or a Sale Transaction, one or more Members (together with their respective Affiliates) who hold more than [60]% of the then outstanding Membership Interests (individually and collectively, the "Drag Along Selling Member") propose to sell Membership Interests representing more than [60]% of the then outstanding Membership Interests in a single transaction or related series of transactions (an "Approved Sale"), such Drag Along Selling Member shall have the right, after delivering the Drag Along Notice and subject to compliance with this Section 9.4, to require all other Members (each, a "Dragged Holder," and, collectively, the "Dragged Holders") to vote for, consent to and raise no objections against, and cooperate in any reasonable manner with the Drag Along Selling Member in connection with, such Approved Sale. In furtherance of the foregoing, if the Approved Sale is structured as a (x) merger or consolidation, a conversion or sale of assets, each Dragged Holder shall waive any dissenters' rights, appraisal rights or similar rights in connection with such merger or consolidation or sale of assets, or (y) sale of Membership Interests or other Equity Securities, each Dragged Holder shall agree to sell and Transfer, and shall sell and Transfer, all (or such lesser portion reflecting such Dragged Holder's Pro Rata Share of the aggregate portion of the Total Equity Value implied in the Approved Sale being Transferred in such Approved Sale) of such Dragged Holder's Membership Interests and other Equity Securities, in each case, on the terms and conditions approved by the Drag Along Selling Member; provided, that such terms and conditions shall not be less favorable to any Dragged Holder than those terms and conditions applicable to the Drag Along Selling Member (taking into account the Pro Rata Share of each Membership Interest to be sold in such Approved Sale). Each Dragged Holder shall take all reasonably necessary actions in connection with the consummation of the Approved Sale (whether in such Person's capacity as a Member, Manager or otherwise) as reasonably requested by the Drag Along Selling Member (including executing and delivering any and all reasonable and customary agreements, instruments, consents, waivers and other documents that are required by the buyer in such Approved Sale in the same forms executed by the Drag Along Selling Member (including any applicable purchase agreement, stockholders agreement, escrow agreement and/or indemnification and/or contribution agreement); [provided, that a Dragged Holder shall not be required to enter into any non-competition or non-solicitation agreement (except for a Dragged Holder that is subject to an Employment Agreement, who may be required to enter into a non-competition or non-solicitation agreement, provided that such agreement is no more restrictive than the most restrictive non-competition or non-solicitation covenant in such Dragged Holder's Employment Agreement)] ; provided, that no Dragged Holder shall be required to make any payment or incur any expenses in connection therewith, except as set forth in Section 9.4(c). The Drag Along Selling Member shall provide each Dragged Holder with written notice (the "Drag Along Sale Notice") specifying in reasonable detail the material terms and conditions of the Approved Sale, including the identity of the prospective buyer in such Approved Sale, the number of Membership Interests to be Transferred and the proposed amount and form of consideration to be paid in connection with such Approved Sale, at least [ten (10)] Business Days prior to any such Approved Sale, and the Drag Along Selling Member shall attach to any such Drag Along Sale Notice draft copies of all of the agreements referred to in the immediately preceding sentence; provided that each Dragged Holder shall retain and treat such copies in accordance with Section 6.7.

(b) Conditions. The obligations of the Members with respect to the Approved Sale are subject to the satisfaction of the following additional conditions: (i) the consideration payable upon consummation of such Approved Sale to all Members shall be allocated among the Members based upon the Pro Rata Share represented by the Membership Interests Transferred by such Member pursuant to such Approved Sale; (ii) upon the consummation of the Approved Sale, all of the Members of a particular class of Membership Interest shall receive (or shall have the option to receive) the same form of consideration for such class of Membership Interest and the same per Membership Interest amount of consideration for such class of Membership Interest; provided that, in the event that any securities are part of the consideration payable to the Members, each Member that is not an Accredited Investor may, in the discretion of the Board, receive, and hereby agrees to accept, in lieu of such securities, cash consideration equal to the Fair Market Value of such securities as of the closing of such Approved Sale; and (iii) if any Member of a particular class of Membership Interests is given an option as to the form and amount of consideration to be received or any other right or benefit with respect to the Approved Sale, each other Member of such class of Membership Interests shall be given the same option, right or benefit (other than, in the case of clause (ii) and clause (iii) of this Section 9.4(b), any consideration, option, right or benefit to be received by a Management Investor on account of such individual's employment relationship with NGR Management or any of its Subsidiaries (e.g., stay bonus, non-competition agreement, right to reinvest or rollover equity, etc.).

(c) Indemnification; Expenses. Notwithstanding anything to the contrary in this Agreement, the Dragged Holders shall be obligated to join in any indemnification or escrow obligation the Drag Along Selling Member has agreed to in connection with an Approved Sale (including any such indemnification obligations that relate specifically to a particular Member, such as indemnification with respect to representations and warranties given by a Member regarding such Member's title to and ownership of Membership Interests); provided that no Dragged Holder shall be liable for any indemnification, or be required to participate in any escrow arrangement, relating to the Approved Sale in excess of the amount of proceeds payable to such Dragged Holder in connection with such Approved Sale (or in an amount that is disproportionate to the liability or participation of the Drag Along Selling Member or any other Dragged Holder, taking into account the Pro Rata Share of each Membership Interest to be sold in such Approved Sale by the Drag Along Selling Member and each Dragged Holder); provided further that, that unless a prospective Transferee permits a Member to give a guarantee, letter of credit or other mechanism (which shall be dealt with on an individual basis), any escrow of proceeds of any such Approved Sale shall be withheld from Members based on their respective Drag Along Indemnity Pro Rata Shares and, if applicable, shall be subsequently distributed to the Members based on their respective Pro Rata Shares; and provided further that the Drag Along Selling Member and the Members shall share on a several (and not joint) basis in indemnification liabilities related to such Approved Sale (other than liabilities (if any) related solely to a Member which will be borne entirely (subject to the limitations set forth in the first proviso above) by such Member) based on their respective Drag Along Indemnity Pro Rata Shares. Subject to the foregoing, the Drag Along Selling Member and each Dragged Holder shall enter into any reasonable indemnification or contribution or other agreement reasonably requested by the Drag Along Selling Member to ensure compliance with this Section 9.4(c), and the Drag Along Selling Member will provide draft copies of any such agreement to the Dragged Holders as part of the Drag Along Sale Notice; provided that each Dragged Holder shall retain and treat such copies in accordance with Section 6.7. Each Dragged Holder shall pay its Drag

Along Indemnity Pro Rata Share of the expenses incurred by the Members pursuant to an Approved Sale to the extent such expenses are incurred for the benefit of all Members (including the costs and expenses (including reasonable attorney's fees and expenses) incurred in connection with enforcing or implementing the terms and provisions of this Section 9.4(c)) and are not otherwise paid by NGR Management, any of its Subsidiaries or the Transferee. Expenses incurred by any Member on its own behalf (including the fees and disbursements of counsel, advisors and other Persons retained by such Member in connection with the Approved Sale) will not be considered costs incurred for the benefit of all Members and, to the extent not paid by NGR Management, will be the sole responsibility of such Member. ["Drag Along Indemnity Pro Rata Share" means, with respect to any Approved Sale and any Member, the application of such Member's Pro Rata Share determined based on giving reverse effect to the application of Section 4.1(b) contemplated by the definition of Pro Rata Share (e.g., last proceeds out are to be the first returned, withheld or reduced) with respect to the Total Equity Value implied by the Approved Sale as the actual proceeds of such Approved Sale are reduced by any escrow, indemnification, expenses or similar amounts as contemplated by this Section 9.4(c).]

(d) Blocker Corporation. If any Dragged Holder is or is owned by a Blocker Corporation, and the Approved Sale is structured as a sale of Membership Interests or other Equity Securities (including equity of one or more Subsidiaries of NGR Management) to one or more buyers (collectively, the "Buyer"), the Drag Along Selling Member shall request that the Buyer allow the holders of the Blocker Corporation Shares to sell Blocker Corporation Shares in lieu of such Dragged Holder's Membership Interests and other Equity Securities (but otherwise on the terms and conditions set forth in this Section 9.4); provided that such sale would not result in any adverse economic impact to, or the imposition of any liability on, any Person (including NGR Management, the Drag Along Selling Member or any other Member) other than such Blocker Corporation, the pre-Approved Sale holders of the Blocker Corporation Shares of such Blocker Corporation or the Buyer; provided further that, if the holders of any Blocker Corporation Shares of any Blocker Corporation that is included in the definition of "Drag Along Selling Member" are entitled to sell Blocker Corporation Shares in connection with any Approved Sale, then all holders of Blocker Corporation Shares of any other Blocker Corporation that is, or owns, a Dragged Holder shall be entitled to sell such Blocker Corporation Shares in connection with such Approved Sale on the same basis as the holders of the Blocker Corporation Shares of such Drag Along Selling Member Blocker Corporation. For the avoidance of doubt, notwithstanding this Section 9.4 or anything else in this Agreement to the contrary, the Buyer shall be free, in its sole discretion, to elect to purchase, or not to purchase, the Blocker Corporation Shares.

(e) Purchaser Representative. If NGR Management, the Tag Along Selling Member and/or the Drag Along Selling Member enter into any negotiation or transaction with respect to a Tag Along Sale or Approved Sale for which Rule 506 of Regulation D (or any similar rule then in effect) promulgated by the SEC may be available with respect to such negotiation or transaction (including a merger, consolidation, conversion, share exchange or other reorganization), any Member who is not an Accredited Investor shall, at the request of NGR Management or the Drag Along Selling Member, as the case may be, appoint a Purchaser Representative designated by NGR Management and reasonably acceptable to the Drag Along Selling Member. If any Member appoints a Purchaser Representative in accordance with this Section 9.4(e), NGR Management shall pay the fees and expenses of such Purchaser

Representative. However, if any such Member declines to appoint the Purchaser Representative designated by NGR Management, such Member shall appoint another Purchaser Representative (reasonably acceptable to NGR Management and the Drag Along Selling Member), and such Member shall be solely responsible for the fees and expenses of the Purchaser Representative so appointed.

(f) Waiver of Dissenters Rights or Appraisal Rights. In no circumstances shall this Section 9.4 be construed to grant to any Member any dissenters rights or appraisal rights or give any Member any right to vote in any transaction structured as a merger or consolidation or sale of assets (it being understood that all Members have waived any rights under Section 18-210 of the Delaware Act pursuant to Section 1.2). In the circumstances in which this Section 9.4 applies, each Member expressly grants to the Board the sole right to approve or consent to an Approved Sale, regardless of how structured, whether as a merger, conversion, consolidation, sale of assets, sale of Membership Interests or other Equity Securities or otherwise, without any requirement for receipt of the vote, approval or consent of any Member (subject to the compliance of the Board and NGR Management with this Section 9.4).

(g) Termination. This Section 9.4 shall terminate upon the earlier to occur of (i) a Sale Transaction and (ii) an IPO.

Section 9.5 Effect of Assignment.

(a) Termination of Rights. Any Member that assigns any Membership Interests or other interest in NGR Management shall cease to be a Member with respect to such Membership Interests or other interest and, except as referred to in Section 2.8, shall no longer have any rights or privileges of a Member with respect to such Membership Interests or other interest; provided that, notwithstanding the foregoing, unless and until the Assignee is admitted as a Substituted Member in accordance with the provisions of Section 2.3 (the "Admission Date"), (i) such assigning Member shall retain all of the duties, liabilities and obligations of a Member with respect to such Membership Interests or other interest, including the obligation (together with its Assignee) pursuant to Section 9.5(c) to return Distributions on account of such Membership Interests or other interest pursuant to the terms of this Agreement and (ii) the Board may, in its sole discretion, reinstate all or any portion of the rights and privileges of such Member with respect to such Membership Interests or other interest for any period of time prior to the Admission Date. Nothing contained herein shall relieve any Member who Transfers any Membership Interests or other interest in NGR Management from any liability of such Member to NGR Management or the other Members with respect to such Membership Interests or other interest that may exist on the Admission Date or that is otherwise specified in the Delaware Act and incorporated into this Agreement or for any liability to NGR Management or any other Person for any breaches of any representations, warranties or covenants by such Member (in its capacity as such) contained herein (or in any Equity Agreement to which such Person is a party) or in the other agreements with NGR Management or any of its Subsidiaries.

(b) Deemed Agreement. Any Person who acquires in any manner whatsoever any interest in any Membership Interests or other interest in NGR Management, irrespective of whether such Person has accepted and adopted in writing the terms and provisions of this Agreement, shall be deemed by the acceptance of the benefits of the acquisition thereof or the

benefits of any Equity Agreement or Employment Agreement, to have agreed to be subject to and bound by all of the terms and conditions of this Agreement or any such Equity Agreement or Employment Agreement that the Transferor of such Membership Interests or other interest in NGR Management was subject to or by which such Transferor was bound.

(c) Assignee's Rights. A Transfer of Membership Interests permitted hereunder shall be effective as of the date of assignment and compliance with the conditions to such Transfer set forth in this Agreement, and such Transfer shall be shown on the books and records of NGR Management (including the Membership Interest Ownership Ledger). Distributions made before the effective date of such Transfer shall be paid to the Transferor, and Distributions made after such date shall be paid to the Assignee. Unless and until an Assignee becomes a Member pursuant to Section 2.2 or Section 2.3 hereof, the Assignee shall not be entitled to any of the rights or privileges granted to a Member hereunder or under applicable Law, other than the rights and privileges specifically granted to Assignees pursuant to this Agreement; provided that, without relieving the Transferring Member from any such limitations or obligations, such Assignee shall be bound by any limitations and obligations of a Member contained herein by which a Member would be bound on account of the ownership of Membership Interests by the Assignee (including the obligation, if any, to return Distributions on account of such Membership Interests as set forth in Section 6.1(c) and the obligations set forth in ARTICLE IX).

Section 9.6 Additional Restrictions on Transfer.

(a) Restrictions. In addition to any other restrictions on the Transfer of Equity Securities contained in this Agreement, notwithstanding anything in this Agreement to the contrary, no Transfer of any Equity Security shall be made if such Transfer would violate then applicable Law, including U.S. federal or state securities Laws or rules and regulations of the SEC, any state securities commission or any other applicable securities Laws of a Governmental Entity (including those outside the jurisdiction of the U.S.) with jurisdiction over such Transfer or have the effect of rendering unavailable any exemption under applicable Law relied upon for a prior Transfer of such Equity Securities. In furtherance of the foregoing, Membership Interests are Transferable only pursuant to (i) public offerings registered under the Securities Act, (ii) Rule 144 or Rule 144A under the Securities Act (or any similar rules then in force) if such rule is available, (iii) any other available exemption from the registration requirements of Section 5 of the Securities Act and (iv) other legally available means of Transfer permitted by this Agreement. If any Member proposes to Transfer any Membership Interests pursuant to Rule 144A under the Securities Act, then as an additional condition to such Transfer, the Transferee must execute and deliver to NGR Management the Rule 144A certificate in form and substance as attached hereto as Exhibit D. Notwithstanding any other provision of this Agreement, no Transfer of a Membership Interest shall be permitted without the consent of the Board if such Transfer (A) would cause all or any portion of the assets of NGR Management to constitute "plan assets" for purposes of ERISA, (B) would cause NGR Management to be required to register the Membership Interests under the Securities Exchange Act unless, at the time of such Transfer, NGR Management is already subject to reporting obligations under Section 13 or Section 15(d) of the Securities Exchange Act, or (C) is to a Competitor (as determined by the Board in its sole, but good faith, discretion).

(b) Execution of Counterpart. Except in connection with an Approved Sale or a Public Sale, each Transferee of Membership Interests or other Equity Securities shall, as a condition precedent to such Transfer, execute and deliver to NGR Management a Joinder or counterpart to this Agreement in form and substance reasonably acceptable to the Board pursuant to which such Transferee shall agree to be bound by the provisions of this Agreement.

(c) Tax Information. Except in connection with an Approved Sale or a Public Sale, each Transferee of Membership Interests or other interests in NGR Management shall, as a condition precedent to such Transfer, execute and deliver the appropriate tax documents determined in accordance with the following: (i) if the Transferee is a "United States person" for U.S. federal tax purposes, the Transferee shall complete, execute and deliver to NGR Management a Form W-9 of the Internal Revenue Service, and (ii) if the Transferee is not a "United States person" for U.S. federal tax purposes, the Transferee shall complete, execute and deliver (and, if the Transferee is not a "United States person" and is also a "flow-through entity" for U.S. federal tax purposes, the Transferee shall cause each beneficial owner of such Transferee of any amounts to be allocated or distributed to the Transferee by NGR Management for U.S. federal income tax purposes (each such beneficiary, a "Beneficial Tax Owner") to complete, execute and deliver) to NGR Management the applicable Form W-8 of the Internal Revenue Service (or Form W-9 in the case of any Beneficial Tax Owner that is a "United States person" for U.S. federal tax purposes) (collectively, such Forms W-8 and W-9 are referred to herein as the "Tax Forms"). More specifically, Transferees and Beneficial Tax Owners that are not "United States persons" are required to provide information about their status for withholding tax purposes on Form W-8BEN or W-8BEN-E (for non-United States Beneficial Owners), Form W-8IMY (for non-United States intermediaries, flow-through entities, and certain United States branches), Form W-8EXP (for non-United States governments, non-United States central banks of issue, non-United States tax-exempt organizations, non-United States private foundations, and governments of certain United States possessions), or Form W-8ECI (for non-"United States persons" receiving income that is effectively connected with the conduct of a trade or business in the United States), as more specifically described in the instructions accompanying those forms. Any Transferee that is not a "United States person" must also provide a United States taxpayer identification number on the applicable Form W-8. For purposes of determining which Tax Form to prepare, "United States person" means (i) a United States citizen or resident, (ii) a partnership or corporation (for U.S. federal income tax purposes) organized under United States Law, (iii) a United States estate (or any other estate whose income from sources outside of the United States is subject to U.S. federal income tax regardless of the source) or (iv) a trust if a court within the United States is able to exercise primary supervision over the trust's administration and one or more United States persons have the authority to control all of its substantial decisions or if a valid election to be treated as a United States person is in effect with respect to such trust.

(d) Notice. In connection with the proposed Transfer of any Membership Interests or other Equity Securities or interest in NGR Management, the holder of such Membership Interests or Equity Securities will deliver prior written notice to NGR Management describing in reasonable detail the proposed Transfer and the proposed Transferee, including the name, jurisdiction of organization (if applicable) and contact information for the proposed Transferee.

(e) Legal Opinion. No Transfer of Membership Interests or any other Equity Securities or interest in NGR Management (other than a Transfer to a Permitted Transferee) may be made unless in the written opinion of Transferor's counsel, satisfactory in form and substance to the Board and counsel for NGR Management (which opinion requirement may be waived by the Board in whole or in part at the sole discretion of the Board), such Transfer would not violate any federal securities Laws, or cause NGR Management to be required to register as an "Investment Company" under the U.S. Investment Company Act of 1940, as amended. Such opinion of counsel shall be delivered in writing to NGR Management prior to the date of the Transfer. In addition, if the Member holding such Membership Interests delivers to NGR Management an opinion of counsel (who may be counsel for NGR Management), reasonably satisfactory in form and substance to the Board and counsel for NGR Management (which opinion may be waived, in whole or in part, at the sole discretion of the Board) that no subsequent Transfer of such Membership Interests by any Person that is not an Affiliate of NGR Management (or that may be deemed to have been an Affiliate of NGR Management during the three (3) months preceding any such Transfer) will require registration under the Securities Act, subject to any further requirements of any transfer agent of NGR Management, NGR Management will promptly upon such contemplated Transfer deliver, or caused to be delivered, new certificates or instruments, as the case may be, for such Membership Interests which do not bear the portion of the restrictive legend relating to the Securities Act.

Section 9.7 Legend.

Certificates representing Membership Interests will bear the following legend.

"THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE WERE ORIGINALLY ISSUED ON, _____, HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR APPLICABLE STATE SECURITIES LAWS ("STATE ACTS") AND MAY NOT BE SOLD, ASSIGNED, PLEDGED, TRANSFERRED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR STATE ACTS OR AN EXEMPTION FROM REGISTRATION THEREUNDER. THE TRANSFER OF THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO THE CONDITIONS SPECIFIED IN AN AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT AS AMENDED AND MODIFIED FROM TIME TO TIME, GOVERNING THE ISSUER (THE "COMPANY"), BY AND AMONG CERTAIN INVESTORS (THE "LLC AGREEMENT"), A COPY OF WHICH SHALL BE FURNISHED BY THE COMPANY TO THE RECORD HOLDER HEREOF UPON WRITTEN REQUEST WITHOUT CHARGE."

To the extent applicable, Membership Interest certificates held by Management Investors may also bear a legend in substantially the following form.

"THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE MAY ALSO BE SUBJECT TO CERTAIN VESTING PROVISIONS, REPURCHASE OPTIONS, REDEMPTION RIGHTS, OFFSET RIGHTS AND FORFEITURE PROVISIONS SET FORTH IN THE LLC AGREEMENT OR A SEPARATE AGREEMENT WITH THE INITIAL HOLDER OF SUCH MEMBERSHIP INTERESTS, A COPY OF WHICH SHALL BE FURNISHED BY THE COMPANY TO THE RECORD HOLDER HEREOF UPON WRITTEN REQUEST AND WITHOUT CHARGE."

Section 9.8 Transfer Fees and Expenses. Except as provided in Section 10.2, Section 9.3 and Section 9.4, the Transferor and Transferee of any Membership Interests or other interest in NGR Management shall be jointly and severally obligated to reimburse NGR Management for all reasonable expenses (including reasonable attorneys' fees and expenses) incurred by NGR Management in connection with any Transfer or proposed Transfer, whether or not consummated.

Section 9.9 Void Transfers. Except pursuant to Section 10.1, any Transfer by any Member of any Membership Interests or other interest in NGR Management in contravention of this Agreement shall be void and ineffectual *ab initio* and shall not bind or be recognized by NGR Management, any Member or any other Person. No purported Assignee in such a transaction shall have any right to Distributions of NGR Management or any other rights under this Agreement.

ARTICLE X

INITIAL PUBLIC OFFERING; REGISTRATION RIGHTS

Section 10.1 Conversion to Corporate Form Upon an Initial Public Offering.

(a) IPO Approval. The Board may at any time approve an IPO by NGR Management or by New Gulf or by any of their respective Subsidiaries. In the event of a planned IPO by NGR Management or a Subsidiary, NGR Management shall convert all (or the appropriate portion) of the Membership Interests then held by Members into an economically equivalent number of shares of the common stock of NGR Management, New Gulf or their applicable Subsidiary effecting such IPO (the "Common Stock"). If the Board approves an IPO of NGR Management, New Gulf or any of their Subsidiaries, each Member hereby consents to such IPO and shall vote for (to the extent it has any voting right) and raise no objections against such IPO, and each Member shall take all reasonable actions in connection with the consummation of such IPO as requested by the Board.

(b) Required Actions. [In connection with an IPO, the Board may, in its sole discretion, either (i) cause NGR Management to contribute all or substantially all of its assets to a corporation in a transaction qualified under Section 351(a) of the Code, and thereupon liquidate and dissolve NGR Management, (ii) elect to have all Members contribute their Membership Interests to a corporation, in a transaction qualifying under Section 351(a) of the Code, as long as, in the judgment of the Board, the Fair Market Value of the shares of the corporation received

by all Members is equal to the Fair Market Value of the Membership Interests Transferred, (iii) cause NGR Management to distribute some or all of the shares of capital stock or equity interests of one or more Subsidiaries of NGR Management to the Members, (iv) cause NGR Management to Transfer its assets, liabilities and operations to a corporation in exchange for any combination of cash, debt or capital stock in such corporation, (v) cause a corporation to be admitted as a Member of NGR Management, with such corporation purchasing interests in NGR Management from NGR Management or Members (as determined by the Board) with the proceeds of a Public Offering of the corporation's stock; or (vi) otherwise cause NGR Management to convert into a corporation, by way of merger, consolidation or otherwise. Each Member hereby consents to such actions and shall vote for (to the extent it has any voting right) and raise no objections with respect to such actions, and each Member shall, at the request of the Board, take all actions reasonably necessary or desirable to effect such actions (including whether by conversion to a corporation, merger or consolidation into a corporation, recapitalization or reorganization, sale of securities, or otherwise), giving effect to substantially the same economic (other than any Tax effects resulting therefrom), voting and corporate governance provisions contained herein (any such transaction contemplated by this Section 10.1, a "Corporate Conversion"). In connection with any such Corporate Conversion, each Member hereby agrees to enter into a shareholders agreement (or equivalent) with the corporate successor (the "Reorganized Issuer") and each other Member which contains restrictions on the Transfer of such capital stock and other provisions (including with respect to the governance and control of such Reorganized Issuer) in form and substance (including with respect to the termination thereof) similar to the provisions and restrictions set forth herein (including in ARTICLE V and ARTICLE IX) to the extent reasonably requested by the Board.]

Section 10.2 Registration Rights. In connection with but prior to the consummation of (i) an IPO or (ii) a transaction that results in the equity securities of NGR Management becoming publicly traded, NGR Management or the applicable Reorganized Issuer shall enter into a registration rights agreement with the Members with respect to the future registration under the Securities Act of securities of NGR Management or the applicable Reorganized Issuer held by the Members, in form and substance reasonably satisfactory to the Board; provided that such registration rights agreement shall provide that:

(a) each [15]% Holder will have the right to elect to participate on a Pro Rata Basis (relative to all [15]% Holders that so elect to participate) in any Public Offerings (other than an IPO) initiated voluntarily by NGR Management or any Reorganized Issuer or initiated as a result of any exercise of contractual registration rights by any other Person, subject to customary underwriter cutbacks, lockups and other customary exceptions or limitations approved by the Board and by holders of a majority of the Membership Interests or other equity securities held by those [15]% Holders electing to participate in such Public Offering; and

(b) following the [first] anniversary of the consummation of an IPO until [__] days thereafter, subject to customary exceptions or limitations to be approved by the Board and by holders of a majority of the Membership Interests or other equity securities held by all Persons then exercising such demand registration right, each (i) [25]% Holder and (ii) each Specified Initial Interest Holder (to the extent, as of the determination date, such entity is not a [25]% Holder), provided that such entity (together with its Affiliates) then holds at least [80]% of

the Membership Interests such entity held on the Effective Date [(subject to Adjustments)], shall be entitled to two (2) demand registrations.

Section 10.3 Holdback Agreement. No Member shall effect any Public Sale or distribution of any Membership Interests or of any capital stock or equity securities of NGR Management or any Reorganized Issuer, or any securities convertible into or exchangeable or exercisable for such Membership Interests, stock or equity securities, (i) in the case of an IPO, during the seven days prior to and the 180-day period beginning on the effective date of such IPO and (ii) in the case of any other underwritten Public Offering, during the seven days prior to and the 90-day period beginning on the effective date of such Public Offering, in each case, except as part of such underwritten Public Offering or unless otherwise permitted by the Board; provided, however, that the Board shall not discriminate among the Members with respect to any holdback arrangement pursuant to this Section 10.3.

Section 10.4 [Roll-Up Transaction. In connection with any Corporate Conversion, any Significant Interest Holder that holds Membership Interests through a Blocker Corporation shall be entitled to merge such Blocker Corporation into the Reorganized Issuer and/or contribute the equity securities of such Blocker Corporation into the Reorganized Issuer, in any such case in a tax-free transaction (a "Roll-Up Transaction"), pursuant to which Roll-Up Transaction the holders of any equity securities in the Blocker Corporation that is so merged or the equity securities which are so contributed shall receive in exchange for such equity securities the same aggregate number and type of shares of capital stock of the Reorganized Issuer as would be issuable pursuant to the Corporate Conversion in respect of the Membership Interests held directly or indirectly by the Blocker Corporation immediately prior to such Roll-Up Transaction; provided, however, that no Significant Interest Holder shall be entitled to effect a Roll-Up Transaction if (and such conditions shall be applied to the Significant Interest Holders on an equal and non-discriminatory basis) (a) such Roll-Up Transaction would result in an adverse Tax consequence to any Person (including NGR Management, the Reorganized Issuer or any other Member) other than the pre-transaction shareholders of such Significant Interest Holder's Blocker Corporation or (b) such Significant Interest Holder's Blocker Corporation has any liabilities at the time of such Roll-Up Transaction (other than immaterial liabilities relating to maintaining its existence or activities incidental thereto).]

ARTICLE XI

DISSOLUTION AND LIQUIDATION

Section 11.1 Dissolution. NGR Management shall not be dissolved by the admission of Additional Members or Substituted Members. NGR Management shall dissolve, and its affairs shall be wound up upon the first of the following to occur:

(a) a unanimous election of the Board to dissolve; and

(b) the entry of a decree of judicial dissolution of NGR Management under Section 18-802 of the Delaware Act.

Except as otherwise set forth in this ARTICLE XI, NGR Management is intended to have perpetual existence. An Event of Withdrawal shall not cause the dissolution of NGR Management, and NGR Management shall continue in existence notwithstanding any such Event of Withdrawal subject to the terms and conditions of this Agreement.

Section 11.2 Liquidation and Termination. Upon the dissolution of NGR Management in accordance with this Agreement, the Board shall act as liquidator or may appoint one or more representatives, Members or other Persons as liquidator(s). The liquidators shall proceed diligently to wind up the affairs of NGR Management and make final distributions as provided herein and in the Delaware Act. The costs of liquidation shall be borne as NGR Management's expense. Until final distribution, the liquidators shall continue to operate NGR Management's properties with all of the power and authority of the Board. The steps to be accomplished by the liquidators are as follows:

(a) The liquidators shall pay, satisfy or discharge from NGR Management's funds all of the debts, liabilities and obligations of NGR Management (including all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including the establishment of a cash fund for contingent liabilities in such amount and for such term as the liquidators may reasonably determine).

(b) As promptly as practicable after dissolution, the liquidators shall (i) determine the Fair Market Value (the "Liquidation FMV") of NGR Management's remaining assets (the "Liquidation Assets") in accordance with ARTICLE XII hereof, (ii) determine the amounts to be distributed to each Member in accordance with Section 4.1(b), and (iii) deliver to each Member a statement (the "Liquidation Statement") setting forth the Liquidation FMV and the amounts and recipients of such Distributions, which Liquidation Statement shall be final and binding on all Members absent fraud, manifest error or willful misconduct.

(c) As soon as the Liquidation FMV and the proper amounts of Distributions have been determined in accordance with Section 11.2(b) above, the liquidators shall promptly distribute NGR Management's Liquidation Assets to the holders of Membership Interests in accordance with Section 4.1(b) above. In making such distributions, the liquidators shall allocate each type of Liquidation Assets (i.e., cash or cash equivalents, preferred or common equity securities, etc.) among the Members ratably based upon the aggregate amounts to be distributed with respect to the Membership Interests held by each such Member in accordance with the immediately preceding sentence; provided that, in the event that any securities are part of the Liquidation Assets, each Member that is not an Accredited Investor may, in the sole discretion of the Board, receive, and hereby agrees to accept, in lieu of such securities, cash consideration with an equivalent value to such securities as determined by the Board. The distribution of cash and/or property to a Member in accordance with the provisions of this Section 11.2(b) constitutes a complete return to the Member of its Capital Contributions and a complete distribution to the Member of its interest in NGR Management and all of NGR Management's property and constitutes a compromise to which all Members have consented within the meaning of the Delaware Act. To the extent that a Member returns funds to NGR Management, it has no claim against any other Member for those funds.

Section 11.3 Cancellation of Certificate. On completion of the distribution of NGR Management's assets as provided herein, NGR Management shall be terminated (and NGR Management shall not be terminated prior to such time), and the Board (or such other Person or Persons as the Delaware Act may require or permit) shall file a certificate of cancellation with the Secretary of State of Delaware, cancel any other filings made pursuant to this Agreement that are or should be canceled and take such other actions as may be necessary to terminate NGR Management. NGR Management shall be deemed to continue in existence for all purposes of this Agreement until it is terminated pursuant to this Section 11.3.

Section 11.4 Reasonable Time for Winding Up. A reasonable time shall be allowed for the orderly winding up of the business and affairs of NGR Management and the liquidation of its assets pursuant to Section 11.2 in order to minimize any losses otherwise attendant upon such winding up.

Section 11.5 Return of Capital. The liquidators shall not be personally liable for the return of Capital Contributions or any portion thereof to the Members (it being understood that any such return shall be made solely from NGR Management's assets).

Section 11.6 Hart-Scott-Rodino. In the event the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "HSR Act") is applicable to any Member, the dissolution of NGR Management shall not be consummated until such time as the applicable waiting period (and extensions thereof) under the HSR Act have expired or otherwise been terminated with respect to each such Member.

ARTICLE XII

VALUATION

Section 12.1 Valuation of Membership Interests. The "Fair Market Value" of each Membership Interest shall be the fair value of each such Membership Interest determined in good faith by the Board based on the portion of the Total Equity Value to which each such Membership Interest would be entitled as of the date of valuation in accordance with Section 4.1(a) or Section 4.1(b), as applicable based on the provision of this Agreement pursuant to which the Fair Market Value of such Membership Interest is being determined.

Section 12.2 Valuation of Securities. The "Fair Market Value" of any other securities shall mean the average of the closing prices of the sales of the securities on all securities exchanges on which the securities may at the time be listed, or, if there have been no sales on any such exchange on any day, the average of the highest bid and lowest asked prices on all such exchanges at the end of such day, or, if on any day such securities are not so listed, the average of the representative bid and asked prices quoted in the NASDAQ System as of 4:00 P.M., New York time, or, if on any day such securities are not quoted in the NASDAQ System, the average of the highest bid and lowest asked prices on such day in the domestic over-the-counter market as reported by the National Quotation Bureau Incorporated, or any similar successor organization, in each such case averaged over a period of 21 days consisting of the day as of which the Fair Market Value is being determined and the 20 consecutive Business Days prior to such day. If at any time the securities are not listed on any securities exchange or quoted in the

NASDAQ System or the over-the-counter market, the Fair Market Value of each such security shall be equal to the fair value thereof as of the date of valuation as determined in good faith by the Board on the basis of an orderly sale to a willing, unaffiliated buyer in an arm's-length transaction, taking into account all relevant factors determinative of value as the Board determines relevant (and giving effect to any transfer Taxes payable or discounts in connection with such sale).

Section 12.3 Valuation of Other Assets. The "Fair Market Value" of all other non-cash assets shall mean the fair value thereof as of the date of valuation as determined in good faith by the Board on the basis of an orderly sale to a willing, unaffiliated buyer in an arm's-length transaction occurring on the date of valuation, taking into account all relevant factors determinative of value as the Board deems relevant (and giving effect to any transfer Taxes payable or discounts in connection with such sale).

ARTICLE XIII

GENERAL PROVISIONS

Section 13.1 Power of Attorney. Each Member hereby constitutes and appoints the Board and the liquidators, if any and as applicable, and their respective designees, with full power of substitution, as his, her or its true and lawful agent and attorney-in-fact, with full power and authority in his, her or its name, place and stead, to execute, swear to, acknowledge, deliver, file and record in the appropriate public offices (to the same extent such Person could take such action) all instruments necessary for any Transfer of Membership Interests pursuant to an Approved Sale pursuant to Section 9.4 that such Member shall have refused to execute, swear to, acknowledge, deliver, file and/or record within [three (3)] Business Days after being given written notice thereof (and the Board and the liquidators, if any and as applicable, may not exercise such power of attorney prior to such time or with respect to any instruments not required to be executed, sworn to, acknowledged, delivered, filed and/or recorded by any such Member pursuant to Section 9.4). The foregoing power of attorney is irrevocable and coupled with an interest, and shall survive the death, disability, incapacity, dissolution, bankruptcy, insolvency or termination of any Member and the Transfer of all or any portion of his or its Membership Interests and shall extend to such Member's heirs, successors, assigns and personal representatives.

Section 13.2 Amendments.

(a) Subject to (i) the right of the Board to amend this Agreement as expressly provided herein (including pursuant to Section 2.7) and (ii) Section 6.5(k) regarding certain indemnification rights, this Agreement may be amended, modified, or waived (including any amendment, modification, or waiver pursuant to a merger or consolidation) only with the written consent of the majority of the Board and the Majority Holders, and such amendment, modification or waiver shall be binding upon and effective as to each other Member; provided that if any such amendment, modification, or waiver (including any amendment, modification or waiver pursuant to a merger or consolidation) would adversely affect any of the rights, preferences, liabilities or obligations (as applicable) of any Member (in its capacity as a holder of Membership Interests of a particular class) set forth in this Agreement in a manner that is

different or disproportionate in any material respect from the effect on the rights, preferences, liabilities or obligations (as applicable) of any of the other Members (in their capacity as a holders of Membership Interests of such particular class of Membership Interests held by the affected Member) set forth in this Agreement (other than in proportion to the number of such Membership Interests), such amendment, modification, or waiver shall also require the written consent of such affected Member (it being understood that determining whether consent of any Member is required pursuant to this proviso, no personal circumstances of such Member shall be considered). No course of dealing or oral agreement between or among the Members (or between the Members and NGR Management) shall be effective to modify, amend, limit, restrict, eliminate, replace, alter or discharge any part of this Agreement or any rights or obligations of any Member or NGR Management or any other Person under or by reason of this Agreement or the Delaware Act.

(b) In addition to the consent required by Section 13.2(a), no amendment, modification or waiver (including any amendment, modification, or waiver pursuant to a merger or consolidation) relating to (including defined terms used therein):

(i) [the Specified Initial Interest Holders' rights pursuant to Section 2.9(a) or Section 7.2, shall be effective without each Specified Initial Interest Holder's prior written consent;]

(ii) any Specified Initial Interest Holder's registration rights pursuant to Section 10.2(b) shall be effective without the consent of such Specified Initial Interest Holder;

(iii) the right to appoint a member to the Board pursuant to Section 5.2Section 5.2(d) shall be effective without the prior written consent of such Person(s) having the right to appoint such Board member;

(iv) Section 2.3, [Section 5.2(d)], Section 9.1, Section 9.2, Section 9.5, Section 9.6, Section 9.7, Section 9.8 or Section 9.9 shall be effective without the prior written consent of each Specified Initial Interest Holder or Significant Interest Holder (as applicable) whose rights or obligations are adversely affected in any way (economic or non-economic) by such amendment, modification or waiver;

(v) this Section 13.2 shall be effective without the prior written consent of the Member or requisite percentage or number of Members that would be required to amend the underlying provision of this Agreement to which such amendment, modification or waiver relates (it being understood that any amendment, modification or waiver of this Section 13.2(b)(v) (the "Section 13.2(b)(v) amendment") shall not be effective to the extent it relates to or has the effect of any amendment, modification or waiver to any other provision of this Section 13.2 (the "Section 13.2 amendment") unless such Section 13.2(b)(v) amendment was approved in advance in writing by the Member or requisite percentage or number of Members that would be required to approve such Section 13.2 amendment);

(vi) Section 5.1(c) shall be effective without the prior written consent of the Supermajority Holders;

(vii) the definition of "Specified Initial Interest Holder" shall be effective without the prior written consent of each Specified Initial Interest Holder;

(viii) the definitions of "Värde," "Millstreet," "PennantPark," "Verition Capital," or "BulwarkBay" shall be effective without the prior written consent of Värde, Millstreet, PennantPark, Verition Capital or BulwarkBay, respectively;

(ix) [the provisions related to an Officer's duties, exculpation and indemnification shall be effective without the consent of each affected Officer];

(x) any provision the effect of which would be to (A) require any Member to make any Capital Contribution (or increase the amount of any commitment to make any Capital Contribution), advance or loan, (B) increase or extend the liability or obligations of, or decrease or limit the rights to (or benefits of) any exculpation, indemnification or advancement or reimbursement of expenses enjoyed by, any Member (or any Manager appointed or designated by a Member (or a group of Persons of which such Member is a part)) under this Agreement, or (C) require any Member to return to any Person any money or property received by such Member as a Distribution hereunder, shall be effective against any Member without such Member's prior written consent; or

(xi) Section 6.5(k) that affects any Indemnified Person shall be effective against such Indemnified Person without such Indemnified Person's prior written consent.

(c) Any decision, approval, adjustment, allocation, election, modification or act to be made by the Board or NGR Management under ARTICLE XII, ARTICLE IV (other than Section 4.1) or ARTICLE VIII in the discretion of the Board or NGR Management, or based on the determination of the Board or NGR Management, that adversely affects economically any Significant Interest Holder in a discriminatory manner compared to any other Significant Interest Holder shall not be effective without the prior written consent of the Significant Interest Holder so adversely affected.

Section 13.3 Title to NGR Management Assets. NGR Management's assets shall be deemed to be owned by NGR Management as an entity, and no Member, individually or collectively, shall have any ownership interest in such assets or any portion thereof. Legal title to any or all of such assets may be held in the name of NGR Management or one or more nominees, as the Board may determine. The Board hereby declares and warrants that any NGR Management assets for which legal title is held in the name of any nominee shall be held in trust by such nominee for the use and benefit of NGR Management in accordance with the provisions of this Agreement. All NGR Management assets shall be recorded as the property of NGR Management on its books and records, irrespective of the name in which legal title to such assets is held.

Section 13.4 Remedies. Each Member and NGR Management shall have all rights and remedies set forth in this Agreement and all rights and remedies which such Person has been granted at any time under any other agreement or contract and all of the rights which such Person has under any Law. Any Person having any rights under any provision of this Agreement or any

other agreements contemplated hereby shall be entitled to enforce such rights specifically (without posting a bond or other security), to recover damages by reason of any breach of any provision of this Agreement and to exercise all other rights granted by Law.

Section 13.5 Successors and Assigns. All covenants and agreements contained in this Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, legal representatives and permitted assigns, whether so expressed or not.

Section 13.6 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable Law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or the effectiveness or validity of any provision in any other jurisdiction, and this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein or if such term or provision could be drawn more narrowly so as not to be illegal, invalid, prohibited or unenforceable in such jurisdiction, it shall be so narrowly drawn, as to such jurisdiction, without invalidating the remaining terms and provisions of this Agreement or affecting the legality, validity or enforceability of such term or provision in any other jurisdiction.

Section 13.7 Counterparts; Binding Agreement. This Agreement may be executed simultaneously in any number of separate counterparts, any one of which need not contain the signatures of more than one party, but each of which will be an original and all of which together shall constitute one and the same agreement binding on all the parties hereto. This Agreement and all of the provisions hereof shall be binding upon and effective as to each Person who (a) executes this Agreement in the appropriate space provided in the signature pages hereto notwithstanding the fact that other Persons who have not executed this Agreement may be listed on the signature pages hereto, (b) is deemed party to this Agreement pursuant to Section 2.3 and (c) may from time to time become a party to this Agreement by executing a counterpart of or Joinder to this Agreement.

Section 13.8 Descriptive Headings; Interpretation. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement. Whenever required by the context, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. The use of the word "including" in this Agreement shall be by way of example rather than by limitation. Reference to any agreement, document or instrument means such agreement, document or instrument as amended or otherwise modified from time to time in accordance with the terms thereof, and if applicable hereof. Whenever required by the context, references to a Fiscal Year shall refer to a portion thereof. The use of the words "or," "either" and "any" shall not be exclusive. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. Wherever a conflict exists between this Agreement and any other agreement, this Agreement

shall control but solely to the extent of such conflict. Whenever in this Agreement a Member (or group thereof) is permitted or required to take any action or to make a decision or determination, such Person shall take such action or make such decision or determination in such Person's sole discretion, unless another standard is expressly set forth herein. [Whenever in this Agreement a Member is permitted or required to take any action or to make a decision or determination in its "sole discretion" or "discretion," with "complete discretion" or under a grant of similar authority or latitude, each such Person shall be entitled to consider, solely its own interests (and not the interests of any other Person) or, at its election, any such other interests and factors as such Member desires (including the interests of such Member's Affiliates, employers, partners and their respective Affiliates), or any combination thereof.][13]

Section 13.9 Applicable Law; Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the Delaware Act and the other Laws of the State of Delaware, without giving effect to any choice of Law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware. Any dispute relating hereto shall be heard first in the Delaware Court of Chancery, and, if applicable, in any state or federal court located in Delaware in which appeal from the Court of Chancery may validly be taken under the Laws of the State of Delaware (each a "Chosen Court" and collectively, the "Chosen Courts"), and the parties, and any Member pursuant to this Agreement, by acceptance of the rights and benefits thereof, agree to the exclusive jurisdiction and venue of the Chosen Courts. Such Persons further agree that any Proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement, the other agreements referred to herein, the Membership Interests, NGR Management, the Members, any Manager, or the transactions contemplated hereby or by any matters related to the foregoing (the "Applicable Matters") shall be brought exclusively in a Chosen Court, and that any Proceeding arising out of this Agreement or any other Applicable Matter shall be deemed to have arisen from a transaction of business in the State of Delaware, and each of the foregoing Persons hereby irrevocably consents to the jurisdiction of such Chosen Courts in any such Proceeding and irrevocably and unconditionally waives, to the fullest extent permitted by Law, any objection that such Person may now or hereafter have to the laying of the venue of any such Proceeding in any such Chosen Court or that any such Proceeding brought in any such Chosen Court has been brought in an inconvenient forum. Such Persons further covenant not to bring a Proceeding with respect to the Applicable Matters (or that could affect any Applicable Matter) other than in such Chosen Court and not to challenge or enforce in another jurisdiction a judgment of such Chosen Court. Process in any such Proceeding may be served on any Person with respect to such Applicable Matters anywhere in the world, whether within or without the jurisdiction of any such Chosen Court. Without limiting the foregoing, each such Person agrees that service of process on such party as provided in Section 13.10 shall be deemed effective service of process on such Person.

Section 13.10 Addresses and Notices. All notices, demands or other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given, made or received when (a) delivered personally to the recipient, (b) faxed/emailed to the recipient (with hard copy sent to the recipient by reputable overnight courier service (charges prepaid) that same day) if faxed/emailed before 5:00 p.m.

[13] NTD: To be included in Article 6

New York, New York time on a Business Day, and otherwise on the next Business Day, or (c) one Business Day after being sent to the recipient by reputable overnight courier service (charges prepaid). Such notices, demands and other communications shall be sent to the address, facsimile number or e-mail address for such recipient set forth in NGR Management's books and records, or to such other address, facsimile number or e-mail address, or to the attention of such other person, as the recipient party has specified by prior written notice to the sending party and initially as set forth on the Membership Interest Ownership Ledger as of the Effective Date. Any notice to the Board shall be deemed given if delivered to each member of the Board at the last known address of such members. Any notice to NGR Management shall be sent to the address, facsimile number or email address as set forth below.

[____]

with a copy to:

[____]

and

[____]

Section 13.11 Creditors; Indebtedness.

(a) None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of NGR Management or any of its Affiliates, and no creditor who makes a loan to NGR Management or any of its Affiliates may have or acquire (except pursuant to the terms of a separate agreement executed by NGR Management in favor of such creditor) at any time as a result of making the loan any direct or indirect interest in NGR Management Distributions, capital or property other than as a secured creditor.

(b) Anything herein to the contrary notwithstanding, nothing contained in this Agreement shall affect, limit or impair the rights and remedies of any Member as a lender to NGR Management or its Affiliates pursuant to any agreement under which NGR Management or any of its Affiliates has or from time to time will have borrowed money from any such Member or any Affiliate of such Member. Without limiting the generality of the foregoing, no such Member, in exercising its rights as a lender or other creditor, including making its decision on whether to foreclose on any collateral security, shall have any duty to consider (i) its status as a direct or indirect Member, (ii) the interests of NGR Management or any of its Affiliates or (iii) any duty it may have to any other direct or indirect Member arising from this Agreement, except as may be required under the applicable loan documents or by commercial Law applicable to creditors generally.

(c) In the event that any Significant Interest Holder seeks to acquire any interest in or to otherwise participate in any other transaction involving, any Indebtedness of NGR Management or any of its Subsidiaries, such Significant Interest Holder shall (i) no less than [five (5)] Business Days prior to engaging in such transaction provide written notice to NGR Management of the material terms of the proposed transaction sufficient to enable NGR Management to determine whether such transaction (taking into account any other notices

pursuant to this Section 13.11(c) provided by any other Significant Interest Holder to NGR Management and any other Indebtedness of NGR Management or any of its Subsidiaries held by any Significant Interest Holders) would reasonably be expected to breach or cause a default under any agreement to which NGR Management or any of its Subsidiaries is a party with respect to such Indebtedness (an "Indebtedness Default") and (ii) refrain from engaging in the portion of such transaction that (A) NGR Management advises in writing during such [five (5)]-Business Day period would reasonably be expected to cause an Indebtedness Default or (B) that such Significant Interest Holder otherwise has knowledge would reasonably be expected to cause an Indebtedness Default. NGR Management shall use commercially reasonable efforts to respond as promptly as possible to any notice delivered to NGR Management pursuant to the preceding sentence, including in the event, if applicable, that NGR Management determines that no Indebtedness Default would reasonably be expected to occur with respect to the proposed transaction described in such notice.

Section 13.12 No Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, duty, agreement or condition.

Section 13.13 Further Action. The parties agree to execute and deliver all documents, provide all information and take or refrain from taking such actions as may be reasonably necessary to achieve the purposes of this Agreement.

Section 13.14 Entire Agreement. This Agreement and those documents expressly referred to herein or contemplated hereby embody the complete agreement and understanding among the parties with respect to the subject matter herein and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way.

Section 13.15 Delivery by Electronic Means. This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or electronic transmission in portable document format (pdf) or comparable electronic transmission, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or pdf electronic transmission or comparable electronic transmission to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

Section 13.16 Survival. Section 1.6, Section 2.5, Section 4.2, Section 5.6 and Section 5.7 and ARTICLE III, ARTICLE VI, and ARTICLE XIII (other than Section 13.1) shall survive

and continue in full force in accordance with its terms notwithstanding any termination of this Agreement or the dissolution of NGR Management.

Section 13.17 Opt-in to Article 8 of UCC. The Members hereby agree that the Membership Interests shall be securities governed by Article 8 of the Uniform Commercial Code of the State of Delaware (and the Uniform Commercial Code of any other applicable jurisdiction).

Section 13.18 Certain Acknowledgements. Upon execution and delivery of a counterpart to this Agreement or a Joinder to this Agreement, each Member (including each Substituted Member and each Additional Member) shall be deemed to acknowledge to NGR Management as follows: (a) the determination of such Person to acquire Membership Interests has been made by such Person independent of any other Person and independent of any statements or opinions as to the advisability of such purchase or as to the properties, business, prospects or condition (financial or otherwise) of NGR Management and its Subsidiaries which may have been made or given by any other Member or by any agent or employee of any other Member and (b) no other Member has acted as an agent of such Person in connection with making its investment hereunder and that no other Member shall be acting as an agent of such Member in connection with monitoring its investment hereunder.

Section 13.19 WAIVER OF JURY TRIAL. AS A SPECIFICALLY BARGAINED FOR INDUCEMENT FOR EACH OF THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT (AFTER HAVING THE OPPORTUNITY TO CONSULT WITH COUNSEL), EACH PARTY HERETO EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING IN ANY WAY FROM THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREBY.

Section 13.20 Member Representations and Warranties. Each Member represents and warrants to NGR Management and each other Member as of the date hereof in the case of the Members that are Members as of the date hereof (and as of the date of becoming a Member in the case of Members that become Members after the date hereof) that (a) such Member (after giving effect to the transactions contemplated by the Plan) is the exclusive record owner of all right, title and interest in and to the number of Membership Interests set forth opposite such Member's name on the Membership Interest Ownership Ledger, as applicable, (b) this Agreement has been duly authorized, executed and delivered by such Member and constitutes the valid and binding obligation of such Member, enforceable in accordance with its terms, (c) such Member has not granted and is not a party to any proxy, voting trust or other agreement which is inconsistent with, conflicts with, or violates any provision of this Agreement, (d) such Member is acquiring the Membership Interests for its own account with the present intention of holding such securities for investment purposes and that it has no intention of selling such securities in a public distribution in violation of the federal securities Laws or any applicable state securities Laws, such Member acknowledges that the Membership Interests have not been registered under the Securities Act or applicable state securities Laws and that the Membership Interests will be issued to such Member in reliance on exemptions from the registration requirements of the Securities Act and applicable state statutes and in reliance on such Member's representations and agreements contained herein, (e) such Member has had an opportunity to ask questions and receive answers concerning this Agreement and the terms and conditions of the

Membership Interests to be acquired by it, him or her and has had full access to such other information concerning NGR Management and its Subsidiaries as such Member has requested in making its decision to invest in the Membership Interests being issued hereunder and (f) such Member is able to bear the economic risk and lack of liquidity of an investment in NGR Management and is able to bear the risk of loss of its entire investment in NGR Management, and such Member fully understands and agrees that it, he or she may have to bear the economic risk of its purchase for an indefinite period of time because, among other reasons, the Membership Interests have not been registered under the Securities Act or under the securities Laws of any state and, therefore, cannot be resold, pledged, assigned or otherwise disposed of unless they are subsequently registered under the Securities Act and under the applicable securities Laws of certain states or unless an exemption from such registration is available. [In addition, each Member as of the date hereof represents and warrants and acknowledges and agrees that the Membership Interests issued to such person as of the date hereof constitute full satisfaction, and hereby discharge, the obligations of any Person (including NGR Management, the Board and any other Member) to such Member with respect to the issuance of any Membership Interests (as defined in the Plan) pursuant to the Plan or any of the agreements, instruments or documents contemplated thereby.]

ARTICLE XIV

DEFINITIONS

Capitalized terms used but not otherwise defined herein shall have the following meanings.

"[15]% Holder" means, as of any date of determination, a holder of more than [15]% of the then outstanding aggregate number of Vested Membership Interests (either individually, or together with such holder's Affiliates and Related Funds) that has agreed in writing to be bound by the terms and conditions of this Agreement.[14]

"[25]% Holder" means, as of any date of determination, a holder of more than [25]% of the then outstanding aggregate number of Vested Membership Interests (either individually, or together with such holder's Affiliates and Related Funds) that has agreed in writing to be bound by the terms and conditions of this Agreement.

"Accredited Investor" means an "accredited investor" as such term is defined in Rule 501 under the Securities Act.

"Additional Member" means a Person admitted to NGR Management as a Member pursuant to Section 2.2.

["Ad Hoc Committee" means the ad hoc committee of certain holders of second lien notes of the Debtors represented by Stroock & Stroock & Lavan LLP and Richards, Layton & Finger, PA.]

[14] Certain ownership thresholds in this Agreement may be revised to clarify whether they are measured on a primary basis or a fully diluted basis.

"Adjustments" means any Membership Interest adjustment for splits, combinations and similar organic structural events effectuated in accordance with this Agreement.

"Admission Date" has the meaning set forth in Section 9.5(a).

"Affiliate" of any Person means any other Person controlled by, controlling or under common control with such Person; provided that NGR Management and its Subsidiaries shall not be deemed to be Affiliates of any Member. As used in this definition, "control" (including, with its correlative meanings, "controlling," "controlled by" and "under common control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities, by contract or otherwise). With respect to any Person who is an individual, "Affiliates" shall include also any member of such individual's Family Group; provided that NGR Management, New Gulf and their respective Subsidiaries shall be deemed not to be an Affiliate of any Member.

"Affiliate Transaction" has the meaning set forth in Section 5.1(g).

"Agreement" has the meaning set forth in the Preamble.

"Applicable Matters" has the meaning set forth in Section 13.9.

"Approved Sale" has the meaning set forth in Section 9.4(a).

"Assignee" means a Person to whom Membership Interests have been Transferred (i.e., a Transferee) in accordance with the terms of this Agreement and the other agreements contemplated hereby, as applicable, but who has not become a Member pursuant to Section 2.2 or Section 2.3.

"Available Securities" has the meaning set forth in Section 2.9(a).

"Base Rate" means, as of any date, a variable rate per annum equal to the rate of interest most recently published by *The Wall Street Journal* as the "prime rate" at large U.S. money center banks.

"Beneficial Tax Owner" has the meaning set forth in Section 9.6(c).

"Blocker Corporation" means either (a) a Member (i) who is a corporation (or a limited liability company, limited partnership or any other entity that is taxed as a corporation) and (ii) whose only assets are its Membership Interests, or (b) a Person (i) who is a corporation (or a limited liability company, limited partnership or any other entity that is taxed as a corporation) and (ii) whose only assets are, directly or indirectly, a Member whose only assets are its Membership Interests.

"Blocker Corporation Shares" has the meaning set forth in Section 9.3(e).

"Board" means the Board of Managers of NGR Management established pursuant to Section 5.2, which shall have the power, authority and duties described in this Agreement.

"BulwarkBay" means Persons (and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees) affiliated with, or under management by, [BulwarkBay] (together with their respective Affiliates and Related Funds).

"Business" means the acquisition, development, exploration of crude oil and natural gas, including as the same is conducted by New Gulf's Subsidiaries as of the Effective Date, all other businesses and activities ancillary thereto, and any potential growth or expansion opportunities (regardless of the form thereof) available to New Gulf or its Subsidiaries in connection with the foregoing.

"Business Day" means any day other than a day which is a Saturday, Sunday or legal holiday on which banks in the City of New York are authorized or obligated by Law to close.

"Business Opportunities" has the meaning set forth in Section 6.6(b).

"Buyer" has the meaning set forth in Section 9.4(d).

"Capital Contributions" means any cash, cash equivalents, promissory obligations or the Fair Market Value of other property which a Member contributes or is deemed by the Board to have contributed to NGR Management with respect to any Membership Interest pursuant to Section 3.1.

"Castle Hill" means Persons (and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees) affiliated with, or under management by, [Castle Hill] (together with their respective Affiliates and Related Funds).

"Certificate" has the meaning set forth in the Preamble.

"Chinese Wall" means reasonably effective procedures established and maintained by a Person (the "First Party") to ensure that employees or other agents (other than any third party advisor that has a professional obligation of confidentiality with respect to the First Party (provided that such First Party shall enforce such professional obligations against such third party advisor in the event of any breach thereof)) of another Person (the "Second Party"), or any Affiliate or Related Fund of the Second Party (other than the First Party), do not gain access to, or are not furnished with, confidential information of, or competitively sensitive information relating to, NGR Management and its Subsidiaries that is in the possession of the First Party.

"Chosen Courts" has the meaning set forth in Section 13.9.

"Code" means the United States Internal Revenue Code of 1986, as amended. Such term, if elected by the Board in its sole discretion, shall be deemed to include any future amendments to the Code and any corresponding provisions of succeeding Code provisions (whether or not such amendments and corresponding provisions are mandatory or discretionary).

"Common Stock" has the meaning set forth in Section 10.1(a).

"Company Manager" has the meaning set forth in Section 5.2(b)(i).

["Competitor" means (i) a Competing Person, (ii) a Competing Interest Holder and (iii) an Affiliate or Related Fund of a Competing Interest Holder, other than any such Affiliate or Related Fund that (A) is not a Competing Person, (B) is not a Competing Interest Holder and (C) establishes and maintains with reasonable diligence and in good faith a Chinese Wall between such Person, on the one hand, and any Competing Person or Competing Interest Holder of which such Person is an Affiliate or Related Fund, on the other hand. Anything in this Agreement to the contrary notwithstanding, none of the Specified Initial Interest Holders shall constitute a "Competitor" or a "Competing Person" hereunder.]

["Competing Interest Holder" means any Person that has a direct or indirect financial interest or investment, other than a Passive Investment, in the aggregate of more than [__]% of the income, profits, revenues or assets of any Competing Person. For purposes of determining whether a Person has met the [__]% threshold in the immediately preceding sentence, the financial interest or investment of such Person in a Competing Person shall be aggregated with the financial interest or investment of such Person's Affiliates and Related Funds in such Competing Person, but only if such Person itself has a financial interest or investment in such Competing Person.]

"Competing Person" means any Person that competes directly with NGR Management, New Gulf or their respective Subsidiaries and identified as such on a list of Competing Persons approved from time to time by the Board and made available to the Members upon request.

"Confidential Information" has the meaning set forth in Section 6.7(a).

"Corporate Conversion" has the meaning set forth in Section 10.1(b).

["Covered Person" has the meaning set forth in Section 6.3.]

"Debtors" has the meaning set forth in the Preamble.

"Delaware Act" means the Delaware Limited Liability Company Act, 6 Del. L. § 18-101, et seq., as it may be amended from time to time, and any successor thereto.

"Distribution" means each distribution made by NGR Management or any of its Subsidiaries to a Member, with respect to such Person's Membership Interests or other Equity Securities of NGR Management or any of its Subsidiaries, whether in cash, property or securities and whether by liquidating distribution, redemption, repurchase or otherwise; provided that notwithstanding anything in the foregoing, none of the following shall be deemed to be a Distribution hereunder: (a) any redemption or repurchase by NGR Management or any of its Subsidiaries of any securities of NGR Management or any of its Subsidiaries in connection with the termination of employment of an employee of NGR Management or any of its Subsidiaries or any service provider of NGR Management or any of its Subsidiaries, (b) any redemption by NGR Management or any of its Subsidiaries of Membership Interests from Management Investors pursuant to the terms and conditions of any Equity Agreement, (c) any subdivision (by membership interest split or otherwise) or any combination (by reverse membership interest split or otherwise) of all outstanding Membership Interests, (d) any repurchase by NGR Management of Membership Interests pursuant to Section 9.2, (e) any indemnification, whether pursuant to Section 6.5 or otherwise, or (f) any reasonable fees or remuneration paid to any Member in such

Member's capacity as an employee, Officer, Manager, consultant or other provider of services to NGR Management or any of its Subsidiaries (in each case other than any such Persons who are employed by any Member or any of its Affiliates or Related Funds).

"Drag Along Indemnity Pro Rata Share" has the meaning set forth in Section 9.4(c).

"Drag Along Sale Notice" has the meaning set forth in Section 9.4(a).

"Drag Along Selling Member" has the meaning set forth in Section 9.4(a).

"Dragged Holder" has the meaning set forth in Section 9.4(a).

"Effective Date" has the meaning set forth in the Preamble.

"Electing Members" has the meaning set forth in Section 9.3(a).

"Employment Agreement" means any employment agreement, retention agreement, consulting agreement, confidentiality agreement, non-competition agreement, non-solicitation agreement, senior management agreement or any similar agreement to which NGR Management and/or any of its Subsidiaries is a party, each as amended, modified and/or waived from time to time.

["Equity Agreement" means any related agreement entered into by a Management Investor (or natural person that after such acquisition will become a Management Investor) and NGR Management (approved by the Board) in connection with the acquisition or potential acquisition by such Person of Membership Interests or the admission of such Person as a Member.]

"Equity Securities" means (a) any Membership Interests, capital stock, partnership, membership or limited liability company interests, profits interest or other equity interests (including other classes, groups or series thereof having such relative rights, powers and/or obligations as may from time to time be established by the Board, including rights, powers and/or duties different from, senior or junior to or more or less favorable than existing classes, groups and series of Membership Interests capital stock, partnership, membership or limited liability company interests, profits interest or other equity interests), (b) obligations, evidences of indebtedness or other securities or interests convertible into, or exchangeable or exercisable for, Membership Interests, capital stock, partnership interests, membership or limited liability company interests, profits interest or other equity interests, and (c) warrants, options or other rights to purchase or otherwise acquire Membership Interests, capital stock, partnership interests, membership or limited liability company interests, profits interest or other equity interests. Unless the context otherwise indicates, the term "Equity Securities" refers to Equity Securities of NGR Management.

"Event of Withdrawal" means the death, retirement, resignation, expulsion, disability, adjudication of incapacity or incompetence, disassociation, Transfer of all of the Membership Interests, bankruptcy or dissolution of a Member, or the occurrence of any other event that terminates under this Agreement (or that could terminate under the Delaware Act) the continued status of a Person as a Member.

"Exempt Issuance" has the meaning set forth in Section 2.9(a)(vii).

"Exempt Transfers" has the meaning set forth in Section 9.1(a).

"Exercising Member" has the meaning set forth in Section 2.9(b).

"Existing LLC Agreement" has the meaning set forth in the Preamble.

"Fair Market Value" means, with respect to any asset or equity interest, its fair market value determined according to ARTICLE XII.

"Family Group" means, with respect to a Person who is an individual, (a) such individual's parents, spouse and descendants (whether natural or adopted) (collectively, for purposes of this definition, "relatives"), (b) such individual's executor or personal representative, (c) any trust, the trustee of which is such individual or such individual's executor or personal representative and which at all times is and remains solely for the benefit of such individual and/or such individual's relatives, (d) any corporation, limited partnership, limited liability company or other tax flow-through entity the governing instruments of which provide that such individual or such individual's executor or personal representative shall have the exclusive, nontransferable power to direct the management and policies of such entity and of which the sole record and beneficial owners of stock, partnership interests, membership interests or any other equity interests are limited to such individual, such individual's relatives and/or the trusts described in clause (c) above, and (e) any retirement plan for such individual.

"Fiscal Quarter" means each calendar quarter ending March 31, June 30, September 30 and December 31, or such other quarterly accounting period as may be established by the Board.

"Fiscal Year" means the 12-month period ending on December 31, or such other annual accounting period as may be established by the Board or as may be required by the Code.

"Fully Electing Members" has the meaning set forth in Section 9.3(b).

"GAAP" means United States generally accepted accounting principles, consistently applied.

"Governmental Entity" means any federal, state, regional, county, city, local, municipal, foreign or other government or quasi-governmental entity or authority; any department, branch, agency, commission, board, subdivision, bureau, agency, official, political subdivision or other instrumentality of any of the foregoing; any administrative or regulatory body obtaining authority from any of the foregoing; any entity exercising executive, legislative, judicial, regulatory or administrative functions of government; or any court, tribunal, judicial or arbitral body.

"HSR Act" has the meaning set forth in Section 11.6.

"Indebtedness" means, as of a particular time without duplication, (a) any indebtedness for borrowed money or issued in substitution for or exchange of indebtedness for borrowed money, (b) any indebtedness evidenced by any note, bond, debenture or other debt security and

(c) any credit or loan agreement or facility or other agreement, instrument or document evidencing, creating or relating to any of the foregoing.

"Indebtedness Default" has the meaning set forth in Section 13.11(c).

"Indemnified Person" has the meaning set forth in Section 6.5(b).

"Independent Third Party" means any Person that, as of any date of determination, is not NGR Management or any of its Subsidiaries, a Member, an Affiliate or Related Fund of any Member or a part of the Family Group of any Member.

"Insolvency Event" means, with respect to any Person, (a) the commencement by such Person of any case, Proceeding or other action (i) under any existing or future Law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent entity, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to such Person or such Person's Indebtedness, or (ii) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of such Person's assets, or such Person making a general assignment for the benefit of such Person's creditors; (b) there being commenced against such Person any case, Proceeding or other action of a nature referred to in clause (a) above; (c) there being commenced against such Person any case, Proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of such Person's assets; (d) such Person admitting publicly that such Person cannot pay its debts or obligations when due or that such Person and/or any of its Subsidiaries are insolvent; (e) such Person entering into an arrangement for the benefit of creditors with respect to such Person and/or any of its Subsidiaries or (f) such Person taking any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (a) through and including (e) above.

"IPO" means an initial Public Offering of NGR Management or one of its Subsidiaries following the Effective Date.

"Investment Fund" means a bona fide collective investment fund, such as a hedge fund, private equity fund, an account, a share trust, an investment trust, an investment company, a pension fund or an insurance company, in each case, the business, operations or assets of which are held for investment purposes, which makes or is intended to make investments in multiple businesses (and not solely a direct or indirect investment in a Member or the Membership Interests or Blocker Corporation Shares), and the investments in which are professionally managed.

"Joinder" has the meaning set forth in Section 2.2.

"Laws" means any constitutional provision, federal, state, local, municipal or foreign statute, law, ordinance, regulation, rule, code, order, principle of common law or judgment enacted, promulgated, issued, enforced or entered by any Governmental Entity, or other requirement (including pursuant to any settlement, consent decree or determination of or

settlement under any arbitration) or rule of law assessment or any legally binding regulatory policy statement, binding guidance, binding directive or decree of any Governmental Entity.

"Lead Manager" has the meaning set forth in Section 5.2(g).

"Liquidation Assets" has the meaning set forth in Section 11.2(b).

"Liquidation Event" has the meaning set forth in Section 4.1(b).

"Liquidation FMV" has the meaning set forth in Section 11.2(b).

"Liquidation Statement" has the meaning set forth in Section 11.2(b).

"Majority Holders" means, at any time of determination, the holders of at least a majority of the outstanding Membership Interests that are entitled to vote at such time, voting together as a single class.

"Management Discussion" has the meaning set forth in Section 7.3.

["Management Investors" means any Member who acquires Equity Securities after the date hereof and/or enters into an Equity Agreement after the date hereof pursuant to the terms of Section 2.7 and is designated as a "Management Investor" by the Board.]

"Management Services Agreement" has the meaning set forth in Section 5.1(a)(iv).

"Manager" means a Manager serving on the Board at any given time, who, for purposes of the Delaware Act, will be deemed a "manager" (as defined in the Delaware Act), but will be subject only to the rights, obligations, limitations and duties set forth in this Agreement.

"MD&A" has the meaning set forth in Section 7.2(b).

"Meeting" has the meaning set forth in Section 5.2(k).

"Member" means each of the Persons [listed on the Membership Interest Ownership Ledger on the Effective Date], and any Person admitted to NGR Management as a Substituted Member or Additional Member in accordance with the terms and conditions of this Agreement; but in each case (subject to the terms of Section 2.8) only for so long as such Person is shown on NGR Management's books and records as the owner of one or more Membership Interests. The Members shall constitute the "members" (as that term is defined in the Delaware Act) of NGR Management.

"Membership Interest" means a limited liability company interest in NGR Management of a Member or an Assignee in NGR Management representing such Member's or such Assignee's fractional equity, ownership, profit or other right, title and interest in NGR Management in such Member's or such Assignee's capacity as a Member or Assignee, respectively, including all such Member's or such Assignee's rights and interests in Distributions of NGR Management, provided that any class, group or series of Membership Interests issued shall have the relative rights, powers and obligations set forth in this Agreement (or, if

applicable, in any Equity Agreement pursuant to which such Membership Interest was issued). Membership Interests shall for all purposes be personal property. A Member shall have no interest in specific property of NGR Management, including any property contributed to NGR Management by such Member as part of any Capital Contribution by such Person.

"Membership Interest Ownership Ledger" has the meaning set forth in Section 2.5.

"Merger" has the meaning set forth in the Preamble.

"Merger Sub" has the meaning set forth in the Preamble.

"Millstreet" means Persons (and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees) affiliated with, or under management by, [Millstreet Capital Management LLC] (together with their respective Affiliates and Related Funds).

"New Gulf" has the meaning set forth in the Preamble.

"New Gulf Holders" has the meaning set forth in the Preamble.

"Newco Member" has the meaning set forth in Section 9.1(c).

"NGR Management" has the meaning set forth in the Preamble.

"Observer" has the meaning set forth in Section 5.2(k).

"Offeree" has the meaning set forth in Section 2.9(a).

"Offered Membership Interests" has the meaning set forth in Section 9.2(a).

"Offer Notice" has the meaning set forth in Section 9.2(b).

"Officers" means each person designated as an officer of NGR Management to whom authority and duties have been delegated pursuant to Section 5.4 and/or Section 5.5, subject to any resolution of the Board appointing or removing such person as an officer or relating to such appointment.

"Original LLC Agreement" has the meaning set forth in the Preamble.

"Other Business" has the meaning set forth in Section 6.6(b).

"Outside Indemnitor" has the meaning set forth in Section 6.5(h).

"Participating Member" has the meaning set forth in Section 2.9(a).

"Passive Investment" means a direct or indirect financial interest or investment of a Person (taken together with such Person's Affiliates or Related Funds) in [__]% or less of the income, profits, revenues or assets of any Competing Person held solely by a Passive Investor.

"Passive Investor" means, with respect to any Person having or holding an interest, directly or indirectly, in a Competing Person, that such Person or its Affiliates has no actual influence or control over the management and policies of such Competing Person. Without limiting the foregoing, no Person shall be deemed a Passive Investor hereunder if such Person or its Affiliates has appointed members of the board (or equivalent) of, exercises board observer status with respect to, has any veto or consent rights over material decisions of, provides services or advice to or has any other material business relationships with (other than its investment therein), a Competing Person.

"PennantPark" means Persons (and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees) affiliated with, or under management by, [PennantPark Investment Corporation] (together with their respective Affiliates and Related Funds).

"Permitted Transferee" means (a) with respect to any Person who is an individual, a member of such Person's Family Group and (b) with respect to any Person which is an entity (other than any Person that is a Management Investor), any of such Person's Affiliates or Related Funds, or any partner, member, stockholder or other equityholder of such Person or any of its Affiliates or Related Funds; provided that no Competitor shall be a Permitted Transferee.

"Person" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, association or other entity or a Governmental Entity.

"Plan" has the meaning set forth in the Preamble.

"Preemptive Rights Notice" has the meaning set forth in Section 2.9(b).

["Prohibited Position" means, with respect to a Competing Person and any Person formed for the sole purpose of holding the equity of a Competing Person (a "Holding Company"), a director, manager, general partner, officer or member of senior management of such Competing Person or such Holding Company (or any other position having reasonably similar responsibilities or reasonably equivalent access to such Competing Person's or such Holding Company's confidential information not otherwise made available to investors in such Competing Person or such Holding Company generally).]

"Pro Rata Basis" means, as the context requires, with respect to a Member, (i) the aggregate number of Membership Interests held by such Member relative to all Membership Interests then outstanding or (ii) the number of applicable Membership Interests held by such Member relative to the number of applicable Membership Interests held by all applicable Members.

"Pro Rata Share" means, as of any date of determination, with respect to (i) each Membership Interest, the proportionate amount such Membership Interest would receive if an amount equal to the Total Equity Value were distributed on such date to all Membership Interests in accordance with Section 4.1(b) and (ii) each Member, such Member's share of Total Equity Value represented by all Membership Interests (each Unit as determined in accordance

with clause (i)) owned by such Member as of such date, in each case as determined in good faith by the Board.

"Proceeding" means any suit, countersuit, action, cause of action (whether at law or in equity), arbitration, audit, hearing, litigation, claim, counterclaim, complaint, defenses, administrative or similar proceeding (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Entity.

"Public Offering" means any sale of common equity securities of a Person (or any successor thereto, whether by merger, conversion, consolidation, recapitalization, reorganization or otherwise) pursuant to an effective registration statement under the Securities Act filed with the Securities and Exchange Commission (other than any such offerings that are registered on Form S-4 or Form S-8 under the Securities Act); provided that the following shall not be considered a Public Offering: (i) any issuance of common equity securities in connection with and as consideration for a merger or acquisition and (ii) any issuance of common equity securities or rights to acquire common equity securities to employees, officers, directors, consultants or other service providers of NGR Management or any of its Subsidiaries or others as part of an incentive or compensation plan, agreement or arrangement or any Equity Agreement. Unless otherwise indicated herein, "Public Offering" shall refer to a Public Offering of the common equity securities of NGR Management (or its successor).

"Public Sale" means any sale of Membership Interests to the public pursuant to an offering registered (other than any such offerings that are registered on Form S-4 or Form S-8) under the Securities Act or to the public through a broker, dealer or market maker pursuant to the provisions of Rule 144 adopted under the Securities Act.

"Purchaser Representative" means a "purchaser representative" as such term is defined in Rule 501 Rule 501 of Regulation D promulgated under the Securities Act.

"Purchasing Significant Interest Holder" has the meaning set forth in Section 9.2(c)(ii).

"Registration Rights Agreement" has the meaning set forth in Section 10.2.

"Related Fund" means, with respect to any Person (i) any fund, account or investment vehicle that is controlled or managed by (A) such Person, (B) an Affiliate of such Person or (C) the same investment manager or advisor as such Person or an Affiliate of such investment manager or advisor or (ii) any Person formed and controlled by any of the foregoing, individually or collectively, for the purpose of consummating the Plan.

"Reorganized Issuer" has the meaning set forth in Section 10.1(b).

"ROFR Notice Period" has the meaning set forth in Section 9.2(c)(ii).

"ROFR Offer Notice" has the meaning set forth in Section 9.2(c)(ii).

"Roll-Up Transaction" has the meaning set forth in Section 10.4.

"Sale Transaction" means (i) any transaction or series of related transactions (whether pursuant to an equity issuance, transfer of equity, merger or otherwise) that results in any Person or group (within the meaning of Section 13(d)(3) of the Securities Exchange Act) of Persons (other than an Specified Initial Interest Holder) acquiring Membership Interests that represent more than [__]% of the combined voting power of the then outstanding Membership Interests or other voting securities of NGR Management or (ii) a sale or disposition of all or substantially all of the assets of NGR Management and its Subsidiaries on a consolidated basis (other than to a Person with respect to which, following such sale or other disposition, at least [__]% of the combined voting power of the then outstanding voting securities of such Person is then beneficially owned, directly or indirectly, by all or substantially all of the Persons (or Affiliates of such Persons) who were the beneficial owners, respectively, of the Membership Interests immediately prior to such sale or other disposition).

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

"Securities Act" means the Securities Act of 1933, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Securities Act shall be deemed to include any corresponding provisions of future Law.

"Securities Exchange Act" means the Securities Exchange Act of 1934, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Securities Exchange Act shall be deemed to include any corresponding provisions of future Law.

"Significant Interest Holder" means, as of any date of determination, a holder of more than [5]% of the then outstanding aggregate number of Vested Membership Interests (either individually, or together with such holder's Affiliates and Related Funds) that has agreed in writing to be bound by the terms and conditions of this Agreement; provided, however, each Specified Initial Interest Holder shall be deemed a Significant Interest Holder regardless of whether it actually holds more than [5]% of the then outstanding Membership Interests; provided that no Transferee of a Specified Initial Interest Holder (other than a Transferee included in the definition of Specified Initial Interest Holder under this Agreement) shall be deemed a Significant Interest Holder unless such Person meets the [5]% threshold set forth in this definition.

"Specified Initial Interest Holder" means individually, and "Specified Initial Interest Holders" means collectively, (i) each Member that is included in the definition of any of Värde, Millstreet, PennantPark, Castle Hill, Verition Capital and BulwarkBay, for so long as such Member continues to hold at least [80]% of the Membership Interests held by such Member on the Effective Date [(subject to Adjustments)] and (ii) any Member that directly acquires 100% of the Membership Interests held by any of Värde, Millstreet, PennantPark, Castle Hill, Verition Capital and BulwarkBay.

"Specified Persons" has the meaning set forth in Section 6.6(b).

"Subsidiary" means, with respect to any Person, any corporation, limited liability company, partnership, association or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity (other than a corporation), a majority of the partnership or other similar ownership interests thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof and without limitation, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control the manager, managing member, managing director (or a board comprising any of the foregoing) or general partner of such limited liability company, partnership, association or other business entity. For purposes hereof, references to a "Subsidiary" of any Person shall be given effect only at such times that such Person has one or more Subsidiaries, and, unless otherwise indicated, the term "Subsidiary" refers to a Subsidiary of New Gulf. [For purposes hereof, New Gulf should not be considered a Subsidiary of NGR Management.]

"Subsidiary Governing Body" means the board of managers, board of directors, or other governing body of any Subsidiary of New Gulf.

"Substituted Member" means a Person that is admitted as a Member to NGR Management pursuant to Section 2.3.

"Supermajority Holders" means, at any time of determination, the holders of at least two-thirds (2/3) of the outstanding Membership Interests that are entitled to vote at such time, voting together as a single class.

"Supplemental Indemnification Rights" has the meaning set forth in Section 6.5(g).

"Tag Along Indemnity Pro Rata Share" has the meaning set forth in Section 9.3(d).

"Tag Along Rights Holders" has the meaning set forth in Section 9.3(a).

"Tag Along Sale" has the meaning set forth in Section 9.3(a).

"Tag Along Sale Notice" has the meaning set forth in Section 9.3(a).

"Tag Along Securities" has the meaning set forth in Section 9.3(a).

"Tag Along Selling Member" has the meaning set forth in Section 9.3(a).

"Tax" or "Taxes" means any federal, state, local or foreign income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, transfer, registration, value added, excise, natural resources, severance, stamp, occupation, premium, windfall profit, environmental, customs, duties, real property, personal property, capital stock, social security,

unemployment, disability, payroll, license, employee or other withholding, or other tax, of any kind whatsoever, including any Transferee liability and any interest, penalties or additions to tax or additional amounts in respect of the foregoing.

"Tax Forms" has the meaning set forth in Section 9.6(c).

"Taxable Year" means NGR Management's accounting period for federal income Tax purposes determined pursuant to Section 8.2.

"Total Equity Value" means the aggregate proceeds which would be received by the Members if: (i) the assets of NGR Management (including, for the avoidance of doubt, Equity Securities of NGR Management's Subsidiaries) were sold at their fair market value as a going concern to an Independent Third Party on arm's-length terms, with neither the seller nor the buyer being under compulsion to buy or sell such assets; (ii) NGR Management satisfied and paid in full all of its obligations and liabilities (including all Indebtedness, Taxes, costs and expenses incurred in connection with such transaction and any amounts reserved by the Board with respect to any contingent or other liabilities); and (iii) such net sale proceeds were then distributed in accordance with Section 4.1, all as determined in good faith by the Board.

"Transfer" means any sale, transfer, assignment, pledge, mortgage, exchange, hypothecation, grant of a participation interest in, grant of a security interest or other direct or indirect disposition or encumbrance of an interest (whether with or without consideration, whether voluntarily or involuntarily or by operation of Law), but excluding conversions and redemptions of Equity Securities by NGR Management made in accordance with this Agreement or any merger or consolidation of NGR Management. The terms "Transferee," "Transferor," "Transferred," and other forms of the word "Transfer" shall have the correlative meanings.

"Transferring Member" has the meaning set forth in Section 9.2(a).

"Unsubscribed Offered Securities" has the meaning set forth in Section 2.9(b).

"Unsubscribed Tag Along Securities" has the meaning set forth in Section 9.3(b).

"Unvested Membership Interests" means, with respect to any Membership Interests that are subject to vesting pursuant to the applicable Equity Agreement pursuant to which they were issued, any Membership Interests other than Vested Membership Interests.

"Waived ROFR Transfer Period" has the meaning set forth in Section 9.2(d).

"Värde" means Persons (and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees) affiliated with, or under management by, [Värde Partners, Inc.] (together with their respective Affiliates and Related Funds).

"Verition Capital" means Persons (and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees) affiliated with, or under management by, [Verition Capital] (together with their respective Affiliates and Related Funds).

["Vested Membership Interests" means any Membership Interests that are not subject to vesting or, with respect to Membership Interests that are subject to vesting pursuant to the applicable Equity Agreement pursuant to which they were issued, any Membership Interests that have vested in accordance with the terms of the applicable Equity Agreement pursuant to which they were issued.]

* * * * *

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Second Amended and Restated Limited Liability Company Agreement as of the date first written above,

NGR MANAGEMENT COMPANY LLC

By: _____
Name:
Title:

[NTD: Signature pages for Members to be inserted]

EXHIBIT A

FORM OF JOINDER AGREEMENT

[To come.]

EXHIBIT B

FORM OF MEMBERSHIP INTEREST OWNERSHIP LEDGER

MEMBER NAME AND ADDRESS FOR NOTICE	NO. OF MEMBERSHIP INTERESTS	CAPITAL CONTRIBUTION FOR MEMBERSHIP INTERESTS

EXHIBIT C

FORM OF CONFIDENTIALITY AGREEMENT

[To come.]

EXHIBIT D

FORM OF RULE 144A CERTIFICATE

I, _____, do hereby certify that I am the _____ of _____ (the "Certifying Person"), and, as such, I am authorized to execute and deliver this Certificate pursuant to and in satisfaction of, Section 9.7(a) of the Second Amended and Restated Limited Liability Company Agreement (as amended or amended and restated from time to time, the "LLC Agreement") of NGR Management Company LLC (the "Company"). Capitalized terms used, but not otherwise defined herein, shall have the meanings ascribed to such terms in the LLC Agreement, on behalf of the Certifying Person, and I do hereby certify, represent, warrant, acknowledge and agree, on behalf of the Certifying Person, as follows:

(a) the Certifying Person is acquiring _____ Membership Interests (the "Acquired Securities") from _____ (the "Transferor") and such Acquired Securities consist of "restricted securities" under the U.S. securities laws inasmuch as such Acquired Securities are being acquired from the Transferor in a transaction not involving a public offering and in reliance on Rule 144A of the Securities Act;

(b) the Certifying Person is a "qualified institutional buyer" (as such term is defined in Rule 144A of the Securities Act of 1933, as amended (the "Securities Act"));

(c) the undersigned has read and fully understands the terms and conditions of the LLC Agreement and agrees that the Transfer of such Acquired Securities are subject to restrictions contained therein (including the restrictions on transfer set forth in Article IX thereof);

(d) information related to the Company has been made available to the Certifying Person (including such information in respect of the Company as is specified pursuant to Rule 144A(d)(4) under the Securities Act), and the Certifying Person has been given an opportunity to ask questions of, and receive answers from, the Company and its representatives and the Transferor concerning the matters pertaining to the acquisition of the Acquired Securities by the Certifying Person and has been given the opportunity to review such additional information as was necessary to evaluate the merits and risks of acquiring such Acquired Securities;

(e) the Certifying Person understands and has evaluated the risks associated with acquiring such Acquired Securities from the Transferor;

(f) the Certifying Person is acquiring such Acquired Securities for its own account or the account of a "qualified institutional buyer" and not with a view to the resale thereof, in whole or in part, except in accordance with Item (g) below; and

(g) the Certifying Person will not Transfer all or any number of such Acquired Securities, or solicit offers to buy any such Acquired Securities from or otherwise approach or negotiate in respect thereof with any Person or Persons whomsoever, except (i) to a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act or pursuant to another exemption from registration under the Securities Act (which the Certifying Person

acknowledges requires the delivery of an opinion of counsel to the Transferor as to the availability of such exemption), nor will the Certifying Person effect any of the foregoing in any manner that would violate or cause the Company or any of its stockholders to violate applicable federal or state securities laws and (ii) as permitted under the LLC Agreement.

Capitalized terms used but not defined in this certificate are used with the meanings provided in the LLC Agreement.

[Remainder of Page Intentionally Left Blank; Signatures Appear on Following Page]

IN WITNESS WHEREOF, I have executed this Certificate on behalf of the Certifying Person on this _____ day of _____, 20__.

[ ]

_____

Name:

EXHIBIT E

FORM OF REGISTRATION RIGHTS AGREEMENT

[To come.]

EXHIBIT F

FORM OF MANAGEMENT SERVICES AGREEMENT

[To come.]

Exhibit D

NEW GULF RESOURCES, LLC

AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

DATED AS OF
[_____] [__], 2016

THE SECURITIES CONTEMPLATED BY THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT, AS IT MAY BE AMENDED FROM TIME TO TIME, ARE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH HEREIN, HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH SECURITIES MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR PURSUANT TO A VALID EXEMPTION THEREFROM, AND COMPLIANCE WITH THE PROVISIONS SET FORTH HEREIN.

CERTAIN SECURITIES CONTEMPLATED BY THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT, AS IT MAY BE AMENDED FROM TIME TO TIME, MAY ALSO BE SUBJECT TO VESTING PROVISIONS, REPURCHASE RIGHTS, ADDITIONAL RESTRICTIONS ON TRANSFER, OFFSET RIGHTS, FORFEITURE PROVISIONS, VOTING ARRANGEMENTS AND OTHER SIMILAR PROVISIONS SET FORTH IN A SEPARATE AGREEMENT AMONG CERTAIN PERSONS TO WHOM SUCH SECURITIES WERE ORIGINALLY ISSUED. A COPY OF SUCH AGREEMENT MAY BE OBTAINED BY THE HOLDER OF SUCH SECURITIES UPON WRITTEN REQUEST TO NEW GULF RESOURCES, LLC AND WITHOUT CHARGE.

TABLE OF CONTENTS

NEW GULF RESOURCES, LLC

AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (as amended, supplemented, amended and restated or otherwise modified from time to time in accordance with the provisions hereof, this "Agreement") of New Gulf Resources, LLC ("New Gulf") is entered into as of [_____] [__], 2016 (the "Effective Date") by and among the Members. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in ARTICLE XIV.

WHEREAS, New Gulf was formed as a limited liability company in accordance with the Delaware Act on [_____] [__], 2011 by filing a Certificate of Formation (as amended prior to the date hereof, and hereafter amended from time to time in accordance with this Agreement, the "Certificate") with the Secretary of State of Delaware;

WHEREAS, on December 17, 2015, NGR Management Holding Company LLC ("NGR Management"), New Gulf and their affiliated co-debtors (collectively, including NGR Management and New Gulf, the "Debtors") filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code, thereby commencing Case No. 15-12566 (BLS) with the United States Bankruptcy Court for the District of Delaware;

WHEREAS, in connection with the restructuring transactions contemplated by the Joint Chapter 11 Plan of Reorganization of the Debtors (the "Plan"), which became effective on the Effective Date, (i) all the outstanding equity interests in New Gulf have been cancelled and extinguished as of the Effective Date, and (ii) New Gulf issued Membership Interests to the Members as of the Effective Date in accordance with the terms of this Agreement; and

WHEREAS, in connection with the consummation of the transactions contemplated by the Plan, and as required pursuant to the Plan, as a condition to the receipt of the Membership Interests, New Gulf and the Members are entering into this Agreement to provide for certain rights and obligations among them.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members, intending to be legally bound, hereby agree as follows.

ARTICLE I

ORGANIZATIONAL MATTERS

Section 1.1 Formation, Continuation and Term of New Gulf. New Gulf was formed on [_____] [__], 2011 pursuant to the provisions of the Delaware Act by the filing of the Certificate. The Members as of the Effective Date have agreed to continue New Gulf from and as of the Effective Date as a "limited liability company" under, and pursuant to, the Delaware Act and this Agreement. New Gulf shall continue until its dissolution and termination in accordance with the provisions of ARTICLE XI. At any time that the Board approves an amendment or

restatement of the Certificate in accordance with the terms of this Agreement, any Officer is hereby authorized, as an "authorized person" within the meaning of the Delaware Act, to promptly execute, deliver and file such amendment or restatement in accordance with the Delaware Act.

Section 1.2 Limited Liability Company Agreement. The Members have executed this Agreement for the purpose of establishing and regulating, in accordance with its terms, the affairs of New Gulf, the conduct of New Gulf's business, the governance and management of New Gulf, certain relationships between New Gulf and the Members, and certain relationships among the Members. The Members hereby agree that during the term of New Gulf set forth in Section 1.1, the rights, powers and obligations of the Members with respect to New Gulf will be determined in accordance with the terms and conditions of this Agreement and, except where the Delaware Act provides that such rights, powers and obligations specified in or granted by the Delaware Act shall apply "unless otherwise provided in a limited liability company agreement" (or words of similar effect) and such rights, powers and obligations are actually addressed, set forth in or negated by this Agreement, the Delaware Act. For the avoidance of doubt, notwithstanding the foregoing and anything else to the contrary in this Agreement, (i) each Member's rights pursuant to Section 18-305(a) of the Delaware Act (entitled "Access to and Confidentiality of Information; Records") are fully expressed and embodied in Section 7.2 and (ii) Section 18-210 of the Delaware Act (entitled "Contractual Appraisal Rights") shall not apply to New Gulf, or be incorporated into this Agreement, and each Member hereby expressly waives any and all rights under such Section of the Delaware Act. This Agreement alone shall constitute the sole and exclusive "limited liability company agreement" (as that term is defined in the Delaware Act) of New Gulf.

Section 1.3 Name. The name of New Gulf shall be "New Gulf Resources, LLC". The Board may change the name of New Gulf at any time and from time to time. New Gulf's business may be conducted under its name and/or any other name or names deemed advisable by the Board.

Section 1.4 Purpose; Powers. The purpose of New Gulf shall be to engage in any lawful act or activity for which limited liability companies may be validly organized under the Delaware Act, including operating the Business and exercising all rights and powers related thereto. New Gulf shall have any and all powers which are necessary or desirable to carry out the purpose of New Gulf and the operation of its business, to the extent the same may be legally exercised by limited liability companies under the Delaware Act. Notwithstanding anything herein to the contrary, nothing set forth herein shall be construed as authorizing New Gulf to possess any purpose or power, or to do any act or thing, forbidden by Law to a limited liability company organized under the Laws of the State of Delaware.

Section 1.5 Registered Office; Registered Agent; Principal Office; Other Offices. The registered office of New Gulf required by the Delaware Act to be maintained in the State of Delaware shall be the office of the initial registered agent named in the Certificate or such other office (which need not be a place of business of New Gulf) as the Board may designate from time to time in the manner provided by Law. The registered agent of New Gulf in the State of Delaware shall be the initial registered agent named in the Certificate or such other Person or Persons as the Board may designate from time to time in the manner provided by Law. The

principal office of New Gulf shall be at such place as the Board may designate from time to time, which need not be located in the State of Delaware; New Gulf shall maintain its records there; and all business and activities of New Gulf shall be deemed to have occurred at its principal office unless otherwise determined by the Board. New Gulf may have such other offices as the Board may designate from time to time, which offices need not be located in the State of Delaware.

Section 1.6 No Partnership under State Law; Taxation as a Partnership. The Members intend that New Gulf not be a partnership (including a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member by virtue of this Agreement or any transaction pursuant to or contemplated by this Agreement, for any purposes other than as set forth in the last sentence of this Section 1.6, and neither this Agreement nor any other agreement or arrangement entered into by New Gulf or any Member shall be construed to suggest otherwise. The Members intend that New Gulf shall be treated at all times as a partnership for federal income Tax purposes, and, if applicable, state or local income Tax purposes, and that each Member and New Gulf shall file all Tax returns and shall otherwise take all Tax and financial reporting positions in a manner consistent with such treatment and refrain from taking any actions inconsistent with such treatment.

ARTICLE II

MEMBERS; MEMBERSHIP INTERESTS

Section 2.1 Powers of Members. Each Member shall have the power to exercise any and all rights or powers granted to such Member pursuant to (a) the express terms of this Agreement or (b) the terms of the Delaware Act that grant rights or powers to Members with respect to matters not otherwise addressed, superseded or negated by this Agreement, or delegated to the Board pursuant to this Agreement. Notwithstanding anything to the contrary in the Delaware Act, no Member shall have the authority to bind New Gulf by virtue of such Person's status as a Member.

Section 2.2 Additional Members. A Person may be admitted to New Gulf as an Additional Member only as contemplated under this ARTICLE II and only upon furnishing to New Gulf (a) a joinder in the form of Exhibit A hereto (a "Joinder") or counterpart to this Agreement in form and substance acceptable to the Board pursuant to which such Person shall agree to be bound by this Agreement as a Member, and (b) such other documents or instruments as may be deemed necessary or appropriate by the Board to effect such Person's admission as a Member. Except as otherwise provided in an Equity Agreement, any Person not a Member that (x) with the approval of the Board, subscribes for Membership Interests in accordance with this Agreement, (y) makes a Capital Contribution in connection with such subscription and issuance and (z) duly and validly executes this Agreement (or a counterpart of this Agreement or a Joinder thereto) shall be admitted as a Member and bound as such by this Agreement effective as of the date of issuance of such Membership Interests (or, if later, the payment of any associated Capital Contribution). Such admission shall become effective on the date on which the Board determines that such conditions have been satisfied. The Board shall cause the Membership Interest Ownership Ledger to be amended and updated as of the effective date thereof to reflect any such admission of an Additional Member (which amendment and update shall not be deemed an

amendment of this Agreement for any other purpose or require the consent or approval of any Person other than the Board).

Section 2.3 Substituted Members. In connection with any Transfer of Membership Interests by a Member permitted by, and in accordance with, the terms of ARTICLE IX and Section 10.1(b)(v) and Section 10.3 and (if applicable) an Equity Agreement and the other agreements contemplated by such Equity Agreement, the Transferee in such Transfer shall become a Substituted Member (if such Transferee was not already a Member) on the effective date of such Transfer. The Board shall cause the Membership Interest Ownership Ledger to be amended and updated as of the effective date thereof to reflect any such admission of a Substituted Member (which amendment and update shall not be deemed an amendment of this Agreement for any other purpose or require the consent or approval of any Person other than the Board).

Section 2.4 Withdrawal and Resignation of Members. No Member shall have the power or right to withdraw or otherwise resign as a Member prior to the dissolution and winding up of New Gulf pursuant to ARTICLE XI without the prior written consent of the Board, except as otherwise expressly permitted by this Agreement. Notwithstanding the foregoing, upon a Transfer of all of a Member's Membership Interests in a Transfer permitted by, and in accordance with, this Agreement and (if applicable) an Equity Agreement, subject to the provisions of Section 9.5, such Member shall automatically cease to be a Member without any further action on behalf of any Person and New Gulf shall cause the Membership Interest Ownership Ledger to be amended and updated to reflect such withdrawal and resignation (and any related admission as a Substituted Member) (which amendment and update shall not be deemed an amendment of this Agreement for any other purpose or require the consent of any other Person). In the event either (i) the Board approves the withdrawal or resignation of a Member or (ii) a Member Transfers all of such Member's Membership Interests in accordance with the second sentence of this Section 2.4, notwithstanding any provision of the Delaware Act, the withdrawing, resigning or Transferring Member, as the case may be, shall not be entitled to any Distribution from New Gulf as a result thereof unless otherwise provided expressly in this Agreement or in an Equity Agreement. In the case of any Transfer by a Member of less than all of such Member's Membership Interests, New Gulf shall reduce such Member's Capital Account proportionately for all purposes hereunder effective as of the effective time of such Transfer.

Section 2.5 Membership Interest Ownership Ledger; Capital Contributions; Certificates. New Gulf shall create and maintain a Membership Interest Ownership ledger (the "Membership Interest Ownership Ledger") in the form attached hereto as Exhibit B. The Membership Interest Ownership Ledger shall set forth the date as of which the Membership Interest Ownership Ledger is effective, the name, address, facsimile number and e-mail address of each Member, the number of Membership Interests held of record by each such Member, the date and amount of the Capital Contributions made (or deemed to have been made) by each such Member of each such Member. For purposes of determining the initial Capital Contributions of each Member made in connection with the execution of this Agreement, each Member shall be treated as having first received its pro rata share of New Gulf's assets and then having contributed such assets to New Gulf in exchange for its Membership Interests. Upon any change in the number or ownership of outstanding Membership Interests (whether upon an issuance of Membership Interests, a Transfer of Membership Interests, a repurchase, redemption or

cancellation of Membership Interests or otherwise), the Board shall cause the Membership Interest Ownership Ledger to be amended and updated to reflect such transactions (and any such amendment or update shall not be deemed an amendment of this Agreement for any purpose and shall not require the consent of any Person other than the Board). Any reference in this Agreement to the Membership Interest Ownership Ledger (other than one that specifically references the Effective Date) shall be deemed a reference to the Membership Interest Ownership Ledger as amended and in effect from time to time. Subject to Section 6.7(b), upon written request from a Member, New Gulf shall deliver a copy of the then effective Membership Interest Ownership Ledger to such requesting Member. Absent fraud or manifest error, the ownership interests recorded on the Membership Interest Ownership Ledger shall be the conclusive record of the outstanding Membership Interests and the record owners thereof. Each Member named in the Membership Interest Ownership Ledger shall have made (or shall be deemed to have made) Capital Contributions to New Gulf as set forth in the Membership Interest Ownership Ledger in exchange for the Membership Interests specified in the Membership Interest Ownership Ledger. [Unless the Board determines that the Membership Interests shall be certificated, New Gulf shall not issue certificates representing the Membership Interests held by the Members.]

Section 2.6 Initial Membership Interests. The initial membership interests in New Gulf shall consist of a single class of Membership Interests in the amounts set forth on the Membership Interest Ownership Ledger as of the Effective Date, and each of the holders thereof will be deemed admitted as Members of New Gulf as of the Effective Date and to have made the Capital Contributions with respect to the Membership Interests set forth on the Membership Interest Ownership Ledger as of the Effective Date.

Section 2.7 Issuance of Additional Equity Securities; Certain Persons Bound by this Agreement. Subject to compliance with this ARTICLE II and Section 5.1(b)(i), the Board shall have the right at any time and from time to time to cause New Gulf to create and/or issue Equity Securities (including other Membership Interests, or series thereof, having such rights, powers, and/or obligations as may from time to time be established by the Board, including rights, powers, and/or obligations different from, senior or junior to or more or less favorable than existing classes, groups and series of then existing Membership Interests or Equity Securities). Subject to Section 5.1(c)(iv) and Section 13.2, the Board shall have the power to amend this Agreement and/or the Membership Interest Ownership Ledger to reflect any such additional issuances and to make any such other amendments as it deems necessary or desirable (in its sole discretion) to reflect such additional issuances (including amending this Agreement to authorize a new class, group or series of Equity Securities and to incorporate the terms of such new class, group or series of Equity Securities, including economic and governance rights which may be different from, senior or junior to or more or less favorable than the other existing Equity Securities), in each case without the approval or consent of any other Person. In connection with any issuance of Membership Interests (whether on or after the date hereof), the Person who acquires such Membership Interests shall execute a counterpart to this Agreement accepting and agreeing to be bound by all terms and conditions hereof as a Member, and shall enter into such other documents, instruments and agreements, including an Equity Agreement (to the extent such Member is, or upon such issuance is to be become, a Management Investor), to effect such issuance as are required by the Board. Each Person who acquires Membership Interests (other than in exchange for outstanding Membership Interests held by such Person) shall, in exchange

for such Membership Interests, make a Capital Contribution to New Gulf in an amount to be determined by the Board (which amount may be zero) and shall be admitted as an Additional Member (if such Person was not already a Member) upon satisfaction of the conditions set forth in Section 2.2. Any Person that validly acquires in any manner whatsoever any interest in any Membership Interests or any other Equity Security of New Gulf, irrespective of whether such Person has accepted and adopted in writing the terms and provisions of this Agreement, including by accepting and not returning to New Gulf any certificate representing such Membership Interests or Equity Securities delivered to such Person, shall be deemed by the acceptance of such certificate and/or the benefits of the acquisition of Membership Interests or Equity Securities (including pursuant to the Plan), to have agreed to be subject to and bound by all of the terms, conditions and obligations of this Agreement.[1]

Section 2.8 Transfer by a Member of All of Such Member's Membership Interests. Upon a Transfer of all of a Member's Membership Interests in a Transfer permitted by this Agreement (and, if applicable, an Equity Agreement), subject to the applicable provisions of Section 4.1(a), Section 6.1, Section 6.3, Section 6.5, Section 7.2, Section 8.4, Section 9.5 and Section 13.2(c), such Member shall cease to have any rights under this Agreement (including any right to a Distribution or allocation of Profits or Losses).

Section 2.9 Preemptive Rights.

(a) Except for:

(i) issuances of Membership Interests pursuant to the Plan as of the Effective Date;

(ii) the issuance of Equity Securities in accordance with this Agreement as consideration (whether partial or otherwise) for the purchase by New Gulf or any of its Subsidiaries of assets constituting a business unit or of the stock or other Equity Securities of any Person or Persons that is a bona fide commercial operating entity or holding company thereof (including in connection with the formation of a partnership, joint venture or other strategic transaction with such a Person), so long as such Equity Securities are only issued to a counterparty of such purchase and in no event to any Member or any Affiliate or Related Fund of any Member (unless such Member (or Affiliate or Related Fund of such Member) is a counterparty to such purchase and such purchase is an Affiliate Transaction effected in compliance with Section 5.1(g));

(iii) issuances of Equity Securities upon exercise, conversion or exchange of (A) other Equity Securities which were issued in compliance with this Section 2.9 or (B) Equity Securities which were issued in an Exempt Issuance (as defined below), so long as the issuance of the Equity Securities contemplated by this clause (iii) is being made in accordance with the express terms (including any anti-dilution provisions) of the Equity Securities described in subclause (A) or (B) (as such terms existed on the date such Equity Securities were originally issued);

[1] Provision to be added stating that in the event Membership Interests are issued pursuant to awards under Equity Agreements or upon conversion of New First Lien Notes, such issuances will not reduce the Membership Interest percentages of NGR Management below 2% or of other holders of awards.

(iv) Equity Securities issued to officers, directors, consultants, employees or other service providers to New Gulf or any of its Subsidiaries pursuant to Equity Agreements or incentive or other compensation plans approved by the Board;

(v) Equity Securities issued to any lender in connection with any debt financing of New Gulf or any of its Subsidiaries (which issuance and debt financing have been approved by the Board), so long as such Equity Securities are only issued to such lender and in no event to any Member or any Affiliate or Related Fund of any Member (unless such Member (or Affiliate or Related Fund of such Member) is such lender and such debt financing transaction is an Affiliate Transaction effected in compliance with Section 5.1(g));

(vi) Equity Securities issued pursuant to a Corporate Conversion effected in accordance with (and subject to the terms of) Section 10.1 of this Agreement or otherwise in connection with a Public Offering;

(vii) Equity Securities issued pursuant to a Notice of Conversion effected in accordance with (and subject to the terms of) Section 13.21 of this Agreement; or

(viii) Equity Securities issued in connection with any Membership Interest split or Membership Interest combination in which holders of Membership Interests participate on a Pro Rata Basis (each of the foregoing items (i) through (viii), an "Exempt Issuance");

in the event that (A) New Gulf or any of its Subsidiaries offers to issue or sell any Equity Securities to any Person (an "Offeree") and (B) any Member is to participate (other than pursuant to the exercise of rights pursuant to this Section 2.9) in such offering by receiving or purchasing any such Equity Securities (any such Member, a "Participating Member," and such Equity Securities to be received or purchased by all Participating Members in such offering, the "Available Securities"), then New Gulf shall (or New Gulf shall cause its Subsidiary to, as applicable) offer to issue and/or sell to each Significant Interest Holder (so long as each Member included in the definition of such Significant Interest Holder remains an Accredited Investor) such Member's share, on a Pro Rata Basis relative to all other Significant Interest Holders, of such Available Securities. Each such Significant Interest Holder shall be entitled to purchase such offered Available Securities at the same price and on the same terms as such Available Securities are offered to Participating Members; provided that if the Participating Members are also purchasing other securities or Indebtedness of New Gulf or any of its Subsidiaries as a strip or unit with such Available Securities, then any Member exercising its rights under this Section 2.9 shall be required to also purchase such Member's share, on a Pro Rata Basis relative to all other Significant Interest Holders, of the same strip or unit of securities (at the same price and on the same terms and conditions) that the Participating Members are purchasing as a strip or unit with such Available Securities. The purchase price for all securities purchased under this Section 2.9 shall be payable in cash.

(b) In order to exercise its purchase rights hereunder, a Significant Interest Holder having preemptive rights pursuant to this Section 2.9 must, within [14] calendar days following delivery to such Member of written notice from New Gulf describing in reasonable detail the material terms of the securities being offered, including the type of securities being

offered, the purchase price of such securities (which may be a price range), the payment terms, the maximum amount and percentage of the offering such Person is eligible to purchase pursuant to Section 2.9(a) and the identity of the Offeree (a "Preemptive Rights Notice"), deliver a written notice to New Gulf irrevocably exercising such Member's rights to acquire securities pursuant to this Section 2.9 and stating therein the quantity or percentage of securities elected to be purchased by such Member. In the event that any Member with rights under this Section 2.9 elects to purchase less than the maximum amount of Available Securities such Member is entitled to purchase pursuant to Section 2.9(a), then New Gulf shall notify in writing each other Member that has validly elected to purchase the full portion of the Available Securities such Member is entitled to purchase pursuant to Section 2.9(a) ("Exercising Members") of such fact and the portion thereof not so elected to be purchased (the "Unsubscribed Offered Securities") may be purchased by each Exercising Member, by delivering a written notice to New Gulf within [two (2)] Business Days after delivery to such Exercising Member of the written notice from New Gulf described in this sentence, in an amount equal to (x) the number of Unsubscribed Offered Securities multiplied by (y) a fraction, the numerator of which is the amount of Available Securities such Exercising Member was initially entitled to purchase pursuant to Section 2.9(a) and the denominator of which is the amount of Available Securities all Exercising Members were entitled to purchase pursuant to Section 2.9(a). To the extent the procedure described in the preceding sentence does not result in the purchase of all Unsubscribed Offered Securities, such procedure shall be repeated until there are no Unsubscribed Offered Securities or until no Member has elected to purchase Unsubscribed Offered Securities as set forth in this Section 2.9(b). Significant Interest Holders may designate one or more of their respective Affiliates and/or Related Funds (so long as such Affiliates or Related Funds are Accredited Investors) to exercise all or a portion of their respective rights under this Section 2.9, and each such designee shall, if not already a Member, become an Additional Member pursuant to Section 2.2.

(c) Upon the expiration of the offering periods described above in this Section 2.9, New Gulf or its applicable Subsidiary shall be entitled to sell such securities which the Significant Interest Holders have not elected to purchase during the [30] calendar days following such expiration to the Offeree at a price not less than the price, and on other terms and conditions not materially more favorable to the Offeree, in each case, than those offered to such Members in the Preemptive Rights Notice. Any securities to be offered or sold by New Gulf or any such Subsidiary after such [30]-day period must be reoffered pursuant to the terms of this Section 2.9 to the extent this Section 2.9 applies to such offering at such time.

(d) The purchase rights of any Member under this Section 2.9 shall terminate immediately prior to, but contingent on, the consummation of the first to occur of an IPO and a Sale Transaction.

Section 2.10 Purchase of Membership Interests by New Gulf. Subject to compliance with the other applicable provisions of this Agreement, the Board may cause New Gulf or its Subsidiaries to purchase or otherwise acquire Membership Interests or other outstanding Equity Securities; provided that this provision shall not in and of itself obligate any Member to sell any Membership Interests or Equity Securities to New Gulf or its Subsidiaries. So long as any Membership Interests or Equity Securities are owned by New Gulf or its Subsidiaries, such

Membership Interests or Equity Securities will not be considered or treated as outstanding for any purpose.

ARTICLE III

[CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS[2]

Section 3.1 Capital Contributions; Maintenance of Capital Accounts. Contemporaneously with the effectiveness of this Agreement, each Member shall be deemed to have made the Capital Contribution giving rise to such Member's initial Capital Account. No Member shall make or be required to make any additional contributions to New Gulf with respect to such Member's Membership Interests. New Gulf shall maintain a separate Capital Account for each Member according to the rules of Treasury Regulation Section 1.704-1(b)(2)(iv). Without limiting the foregoing, each Member's Capital Account shall be adjusted:

(a) by adding any additional Capital Contributions made by such Member;

(b) by deducting any amounts distributed to such Member;

(c) by adding any Profits (and items thereof) allocated to such Member and subtracting any Losses (and items thereof) allocated to such Member; and

(d) by deducting any distributions paid in cash or other assets to such Member by New Gulf.

Section 3.2 Computation of Income, Gain, Loss and Deduction Items. For purposes of computing the amount of any item of New Gulf income, gain, loss or deduction to be allocated pursuant to ARTICLE IV and to be reflected in the Capital Accounts, the determination, recognition and classification of any such item shall be the same as its determination, recognition and classification for U.S. federal income Tax purposes (including any method of depreciation, cost recovery or amortization used for this purpose); provided that:

(a) the computation of all items of income, gain, loss and deduction shall include those items described in Code Section 705(a)(1)(B), Code Section 705(a)(2)(B) and Treasury Regulation Section 1.704-1(b)(2)(iv)(i), without regard to the fact that such items are not includable in gross income or are not deductible for federal income Tax purposes;

(b) if the Book Value of any New Gulf property is adjusted pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(e) or (f), the amount of such adjustment shall be taken into account as gain or loss from the disposition of such property;

(c) For purposes of determining items of income, gain, deduction and loss, the allocation of depletable basis in, depletion allowances with respect to, and taxable gain or loss from the sale, exchange or other disposition of, property the production from which is subject to depletion (herein sometimes called "Depletable Property") which is provided for in Section 613A(c)(7)(D) of the Code and/or otherwise computed for federal income tax purposes shall be

[2] NTD: Article III subject to change.

disregarded. Instead, items of income, gain, deduction and loss shall be determined by taking into account Simulated Depletion and Simulated Gain or Loss, as determined and defined in the following sentence. For purposes of determining Simulated Depletion and Simulated Gain or Loss, (i) the Company shall determine its tax basis in its depletable properties ("Simulated Basis") without regard to the special rules set forth in Section 613A(c)(7)(D) of the Code, (ii) the Company shall determine depletion allowances ("Simulated Depletion") with respect to such depletable properties by using either the cost depletion method or the percentage depletion method (as determined by the Manager on a property by property basis), (iii) the Company shall reduce the Simulated Basis of such depletable properties by the Simulated Depletion attributable to such depletable properties, and (iv) the Company shall compute gain or loss on a sale, exchange, or other disposition of such depletable properties by subtracting Simulated Basis from the amount realized by the Company upon such disposition ("Simulated Gain or Loss");

(d) items of income, gain, loss or deduction (including Simulated Gain or Simulated Loss) attributable to the disposition of New Gulf property having a Book Value that differs from its adjusted basis for Tax purposes shall be computed by reference to the Book Value of such property and the amount of such gain or loss shall be allocated according to Section 4.2 to the Members who hold Membership Interests immediately prior to the event that causes the calculation of such gain or loss;

(e) items of depreciation, amortization, Simulated Depletion and other cost recovery deductions with respect to New Gulf property having a Book Value that differs from its adjusted basis for Tax purposes shall be computed by reference to the property's Book Value in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(g); and

(f) to the extent an adjustment to the adjusted Tax basis of any New Gulf asset pursuant to Code Sections 732(d), 734(b) or 743(b) is required pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(m) to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis); and this ARTICLE III shall be applied in a manner consistent with the principles of Treasury Regulation Sections 1.704-1(b)(2)(iv)(d), (f)(1), (h)(2) and (s).

Section 3.3 Negative Capital Accounts; No Interest Regarding Positive Capital Accounts. No Member shall be required to pay to any other Member or New Gulf any deficit or negative balance which may exist from time to time in such Member's Capital Account (including upon and after dissolution of New Gulf). Except as otherwise expressly provided herein, no Member shall be entitled to receive interest from New Gulf in respect of any positive balance in its Capital Account, and no Member shall be liable to pay interest to New Gulf or any Member in respect of any negative balance in its Capital Account.

Section 3.4 No Withdrawal. No Person shall be entitled to withdraw any part of such Person's Capital Contributions or Capital Account or to receive any Distribution from New Gulf, except as expressly provided herein.

Section 3.5 Loans by Members. Loans by Members to New Gulf shall not be considered Capital Contributions. If any Member shall loan funds to New Gulf in excess of the

amounts required hereunder to be contributed by such Member to the capital of New Gulf, the making of such loans shall not result in any increase in the amount of the Capital Account of such Member. The amount of any such loans shall be Indebtedness of New Gulf to such Member and shall be payable or collectible in accordance with the terms and conditions upon which such loans are made. Except as required by the last proviso of the penultimate sentence of Section 2.9(a), no Member shall be required to make any loans to New Gulf/or any of its Subsidiaries.

Section 3.6 Adjustments to Capital Accounts for Distributions In-Kind. To the extent that New Gulf distributes property in-kind to the Members, New Gulf shall be treated as making a distribution equal to the Fair Market Value of such property (as of the date of such distribution) for purposes of Section 4.1 and such property shall be treated as if it were sold for an amount equal to its Fair Market Value and any resulting gain or loss shall be allocated to the Members' Capital Accounts in accordance with Section 4.2 through Section 4.4. To the extent that Equity Securities of any Subsidiary are distributed to any Members, and unless otherwise agreed to by the Board and the Majority Holders, each Member hereby agrees to enter into a securityholders agreement with such Subsidiary and each other Member which contains rights and restrictions in form and substance similar to the provisions and restrictions set forth herein (including in ARTICLE V and ARTICLE IX), in form and substance approved by the Board and the Majority Holders, whether such distribution of Equity Securities is in connection with a dissolution of New Gulf or otherwise (including in connection with a Public Offering of a Subsidiary of New Gulf).

Section 3.7 Transfer of Capital Accounts. The original Capital Account established for each Substituted Member or Assignee upon becoming a Member shall be in the same amount as the Capital Account of the Member (or portion thereof) to which such Substituted Member or Assignee succeeds at the time such Substituted Member or Assignee is admitted as a Member. The Capital Account of any Member whose interest in New Gulf shall be increased or decreased by means of (a) the Transfer to it of all or a portion of the Membership Interests of another Member or (b) the repurchase or forfeiture of Membership Interests shall be appropriately adjusted to reflect such Transfer, repurchase or forfeiture. Any reference in this Agreement to a Capital Contribution of, or Distribution to, a Member that has succeeded to Membership Interests previously held by any other Member shall include any Capital Contributions or Distributions previously made by or to the former holder of such Membership Interests with respect to the Membership Interests Transferred.

Section 3.8 Adjustments to Book Value. New Gulf shall adjust the Book Value of its assets to Fair Market Value in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(f) as of the following times: (a) at the Board's discretion, in connection with the issuance of Membership Interests in New Gulf in exchange for more than *de minimis* Capital Contribution to New Gulf or as consideration for the performance of services for or on behalf of New Gulf or any of its subsidiaries; (b) at the Board's discretion, in connection with the Distribution by New Gulf to a Member of more than a *de minimis* amount of New Gulf's assets, including cash, in redemption or reduction of Membership Interests; and (c) the liquidation of New Gulf within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g). Any such increase or decrease in Book Value of an asset shall be allocated as a Profit or Loss to the Capital Accounts of the Members in accordance with Section 4.2 through Section 4.4 (determined immediately prior to the event or transaction giving rise to the revaluation).

Section 3.9 Compliance With Section 1.704-1(b). The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Treasury Regulations. In the event the Board shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including debits or credits relating to liabilities which are secured by contributed or distributed property or which are assumed by New Gulf or any Member), are computed in order to comply with such Treasury Regulations, the Board may make such modification, notwithstanding anything in Section 13.2 or elsewhere in this Agreement or any Equity Agreement to the contrary. The Board also may (a) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of New Gulf capital reflected on New Gulf's balance sheet, as computed for book purposes, in accordance with Treasury Regulations Section 1.704-1(b)(iv)(g), and (b) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Treasury Regulations Section 1.704-1(b).]

ARTICLE IV

[DISTRIBUTIONS AND ALLOCATIONS[3]

Section 4.1 Distributions.

(a) Tax Distributions. New Gulf shall, with respect to each Fiscal Quarter, distribute to the Members, in proportion to their respective Membership Interests, an amount of cash (a "Tax Distribution") equal to (i) the Company Income Amount with respect to such Fiscal Quarter multiplied by (ii) the Applicable Tax Rate. The "Company Income Amount" for a Fiscal Quarter shall be an amount equal to the taxable income of New Gulf for such Fiscal Quarter calculated at the partnership level which, for the avoidance of doubt, shall exclude any adjustments under Code Section 743 (net of taxable losses and tax credits from prior Fiscal Quarters not previously taken into account under this clause). Tax Distributions shall be made at least ten days in advance of the due date for a U.S. corporation's quarterly estimated U.S. federal income tax payment (and New Gulf shall provide to each Member that is receiving a Tax Distribution, at substantially the same time that any such Tax Distribution is made, a reasonably detailed calculation of the Company Income Amount) and shall be made to the Members on a Pro Rata Basis relative to all Membership Interests then outstanding; provided, however, that if any Membership Interest is issued during a Fiscal Quarter, the Tax Distribution made with respect to such Membership Interest shall be in proportion to the number of days such Membership Interest is held during the Fiscal Quarter with respect to which the Tax Distribution is being made relative to the number of days for the entire Fiscal Quarter with respect to which the Tax Distribution is being made and the remainder of the Tax Distribution for such Fiscal Quarter shall be allocated with respect to the other Membership Interests on a Pro Rata Basis relative to all such other Membership Interests. Subsequent Tax Distributions shall be adjusted up or down to reflect any variation between the quarterly estimated Tax Distributions actually made and the Tax Distributions that would have been made based on subsequent Tax information. In the event that the funds legally available for any Tax Distribution to be made hereunder are insufficient to pay the full amount of the Tax Distribution that would otherwise be

[3] NTD: Article IV subject to change.

required under this Section 4.1(a), the amount of funds that are then available shall be distributed at such time to the Members in proportion to their respective Membership Interests. At any time thereafter when additional funds of New Gulf are legally available for distribution, such funds shall be promptly distributed to the Members in proportion to their respective Membership Interests (without any interest thereon) until the full amount of Tax Distributions that were not previously paid are so paid in full. If any Member Transfers any portion of its Membership Interests during a Fiscal Quarter, the Tax Distribution made with respect to the Transferor and the Transferee with respect to such Transferred Membership Interests shall be allocated between the Transferor and the Transferee in proportion to the taxable income allocated to each such Person with respect to the relative number of days of their ownership of such Transferred Membership Interests during such Fiscal Quarter. For the purposes of calculating the amounts payable under Section 4.1(b) and Section 4.1(c), Tax Distributions shall be treated as advances of any amounts Members are entitled to receive pursuant to Section 4.1(b) and Section 4.1(c).

(b) Distributions Other Than in Connection with a Liquidation Event. Except as otherwise set forth in Section 4.1(a) or Section 4.1(c), to the extent New Gulf holds cash or other liquid assets that are (x) legally available for distribution by New Gulf to the Members and (y) not restricted under New Gulf's or its Subsidiaries' credit agreements or any other agreements relating to their Indebtedness (other than any Indebtedness to a Member), in each case, as determined by the Board in good faith, New Gulf may (but shall not be obligated to) make Distributions at such time, in such amounts and in such form (including in-kind property) as determined by the Board. Except as provided in Section 4.1(d), Distributions (whether in cash or other property) shall be made to the holders of Membership Interests (as determined immediately prior to such Distribution) at the same time in proportion to their Membership Interests.

(c) Distributions in Connection with a Liquidation Event. Notwithstanding anything in Section 4.1(b) to the contrary, in the event any Distribution is made by New Gulf in connection with (w) any voluntary or involuntary Insolvency Event, (x) any liquidation or dissolution pursuant to Section 11.2, (y) any Sale Transaction or (z) any Corporate Conversion or IPO pursuant to Section 10.1, (each of the foregoing, a "Liquidation Event"), each holder of Membership Interests shall receive (after payment in full of any liquidation preference in respect of any other Membership Interests or Equity Securities subsequently approved by the Board in accordance with this Agreement that have a preference in liquidation ranking senior to the Membership Interests), an aggregate amount of cash and, solely in the event of an IPO, the common stock of a corporate entity pursuant to a Corporate Conversion under Section 10.1 or securities exchangeable into common stock of a corporate Member, received by the holders of Membership Interests having a value (determined using the price in such IPO, net of any underwriting or similar commissions incurred by New Gulf in connection therewith) an amount equal to the aggregate amount such Member would receive with respect to such Membership Interests if such Distribution was made pursuant to Section 4.1(b), taking into consideration for purposes of such comparison any indemnification and other contingent liabilities and any expenses and fees incurred in connection with the consummation of such transaction.

(d) Distributions with Respect to Unvested Membership Interests. Notwithstanding the foregoing, the portion of any Distribution pursuant to Section 4.1(b) that would otherwise be made with respect to any Unvested Membership Interest shall not be

distributed with respect to such Unvested Membership Interest and shall instead be distributed solely with respect to Vested Membership Interests pursuant to Section 4.1(b) applied as though no Unvested Membership Interests were outstanding; provided that, upon and only to the extent of the next Distribution(s) (whether pursuant to Section 4.1(b), Section 4.1(c) or Section 10.1) subsequent to the vesting of such then Unvested Membership Interests, New Gulf shall, prior to any Distributions to the holders of Membership Interests following such vesting (whether pursuant to Section 4.1(b), Section 4.1(c) or Section 10.1), make a Distribution of any amounts that were not distributed with respect to such Unvested Membership Interest pursuant to this sentence (without any interest thereon) such that on a cumulative basis Distributions with respect to such Membership Interest shall equal the Distributions that would have been made with respect to such Membership if it had been a Vested Membership Interest beginning on the date of its original issue; provided that if such Unvested Membership Interest is repurchased or forfeited (or otherwise becomes incapable of vesting) pursuant to an Equity Agreement pursuant to which such Unvested Membership Interest was granted, then such Unvested Membership Interest shall not be entitled to receive or retain any Distributions after the time of such repurchase or forfeiture other than (x) any Tax Distributions that have been made with respect to such Unvested Membership Interest and (y) the amount, if any, paid or payable as consideration to repurchase such Unvested Membership Interest.

(e) Conditions Applicable to Distributions. New Gulf may impose on all Members certain terms and conditions on the receipt of any Distributions hereunder (including the repayment or return of all or any portion of such Distributions to New Gulf in order to satisfy New Gulf's indemnification and other obligations in connection with the divestiture of any assets of New Gulf or any of its Subsidiaries) so long as such terms and conditions are imposed on the same basis on all Members receiving any such Distribution, other than any discrepancies that are consistent with the manner in which the portion of such Distribution paid to each Membership Interest was determined in accordance with this Agreement. All Distributions shall be further subject to the retention and establishment of reserves, or payment to third parties, of such funds as the Board deems necessary with respect to the reasonable business needs and obligations of New Gulf (which obligations shall include the obligations under the terms and conditions of any indebtedness for borrowed money incurred by New Gulf or any of its Subsidiaries), Distributions shall be made only if, and only to the extent that, the amounts are (i) legally available for Distribution by New Gulf to Members and (ii) permitted under New Gulf's or its Subsidiaries' credit agreements or any other agreements relating to their Indebtedness (other than any Indebtedness to a Member not governed by an agreement entered into in compliance with Section 5.1(g)), in each case, as determined by the Board in good faith.

(f) Distribution Mechanics. Each Distribution shall be made to the Persons shown on the Membership Interest Ownership Ledger as of the date of such Distribution or a record date established by the Board that is not less than [5] Business Days prior to the date of Distribution; provided, however, that any Transferor and Transferee of Membership Interests may mutually agree as to which of them should receive payment of any Distribution, so long as such agreement is in writing and a copy thereof is provided to New Gulf prior to the date of Distribution or such earlier record date, as applicable. In the event that any restrictions on Transfer or change in beneficial ownership of Membership Interests set forth in this Agreement or any Equity Agreement have been breached, New Gulf may withhold Distributions in respect

of the affected Membership Interests until such breach has been cured (as determined by the Board in good faith).

Section 4.2 Allocations. Profits or Losses for any Fiscal Year or other relevant period shall be allocated among the Members in such a manner as to reduce or eliminate, to the extent possible, any difference, as of the end of such Fiscal Year, between (a) the sum of (i) the Capital Account of each Member, (ii) such Member's share of Minimum Gain (as determined according to Treasury Regulation Section 1.704-2(g)) and (iii) such Member's partner nonrecourse debt minimum gain (as defined in Treasury Regulation Section 1.704-2(i)(2)) and (b) the respective net amounts, positive or negative, which would be distributed to them or for which they would be liable to New Gulf under this Agreement and the Delaware Act, determined as if New Gulf were to (i) liquidate the assets of New Gulf for an amount equal to their Book Value and (ii) distribute the proceeds of such liquidation pursuant to Section 11.2. The Members acknowledge that allocations like those described in Proposed Treasury Regulation Section 1.704-1(b)(4)(xii)(c) ("Forfeiture Allocations") may result from the allocations of Profits and Losses provided for in this Agreement. For the avoidance of doubt, New Gulf is entitled to make Forfeiture Allocations and, once required by applicable final or temporary guidance, allocations of Profits and Losses will be made in accordance with Proposed Treasury Regulation Section 1.704-1(b)(4)(xii)(c) or any successor provision or guidance.

Section 4.3 Special Allocations.

(a) Member Nonrecourse Debt Minimum Gain Chargeback. Losses attributable to partner nonrecourse debt (as defined in Treasury Regulation Section 1.704-2(b)(4)) shall be allocated in the manner required by Treasury Regulation Section 1.704-2(i). If there is a net decrease during a Taxable Year or other relevant period in partner nonrecourse debt minimum gain (as defined in Treasury Regulation Section 1.704-2(i)(2)), Profits for such Taxable Year or period (and, if necessary, for subsequent Taxable Years and periods) shall be allocated to the Members in the amounts and of such character as determined according to Treasury Regulation Section 1.704-2(i)(4).

(b) Minimum Gain Chargeback. Nonrecourse deductions (as determined according to Treasury Regulation Section 1.704-2(b)(1)) for any Taxable Year or other relevant period shall be allocated to Members on a Pro Rata Basis. Except as otherwise provided in Section 4.3(a), if there is a net decrease in the Minimum Gain during any Taxable Year or other relevant period, each Member shall be allocated Profits for such Taxable Year or period (and, if necessary, for subsequent Taxable Years and periods) in the amounts and of such character as determined according to Treasury Regulation Section 1.704-2(f). This Section 4.3(b) is intended to be a Minimum Gain chargeback provision that complies with the requirements of Treasury Regulation Section 1.704-2(f), and shall be interpreted in a manner consistent therewith.

(c) Qualified Income Offset. If any Member unexpectedly receives an adjustment, allocation or distribution described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6) and has an Adjusted Capital Account Deficit as of the end of any Taxable Year, computed after the application of Section 4.3(a) and Section 4.3(b), but before the application of any other provision of thisSection 4.3, then Profits for such Taxable Year shall be allocated to such Member in proportion to, and to the extent of, such Adjusted Capital Account

Deficit. This Section 4.3(c) is intended to be a "qualified income offset provision" as described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted in a manner consistent therewith.

(d) Allocation of Certain Profits and Losses. Profits and Losses described in Section 3.2(f) shall be allocated in a manner consistent with the manner that the adjustments to the Capital Accounts are required to be made pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(m).

(e) Regulatory Allocations. The allocations set forth in Section 4.3(a) to Section 4.3(d) (the "Regulatory Allocations") are intended to comply with certain requirements of Sections 1.704-1(b) and 1.704-2 of the Treasury Regulations. The Regulatory Allocations may not be consistent with the manner in which the Members intend to allocate Profit and Loss of New Gulf or make Distributions. Accordingly, notwithstanding the other provisions of this ARTICLE IV, but subject to the Regulatory Allocations, income, gain, deduction, and loss shall be reallocated among the Members so as to eliminate the effect of the Regulatory Allocations and thereby cause the respective Capital Accounts of the Members to be in the amounts (or as close thereto as possible) they would have been if Profit and Loss (and such other items of income, gain, deduction and loss) had been allocated without reference to the Regulatory Allocations. In general, the Members anticipate that this will be accomplished by specially allocating other Profit and Loss (and such other items of income, gain, deduction and loss) among the Members so that the net amount of the Regulatory Allocations and such special allocations to each such Member is zero. In addition, if in any Fiscal Year or Fiscal Period there is a decrease in partnership Minimum Gain, or in partner nonrecourse debt Minimum Gain, and application of the Minimum Gain chargeback requirements set forth in Section 4.3(a) or Section 4.3(b) would cause a distortion in the economic arrangement among the Members, the Members may, if they do not expect that New Gulf will have sufficient other income to correct such distortion, request the Internal Revenue Service to waive either or both of such Minimum Gain chargeback requirements. If such request is granted, this Agreement shall be applied in such instance as if it did not contain such Minimum Gain chargeback requirement.

(f) In the case of a sale or other disposition of depletable property, the portion of the amount realized on such sale or other disposition that does not exceed the Company's Simulated Basis in the Depletable Property shall be allocated among the Members in the same ratios that the aggregate adjusted tax basis of the property was allocated under Section 4.5(c). The portion of the amount realized on the sale or other disposition of each such depletable property that exceeds the Company's Simulated Basis in the property (*i.e.*, Simulated Gain) shall be allocated among the Members in the same manner that gain is allocated pursuant to Section 4.2.

Section 4.4 Offsetting Allocations. If, and to the extent that, any Member is deemed to recognize any item of income, gain, deduction or loss as a result of any transaction between such Member and New Gulf pursuant to Sections 83, 482, or 7872 of the Code or any similar provision now or hereafter in effect, the Board shall use its commercially reasonable efforts to allocate any corresponding Profit or Loss to the Member that recognizes such item in order to reflect such Member's economic interest in New Gulf.

Section 4.5 Tax Allocations.

(a) Allocations Generally. Except as provided in Section 4.5(b) or Section 4.5(c) below, for federal, state and local income Tax purposes, each item of income, gain, loss or deduction shall be allocated among the Members in the same manner and in the same proportion that the corresponding book items have been allocated among the Members' respective Capital Accounts; except that, if any such allocation is not permitted by the Code or other applicable Law, then each subsequent item of income, gains, losses, deductions and credits will be allocated among the Members so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts.

(b) Code Section 704(c) Allocations. Items of New Gulf's Taxable income, gain, loss and deduction with respect to any property contributed to the capital of New Gulf shall, solely for Tax purposes, be allocated among the Members in accordance with Code Section 704(c) so as to take account of any variation between the adjusted basis of such asset for federal income Tax purposes and its initial Book Value. Such allocations shall be made using a reasonable method specified in Treasury Regulations Section 1.704-3 as the Board (pursuant to Section 5.1(b)(vi)) determines . In addition, if the Book Value of any New Gulf asset is adjusted pursuant to the requirements of Treasury Regulation Section 1.704-1(b)(2)(iv)(e) or (f), then subsequent allocations of items of Taxable income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income Tax purposes and its Book Value in the same manner as under Code Section 704(c). The Board shall (in accordance with Section 5.1(b)(vi)) determine all allocations pursuant to this Section 4.5(b) using a method that is reasonable under Treasury Regulation Section 1.704-3.

(c) Depletable Property. Cost and percentage depletion deductions and the gain or loss on the sale, exchange, transfer, or other disposition of Depletable Property shall be computed separately by the Members rather than the Company. For purposes of Section 613A(c)(7)(D) of the Internal Revenue Code, the Company's adjusted basis in each Depletable Property shall be allocated among the Members in proportion to their respective Membership Interests.

(d) Recapture. Depreciation, depletion, intangible drilling cost, and amortization recapture amounts under Sections 1245, 1250 or 1254 of the Code, if any, resulting from any sale or disposition of tangible or intangible depreciable, depletable, or amortizable property shall, to the maximum extent permissible under the Code and Treasury Regulations, be allocated to the Members in the same proportions that the depreciation, depletion, intangible drilling cost, or amortization being recaptured was allocated.

(e) Allocation of Tax Credits, Tax Credit Recapture, Etc. Allocations of Tax credits, Tax credit recapture, and any items related thereto shall be allocated to the Members according to their interests in such items as determined (pursuant to Section 5.1(b)(vi)) by the Board taking into account the principles of Treasury Regulation Section 1.704-1(b)(4)(ii) and (viii)

(f) Effect of Allocations. Allocations pursuant to this Section 4.5 are solely for purposes of federal, state and local Taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, Distributions or other items pursuant to any provision of this Agreement.

Section 4.6 Indemnification and Reimbursement for Payments on Behalf of a Member. Except as otherwise provided in this Section 4.6 and Section 6.1, if New Gulf is required by Law to make any payment to a Governmental Entity that is specifically attributable to a Member or a Member's status as such (including federal income or withholding Taxes, state personal property Taxes, and state unincorporated business Taxes), then such Member shall indemnify and contribute to New Gulf in full for the entire amount paid (including interest, penalties and related expenses). The Board may offset Distributions to which a Person is otherwise entitled under this Agreement against such Person's obligation to indemnify New Gulf under this Section 4.6 or with respect to any other amounts owed by the Member to New Gulf or any of its Subsidiaries. A Member's obligation to indemnify and make contributions to New Gulf under this Section 4.6 shall survive the termination, dissolution, liquidation and winding up of New Gulf, and for purposes of this Section 4.6, New Gulf shall be treated as continuing in existence. New Gulf may pursue and enforce all rights and remedies it may have against each Member under this Section 4.6, including instituting a lawsuit to collect such indemnification and contribution, with interest calculated at a rate equal to the Base Rate plus three percentage points per annum (but not in excess of the highest rate per annum permitted by Law), compounded on the last day of each Fiscal Quarter.

ARTICLE V

MANAGEMENT[4]

Section 5.1 Management of New Gulf Generally; Authority of Board; Powers of the Board and of Managers.

(a) Except for situations in which the approval of all or a subset of the Members is expressly required by this Agreement (including Section 5.1(g)), notwithstanding anything to the contrary in the Delaware Act, without any vote, consent or approval of any Member or group or class of Members or other Person:

(i) the Board shall conduct, direct and exercise full control over all activities of New Gulf (including all decisions relating to the issuance of additional Equity Securities, redemption or repurchase of Equity Securities and the voting and sale of, and the exercise of other rights with respect to, the Equity Securities of New Gulf and New Gulf's Subsidiaries);

(ii) all management powers over the business and affairs of New Gulf shall be exclusively vested in the Board;

(iii) the Board, acting as such (and not any Manager individually), shall have the sole power to take any action on behalf of New Gulf, and the Board shall exercise all

[4] This Article is subject to further review and change.

rights and powers of New Gulf (including all rights and powers to take actions, give or withhold consents or approvals, waive or require the satisfaction of conditions, or make determinations, opinions, judgments, or other decisions, and whether such rights and powers are granted to New Gulf or under the terms of an agreement to which New Gulf is a party, or arise as a result of New Gulf's direct or indirect ownership of securities or otherwise) which are granted to New Gulf under the Equity Agreements, the Employment Agreements, this Agreement, the Plan and the agreements, instruments or documents contemplated by the Plan; and

(iv) [On or before the Effective Date, New Gulf will enter into a management services agreement with NGR Management, in the form of Exhibit F attached hereto (the "Management Services Agreement"). [Pursuant to the Management Services Agreement, some or all of NGR Management's executive officers will be appointed as executive officers of New Gulf.] The Board will oversee such management services provided by NGR Management's executive officers to New Gulf.]

(b) Actions Requiring Supermajority Approval of the Board. Notwithstanding anything contained in this Agreement to the contrary, the following actions shall only be authorized upon obtaining the approval of at least five of the seven Managers on the Board (or at least 2/3 of the Managers if the Board consists of more than seven Managers):

(i) the issuance or approval of the issuance of any Membership Interests or Equity Securities of New Gulf (other than equity issuances pursuant to outstanding awards under the Incentive Equity Plan or upon conversion of New First Lien Notes);

(ii) acquisition by New Gulf or any of its Subsidiaries of stock or assets of any other Person having a value, as determined by the Board, of more than $[65] million;

(iii) any increase in the number of Membership Interests or Equity Securities reserved for issuance under the Incentive Equity Plan;

(iv) any sale, lease, transfer, pledge or other disposition of any assets of New Gulf or any of its Subsidiaries having a value, as determined by the Board, of more than $[65] million;

(v) incurrence by NGR Management or its Subsidiaries after the Effective Date of any Indebtedness in a principal amount having a value, as determined by the Board, of more than $[65] million; or

(vi) make any material tax elections, change any tax elections, adopt or change any tax accounting methods, or take any actions in any tax audit, tax examination, tax litigation or other tax proceeding involving New Gulf or its Subsidiaries.

(c) Supermajority Holder Approval. Notwithstanding anything contained in this Agreement to the contrary, without obtaining the approval of the Supermajority Holders, the Board shall not, and shall not cause New Gulf to:

(i) Increase or decrease the size of the Board pursuant to Section 5.2(a);

(ii) sell, lease or otherwise dispose of all or substantially all the assets of New Gulf or any of its Subsidiaries (other than pursuant to any Approved Sale pursuant to Section 9.4, or other than to a wholly owned Subsidiary of New Gulf);

(iii) approve any merger, consolidation, conversion, recapitalization, reorganization or other business combination transaction involving New Gulf or any of its Subsidiaries (other than pursuant to any Approved Sale pursuant to Section 9.4, or other than a merger, consolidation, conversion, recapitalization, reorganization or other business combination transaction involving only New Gulf and a wholly owned Subsidiary of New Gulf); or

(iv) make any amendments to this Agreement pursuant to Section 13.2 that affect this Section 5.1(c).

(d) Limitation on Delegation of Authority. Except for any decision-making powers that the Board in its good faith and informed judgment deems appropriate to delegate to any (i) committee of the Board or any committee of any Subsidiary Governing Body or (ii) Officer or any officer of any Subsidiary of New Gulf, all decisions with respect to matters that are not in the ordinary course of business of New Gulf or any Subsidiary of New Gulf, or that are material to the business and affairs of New Gulf or any Subsidiary of New Gulf (as applicable), shall be made by the Board or the applicable Subsidiary Governing Body.

(e) Power to Bind New Gulf. Each Manager shall be a "manager" (as that term is defined in the Delaware Act) of New Gulf, but, notwithstanding the foregoing, unless the Board consists of only one Manager, no Manager (acting in his capacity as such) shall have any authority to bind New Gulf to any third party with respect to any matter, except pursuant to a resolution expressly authorizing such authority duly adopted by the Board by the necessary affirmative vote required with respect to such matter pursuant to the terms of this Agreement. No Manager shall have any rights or powers beyond the rights and powers granted to such Manager in this Agreement. Managers need not be residents of the State of Delaware.

(f) Supervision of Officers. The management of the business and affairs of New Gulf by the Officers and the exercising of their powers shall be conducted at all times under the supervision of and, when applicable, subject to the approval of the Board.[3]

(g) Affiliate Transactions. Subject to, and without limiting the provisions of, Section 13.11(b), New Gulf shall not, and shall cause each of its Subsidiaries not to, enter into any transaction or other arrangement with any Affiliate of New Gulf or any Affiliate (which term shall also include, solely for purposes of this Section 5.1(g), each employee, officer, director, manager and partner of such Affiliate, and any member of such individual's Family Group) of any Subsidiary of New Gulf (any such transaction or arrangement, an "Affiliate Transaction") other than (i) purchases of Equity Securities by Significant Interest Holders as described in Section 2.9 and (ii) any Affiliate Transaction (A) that is entered into on an arms' length basis,

[3] NTD: Provisions to be added making clear that management is responsible for the day-to-day operations of the business, subject to the supervision of the Board.

(B) that is on terms at least as favorable to New Gulf and/or such Subsidiary as could reasonably be obtained from an independent third party that is not an Affiliate of New Gulf or any Subsidiary of New Gulf (and is not an employee, officer, director, manager or partner of an Affiliate of New Gulf or any Subsidiary of New Gulf or any member of such individual's Family Group), (C) with respect to which all material terms and conditions of which (including the facts relating to the nature of such Affiliate's interest in such Affiliate Transaction) are disclosed to the Board or any Subsidiary Governing Body (as applicable) prior to New Gulf or such Subsidiary authorizing and/or entering into such Affiliate Transaction, and (D) that is approved by a majority of the Managers that are disinterested with respect to such Affiliate Transaction.

(h) Termination of Management Services Agreement. [Notwithstanding anything contained in this Agreement to the contrary, without obtaining the approval of (i) the Supermajority Holders and the approval of the majority of the Board or (ii) the holders of at least [80]% percent of the outstanding Membership Interests that are entitled to vote at such time, the Board shall not, and shall not cause New Gulf to voluntarily terminate the Management Services Agreement.]

Section 5.2 Composition of the Board.

(a) Number of Managers; Appointment Rights. The Board shall consist of seven (7) Managers. The number of Managers may be changed from time to time by resolution of the Board with the approval of the Supermajority Holders pursuant to Section 5.1(c) but shall not be less than five (5) Managers.

(b) Initial Board. The following individuals shall serve as the initial Managers of the Board:

(i) the Chairman and Chief Executive Officer of [New Gulf] (the "Company Manager");

(ii) three (3) Managers designated by Värde;

(iii) one (1) Manager designated by Millstreet;

(iv) one (1) Manager designated by PennantPark; and

(v) one (1) Manager designated by the Ad Hoc Committee;

and each such individual shall serve until the time of the next annual meeting and until his or her respective successor is duly elected, designated or otherwise qualified, or until his or her earlier death, resignation or removal.

(c) Term in Office. Each Manager shall serve a one (1) year term and will serve until a successor is appointed, designated, elected or otherwise qualified in accordance with the terms hereof or until such Manager's earlier resignation, death or removal. An individual shall become a Manager effective upon receipt by New Gulf of a written notice (or at such later time or upon the happening of some other event specified in such notice) of such individual's designation by the Person or Persons validly entitled to designate such Manager

pursuant to Section 5.2(d) or Section 5.2(d). A Manager may resign at any time by delivering written notice to New Gulf. Such resignation shall be effective upon receipt unless it is specified in the resignation notice to be effective at some other time or upon the happening of some other event.

(d) Manager Designations: New Managers shall be designated or elected, as applicable, on an annual basis prior to the end of the term of the existing Board. Selection of Managers for subsequent terms will be determined in accordance with this Section 5.2(d) based on each Specified Initial Interest Holder's then-current percentage ownership of Membership Interests that were issued on the Effective Date (subject to Adjustments) at the time of the applicable annual meeting of holders of Membership Interests. The Specified Initial Interest Holders will have the following Manager designation rights, it being agreed that the rights of Specified Initial Interest Holders to designate one or more Managers pursuant to this Section 5.2(d) is granted solely to the Specified Initial Interest Holders and is not transferable or assignable to any Transferee or other Member:

(i) [Each Specified Initial Interest Holder that holds, at the time of any such annual meeting, [25]% or more of the Membership Interests issued as of the Effective Date (subject to Adjustments), shall be entitled to designate three (3) Managers for the next one-year term;]

(ii) [Each Specified Initial Interest Holder that holds, at the time of any such annual meeting, [15]% or more but less than [25]% of the Membership Interests issued as of the Effective Date (subject to Adjustments), shall be entitled to designate two (2) Managers for the next one-year term; and]

(iii) [Each Specified Initial Interest Holder that holds, at the time of any such annual meeting, [7.5]% or more but less than [15]% of the Membership Interests issued as of the Effective Date (subject to Adjustments), shall be entitled to designate one (1) Manager for the next one-year term.]

(iv) [Notwithstanding the foregoing, in no event will all Specified Initial Interest Holders have the right to elect more than six (6) Managers.]

(v) [To the extent one or more seats on the Board are not filled at an Annual Meeting by designation by Specified Initial Interest Holders pursuant to this to Section 5.2(d), such seats shall be filled by the affirmative vote of the Majority Holders.]

(e) Removal of Managers. If the Company Manager ceases to be an officer of [New Gulf] or a full-time employee of NGR Management or ceases to be the chairman or the senior most executive officer of [New Gulf] (as determined by the Board), then such person shall be removed automatically from the Board and each committee thereof upon such cessation of employment (without any action on the part of the Company Manager, the Board, such committees or any other Person). If any Person or group of Persons that is entitled to designate one or more Managers pursuant to Section 5.2(d) ceases to be entitled to designate such Manager(s) in accordance with the terms of Section 5.2(d), the Manager(s) appointed by such Person or group of Persons who ceased to have the right to appoint such Manager(s) shall be

removed automatically from the Board and each committee thereof upon such cessation (without any action on the part of any other Manager, the Board, such committees or any other Person). Except as otherwise provided in Section 5.2(d) and this Section 5.2(e), the removal from the Board or any committees (with or without cause) of any Manager shall be upon (and only upon) the written designation of the Person or group of Persons entitled to appoint such Manager pursuant to Section 5.2(d).

(f) Board Vacancies. A vacancy on the Board because of resignation, death, disability or removal of a Manager shall be filled by the Person or Persons entitled to designate such Manager pursuant to Section 5.2(d); provided, however, if any Manager is removed from the Board under the circumstances described in the second sentence of Section 5.2(e), then such vacancy shall be filled by the affirmative vote of the Majority Holders (except that, in the event such vacancy arises during the three-month period preceding an Annual Meeting, the remaining Managers may elect a Manager to fill such vacancy until such Annual Meeting). If any Person or Persons having the right to designate a Manager pursuant to Section 5.2(d) fails to make such designation, such position on the Board shall remain vacant until such Person or Persons exercise the right to designate a Manager as provided hereunder; provided that if the consent of such Manager is required under this Agreement with respect to a particular matter, then if such position remains vacant for more than [ten (10)] days after delivery of notice to the Person(s) entitled to designate such Manager (at the address for such Person set forth on the then effective Membership Interest Ownership Ledger), then, notwithstanding any other provision of this Agreement, such Manager's consent shall no longer be required with respect to any matter after such [ten (10)] day period has elapsed, or, until such time as the vacancy is filled. Except as set forth in the first sentence of this Section 5.2(f), vacancies shall be filled by the applicable Person(s) validly entitled to designate such Manager pursuant to Section 5.2(d) by delivery by such Person(s) of a written notice to New Gulf of the identity of the individual to be designated as a Manager. Newly-created positions on the Board resulting from any increase in the authorized number of Managers shall be filled pursuant to Section 5.2(d).

(g) Lead Manager. The Board may designate one of the Managers to serve as chair of its meetings (the "Lead Manager"). The Lead Manager shall preside at all meetings of the Board, unless otherwise determined by the Board. If the Lead Manager is absent from a meeting of the Board, the Managers in attendance shall elect another Manager to serve as chair for that meeting. It is understood that the Lead Manager shall not be deemed an Officer unless otherwise determined by the Board in a resolution.

(h) Reimbursement. New Gulf shall pay, or shall cause one of its Subsidiaries to pay, the reasonable out-of-pocket costs and expenses incurred by each Manager in the course of his or her service to New Gulf and/or its Subsidiaries, including in connection with attending regular and special meetings of the Board, any Subsidiary Governing Body and/or any of their respective committees, in each case subject to New Gulf's or the applicable Subsidiaries' policies and procedures with respect thereto (including the requirement of reasonable documentation thereof).

(i) Compensation of Managers. In addition to reimbursement of reasonable out-of-pocket costs and expenses pursuant to Section 5.2(h), Managers shall be entitled to be compensated for their services as Managers as determined by the Board from time to time.

(j) Subsidiary Governing Bodies; Board or Subsidiary Governing Body Committees.

(i) The composition of any Subsidiary Governing Body (or committee thereof) shall be determined by the Board.

(ii) The composition of any committee of any Subsidiary Governing Body shall be determined by the Board.

(k) Observers. The Board shall have the right (but not the obligation) to authorize observers (each an "Observer", and collectively, the "Observers") to attend any meeting of the Board, each Subsidiary Governing Body, and each committee of the Board and each Subsidiary Governing Body (each such meeting, a "Meeting"). Each such Observer shall be entitled to participate in discussions of any matters presented at any Meeting, but shall not be entitled to vote on any such matters. New Gulf, or the applicable Subsidiary of New Gulf, shall give the Observers advance notice of all Meetings and all materials given to members of the Board, any Subsidiary Governing Body and any such committee of any of them. Notwithstanding the foregoing, (i) the Board or any Subsidiary Governing Body (or any committee of any of them) may restrict any Person's attendance as an Observer at any portion of a Meeting if the Board, any Subsidiary Governing Body (or any committee of any of them), as applicable, makes a good faith determination, upon advice of outside legal counsel, that such Person has a conflict of interest with respect to the subject matter of such portion of the Meeting or that the attendance by such Person at such portion of the Meeting would cause New Gulf or any of its Subsidiaries to lose the benefit of protection in respect of what would otherwise be privileged communications, and (ii) the failure of any Observer to attend any meeting of the Board, any Subsidiary Governing Body or any committee of any of them shall not prevent any such Meeting from proceeding or otherwise affect the validity of such Meeting or any actions taken at such Meeting. The right of an Observer to observe Meetings is not Transferable or otherwise assignable to any other Person, and any purported Transfer shall be void *ab initio*.

Section 5.3 Board Actions; Meetings. Each Manager shall have one (1) vote on all matters submitted to the Board or any committee thereof (whether the consideration of such matter is taken at a meeting, by written consent or otherwise). Except as otherwise provided in Section 5.2(f) and Section 5.2(h), the affirmative vote of the Managers holding at least a majority of the votes of all Managers then serving on the Board (i.e., excluding any vacancies on the Board) shall constitute the valid and legally binding act of the Board. Except as otherwise provided in Section 5.2(h) and Section 5.1(g) or as otherwise provided by the Board when establishing any committee, the affirmative vote of a majority of the Managers then serving on such committee shall be the act of such committee. Meetings of the Board and any committee thereof shall be held at the principal office of New Gulf or at such other place as may be determined by the Board or such committee. Regular meetings of the Board shall be held on such dates and at such times as shall be determined by the Board, and notice of such dates and times shall be provided in writing to all Managers not less than [three (3)] Business Days prior to any such meeting. Except as otherwise determined by the Board to be held on a more frequent basis, New Gulf shall hold at least one regular meeting of the Board each calendar quarter. Special meetings of the Board may be called by the Lead Manager, the Company Manager or any two Managers and special meetings of any committee may be called by the Lead Manager or any two

Managers on such committee. Notice of each special meeting of the Board or committee stating the date, place and time of such meeting shall be given to each Manager (in the case of a Board meeting) or each Manager on such committee (in the case of a committee meeting) by hand, telephone, electronic mail, telecopy or overnight courier at least [twenty-four (24)] hours prior to such meeting. Managers and members of any committee of the Board shall be permitted to participate in any meetings by telephone conference or similar communications equipment by means of which all individuals participating in such meeting can be heard, and such method of participation shall be made available for all such meetings. Notice may be waived before or after a meeting and shall be waived automatically by attendance by a Manager without protest at such meeting. The actions taken by the Board or any committee at any meeting (as opposed to by written consent), however called and noticed, shall be as valid as though taken at a meeting duly held after regular call and notice if (but not until), either before, at or after the meeting, the Managers as to whom it was improperly called or noticed either sign a written waiver of notice or a consent to the holding of such meeting, attend the meeting without protest of how it was called or noticed, or approve the minutes of such meeting. The actions by the Board or any committee thereof may be taken by vote of the Board or any committee at a meeting thereof or by written consent (without a meeting, without notice and without a vote) so long as such consent is signed by at least the Managers holding the number of votes that would be necessary to authorize or take such action at a meeting of the Board or such committee in which all Managers then serving on the Board or such committee, as the case may be, were present. Prompt notice of any action so taken without a meeting shall be given to those Managers who have not consented in writing. The Board and any committee may adopt such other procedures governing meetings and the conduct of business at such meetings as it shall deem appropriate, but that are not otherwise inconsistent with the terms of this Section 5.3.

Section 5.4 Delegation of Authority. Subject to the terms of Section 5.1(d), the Board may, from time to time, delegate to one or more Persons (including any Member or Officer and including through the creation and establishment of one or more other committees) such authority and duties as the Board may deem advisable. Any delegation pursuant to this Section 5.4 may be revoked at any time by the Board.

Section 5.5 Officers. Pursuant to the Management Services Agreement, NGR Management will agree to make available certain officers of NGR Management who are approved by the Board to serve as senior management and officers of New Gulf, subject to supervision of the Board.

Section 5.6 Standard of Duty.

(a) [Board Standard of Duty. To the fullest extent permitted by applicable Law, no Member or Manager, in their capacity as such, to the fullest extent permitted by applicable Law, shall have any duty (fiduciary or otherwise) to NGR Management, New Gulf or any of their Subsidiaries or to any other Member otherwise existing at law or in equity. Notwithstanding anything to the contrary in this Agreement, to the extent that, at law or in equity, a Member or Manager has duties (including fiduciary duties) and liabilities relating thereto to NGR Management, New Gulf or any of their Subsidiaries or any Member or any other Person, such Member or Manager acting under this Agreement or in connection with NGR Management, New Gulf or any of their Subsidiaries shall not be liable to NGR Management,

New Gulf or any of their Subsidiaries or to any Member or any other Person that is bound by this Agreement for breach of any such duty with respect to any act or omission that is taken or omitted in good faith reliance on the provisions of this Agreement. Each of the parties to this Agreement hereby agrees that the provisions of this Agreement, including this Section 5.6, to the extent that they limit or eliminate the duties (including fiduciary duties) and liability of a Member or Manager to NGR Management, New Gulf or any of their Subsidiaries or any other Person who is bound by this Agreement otherwise existing at law or in equity, shall replace all such other duties and liabilities of such Member or Manager. Notwithstanding the foregoing, this Section 5.6 (i) shall not eliminate the obligation of each Member to act in compliance with the express terms of this Agreement and (ii) shall not be deemed to eliminate the implied contractual covenant of good faith and fair dealing. In furtherance of the foregoing provisions of this Section 5.6 (but subject to the immediately preceding sentence), when any Member or Manager takes any action under this Agreement or in connection with NGR Management, New Gulf or any of their Subsidiaries to give or withhold its consent or approval, such Member or Manager shall have no duty (fiduciary or otherwise) to consider the interests of NGR Management, New Gulf or any of their Subsidiaries or any other Members, and may act exclusively in its own interest. For the avoidance of doubt, the duties of any of the Officers of NGR Management, New Gulf or any of their Subsidiaries in their capacities as such or on behalf of NGR Management, New Gulf or any of their Subsidiaries, shall not be limited or affected in any respect by this Section 5.6 to the extent of any duties they may have under the Act or otherwise under applicable law. Each Member acknowledges and agrees that no Manager (other than the Company Manager or any other Manager who is an Officer or employee of NGR Management, New Gulf or any of their Subsidiaries) shall, as a result of being a Manager (as such), be bound to devote all of his business time to the affairs of NGR Management, New Gulf or any of their Subsidiaries, and that he or she and his or her Affiliates do and will continue to engage for their own account and for the accounts of others in other business ventures.] [4]

(b) [Reserved].

(c) Other Duties Excluded. Except as expressly set forth in Section 5.6(a) with respect to certain Managers and as expressly set forth in Section 5.6(b) with respect to Officers, to the maximum extent permitted by applicable Law, New Gulf and each Member agrees that none of the Board, the Managers, the Members or any of their respective Affiliates, officers, employees, partners, members, managers, shareholders, employees, agents or representatives shall owe any fiduciary duty to New Gulf or its Subsidiaries or any other Member. Each Member hereby waives, to the fullest extent permitted by the Delaware Act, any claim or cause of action against the Board, each Manager, each Member (in their capacity as such) and their respective Affiliates, officers, employees, partners, members, managers, shareholders, employees, agents or representatives for any claims relating to any breach of any fiduciary duty to New Gulf or the Members, or any of the Subsidiaries, by any such Person; provided that, with respect to actions or omissions by a Management Investor in such Person's capacity as a Manager, an Officer, director, employee or service provider of New Gulf or any of its Subsidiaries, such waiver shall not apply to the extent the act or omission was attributable to such Management Investor's breach of the standard of duty set forth in Section 5.6(b) above or a violation of the duties set forth in an Equity Agreement or Employment Agreement, in each case

[4] NTD: Standard of conduct for Managers, Members and Officers to be conformed.

as determined by a final judgment, order or decree of an arbitrator or a court of competent jurisdiction (which is not appealable or with respect to which the time for appeal therefrom has expired and no appeal has been perfected). Each Member acknowledges and agrees that in the event of any conflict of interest, each such Person (other than a Management Investor) may act in the best interests of such Person or its Affiliates, officers, employees, partners, members, managers, shareholders, employees, agents or representatives (subject to the limitations set forth above in this Section 5.6(c)). In furtherance of the foregoing, except as expressly set forth in Section 5.6(a) and Section 5.6(b), it is the intent and agreement of the Members that all fiduciary duties be, and hereby are, eliminated and no fiduciary duties shall apply to any action or omission taken by the Board, any Manager, any Member or any of their respective Affiliates, officers, employees, partners, members, managers, shareholders, employees, agents or representatives hereunder or in connection with New Gulf.

(d) Effect on Equity Agreements and Employment Agreements. This shall not in any way affect, limit or modify any Management Investor's rights, powers, entitlements, liabilities, obligations, duties or responsibilities under any Employment Agreement, and/or Equity Agreement or any other agreement with respect to the provision of services to New Gulf and/or any of its Subsidiaries.

Section 5.7 Lack of Authority of Members. Except as expressly set forth herein (e.g., rights expressly and specifically granted to the Majority Holders), no Member in its capacity as such has the authority or power to act for or on behalf of New Gulf in any manner or way, to bind New Gulf, or do any act that would be (or could be construed as) binding on New Gulf, in any manner or way, or to make any expenditures on behalf of New Gulf, unless (subject to the terms of Section 5.1(d)) such specific authority and power has been expressly granted to and not revoked from such Member by the Board or pursuant to this Agreement, and the Members hereby consent to the exercise by the Board of the powers conferred on it by the Delaware Act, this Agreement and other applicable Law.

Section 5.8 Members Actions. Except for any consent of a group of Members expressly and specifically provided in this Agreement (for example, the consent of any Person required under Section 5.1(g), Section 5.1(h) or Section 13.2), no Member shall have any right to vote on, approve or consent to the taking of any action by or on behalf of New Gulf. Notwithstanding anything in this Section 5.8 or elsewhere in this Agreement to the contrary, and without limiting the first sentence of this Section 5.8, except as expressly provided in this Agreement, the vote, consent and approval of Members is being waived to the greatest extent permitted by the Delaware Act, such that wherever the Delaware Act permits actions to be taken without the vote, consent or approval of "members" (as defined therein), or any group or class of members, this Agreement shall be construed to have otherwise provided that such vote, consent or approval may be made solely by the Board, without the need for any vote, consent or approval of any Members, group of Members or class of Members. The actions, approvals, consents, designations and appointments by the Members (or a subset of Members (e.g., the Majority Holders, Specified Initial Interest Holders and/or the Significant Interest Holders)) required or permitted under this Agreement may be taken (a) at a meeting called by the Board on at least 24 hours prior written notice to each Member entitled to vote on such matter, which notice shall state the purpose or purposes for which such meeting is being called, or (b) by written consent without a meeting or a vote (or advance notice thereof), so long as such consent is signed by

Members holding at least the required number of Membership Interests to approve or consent to such matter, to make such appointment or designation, or to take such action under this Agreement. Any defect in providing notice of any meeting or of any action by written consent may be cured if the affected Member signs a written waiver of such defect. Prompt notice of any action taken by written consent shall be given to all Members entitled to vote on any matter considered at such meeting. Except as otherwise expressly and specifically provided in this Agreement, the Members shall vote their Membership Interests together as a single class on any matters required under this Agreement to be submitted to a vote of Members, and each such Membership Interest shall have one vote on any such matter.

Section 5.9 Member Voting Agreement. On the Effective Date, it is expected that the Specified Initial Interest Holders will enter into a customary voting agreement obligating each of the Specified Initial Interest Holders to vote its Membership Interests in accordance with such voting agreement under certain circumstances. Voting by the Specified Initial Interest Holders with respect to the election of Managers will be subject to the terms of such voting agreement.

ARTICLE VI

LIMITED LIABILITY, EXCULPATION, AND INDEMNIFICATION[5]

Section 6.1 Limitation of Liability of Members.

(a) Limitation of Liability. Except as otherwise required by applicable Law, the debts, liabilities, commitments and other obligations of New Gulf and its Subsidiaries, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of New Gulf and its Subsidiaries, and no Member shall have any liability whatsoever in its capacity as a Member, whether to New Gulf, to any of the other Members, to the creditors of New Gulf or to any other Person, for the debts, liabilities, commitments or any other obligations of New Gulf or any of its Subsidiaries, or for any losses of New Gulf. No Member shall, in its capacity as such, be deemed to owe any fiduciary duty to New Gulf or any other Member, it being understood that it is intended by the Members that all such fiduciary duties be, and hereby are, fully and irrevocably eliminated.

(b) Observance of Formalities. Notwithstanding anything contained herein or the Delaware Act to the contrary, the failure of New Gulf or any of its Subsidiaries, or any Manager, Member or Officer to observe any formalities or procedural or other requirements relating to the exercise of its powers or management of New Gulf's or any of its Subsidiaries' business and affairs under this Agreement or the Delaware Act shall not be grounds for imposing liability on any of the Members.

(c) Return of Distributions. [In accordance with the Delaware Act and the other Laws of the State of Delaware, a "member" of a limited liability company may, under certain circumstances, be required to return amounts previously distributed to such member. It is the intent of the Members that no Distribution to any Member pursuant to ARTICLE IV hereof shall be deemed a return of money or other property paid or distributed in violation of the

[5] NTD: This Article is subject to further review and change.

Delaware Act. The payment of any such Distribution of money or property to a Member shall be deemed to be a compromise within the meaning of the Delaware Act, and, unless otherwise agreed in writing by such Member in connection with such Distribution, the Member receiving any such money or property shall not be required to return to any Person any such money or property. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Member is obligated to make any such payment, such obligation shall be the obligation solely of such Member and not of any other Member or Manager. Notwithstanding the foregoing, a Member will be required to return to New Gulf any Distribution to the extent made to it in clear and manifest accounting, clerical, or other similar error (as determined in good faith by the Board).]

Section 6.2 No Right of Partition. No Member shall have the right to seek or obtain partition by court decree or operation of Law of any New Gulf property, or the right to own or use particular or individual assets of New Gulf (including all or a portion of its Subsidiaries or Affiliates).

Section 6.3 [Exculpation of Managers and Certain Other Covered Persons. The personal liability of any (a) Manager, (b) Member, (c) Affiliate or Related Fund of any Member, (d) Person serving or having served as a Manager, member of any committee of the Board or any Subsidiary Governing Body, (e) Observer and (f) Person who is or was a partner, shareholder, member, officer, director, manager, controlling person, employee, consultant, counsel, representative or agent of any of the foregoing (each of the Persons in (a) through (f), a "Covered Person") to any other Manager, New Gulf or to any Member for any loss suffered by any of them for any monetary damages for breach of fiduciary duties as a Manager is hereby eliminated to the fullest extent permitted by the Delaware Act. The Managers shall not be liable for errors in judgment. Any Manager may consult with counsel and accountants and any Member, Manager, officer, director, employee or committee of New Gulf or its Subsidiaries or any other professional expert in respect of the affairs of New Gulf or its Subsidiaries, and provided the Manager acts in good faith reliance upon the advice or opinion of such counsel or accountants or other Persons, the Manager shall not be liable to any Person for any loss suffered by New Gulf or any other Person in reliance thereon. If the Delaware Act is hereafter amended or interpreted to permit further limitation of the liability of a Covered Person beyond the foregoing (but subject to the exceptions set forth above), then this paragraph shall be interpreted to limit the personal liability of such Covered Person to the fullest extent permitted by the Delaware Act, as amended (but, in the case of any such amendment, only to the extent that such amendment permits New Gulf to limit the personal liability of the Covered Persons to a greater extent than that permitted by said Law prior to such amendment). In furtherance of, and without limiting the generality of the foregoing, no Covered Person shall be (w) personally liable for the debts, obligations or liabilities of New Gulf, including any such debts, obligations or liabilities arising under a judgment, decree or order of a court, (x) obligated to cure any deficit in any Capital Account, (y) required to return all or any portion of any Capital Contribution or deemed Capital Contribution or (z) required to lend or contribute any funds to New Gulf.] [6]

Section 6.4 Reserved.

[6] NTD: Exculpation standard for Managers, Members and Officers to be conformed.

Section 6.5 Right to Indemnification.

(a) Reserved. T

(b) [Members, Managers or Observers. Subject to Section 4.6 and the limitations and conditions set forth in this ARTICLE VI, each Person who is a Member, Manager or Observer of New Gulf or a legal representative of any Member, Manager or Observer of New Gulf (including any Person who served as a Member, Manager or Observer of New Gulf or a legal representative of a Member, Manager or Observer of New Gulf on or at any time after May 1, 2014) (other than an Officer or employee to which Section 6.5(a) shall apply) who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed Proceeding, or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact that such Person, or another Person of whom such Person is the legal representative, is or was a Member, Manager or Observer of New Gulf, or, while a Member, Manager or Observer of New Gulf, is or was serving at the request of New Gulf as a manager, director, partner, member, stockholder, joint venturer, proprietor, trustee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise and any Affiliate or Related Fund of any of the foregoing, and any Person who is or was a partner, shareholder, member, officer, director, manager, controlling person, employee, consultant, counsel, representative or agent of any of the foregoing (each of the foregoing, together with each Officer and employee indemnified pursuant to Section 6.5(a), an "Indemnified Person") shall be indemnified by New Gulf to the fullest extent permitted by the Delaware Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits New Gulf to provide broader indemnification rights than said Law permitted New Gulf to provide prior to such amendment) against judgments, penalties (including excise and similar Taxes and punitive damages), fines, settlements and reasonable expenses (including attorneys' fees and expenses) actually incurred by such Person in connection with such Proceeding, and indemnification under this ARTICLE VI shall continue as to a Person who has ceased to serve in the capacity that initially entitled such Person to indemnity hereunder; provided that no such Person shall be indemnified for any judgments, penalties, fines, settlements or expenses (i) to the extent attributable to such Person's fraud or intentional violation of Law (or, if the Delaware Act is hereafter amended or interpreted to permit a higher required standard of culpability for conduct subject to indemnification, to the extent not in violation of such higher required standard), (ii) for any present or future breaches of any representations, warranties or covenants by such Person contained in this Agreement or in any other agreement with New Gulf, (iii) in any action (except an action to enforce the indemnification rights set forth in this Section 6.5) brought by such Person, such Person's Affiliates or the Person of whom he or she is the legal representative or (iv) with respect to a Manager, for any matter as to which such Manager is not exculpated pursuant to Section 6.3. It is expressly acknowledged that the indemnification provided in this Article could involve indemnification for negligence or under theories of strict liability.][7]

(c) Indemnification of Other Agents. New Gulf, by adoption of a resolution of the Board, may indemnify and advance expenses to any agents of New Gulf or its Subsidiaries

[7] NTD: Indemnification standard for Managers, Members and Officers to be conformed.

(including any Person who served as an agent of New Gulf or its Subsidiaries on or at any time after May 1, 2014) who are not or were not Managers, Officers or employees of New Gulf or its Subsidiaries but who are or were serving at the request of New Gulf or its Subsidiaries as a manager, director, officer, partner, member, joint venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against liabilities and expenses asserted against such Person and incurred by such Person in such a capacity or arising out of their status as such a Person, to the same extent that it may indemnify and advance expenses to Managers, Officers and employees under this ARTICLE VI.

(d) Contract with New Gulf. The rights granted pursuant to this ARTICLE VI shall be deemed contract rights, and no amendment, modification or repeal of this Article shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings arising prior to any amendment, modification or repeal.

(e) Advance Payment. The right to indemnification conferred in this ARTICLE VI shall include the right to be paid or reimbursed by New Gulf the reasonable expenses incurred by a Person of the type entitled to be indemnified by New Gulf under this ARTICLE VI who was, is or is threatened to be made a named defendant or respondent in a Proceeding in advance of the final disposition of the Proceeding and without any determination as to the Person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such Person in advance of the final disposition of a Proceeding shall be made only upon delivery to New Gulf of a written affirmation by such Person of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under this ARTICLE VI and a written undertaking, by or on behalf of such Person, to repay all amounts so advanced if it shall ultimately be determined by a final, non-appealable judgment of a court of competent jurisdiction that such Indemnified Person is not entitled to be indemnified under this ARTICLE VI or otherwise.

(f) Appearance as a Witness. Notwithstanding any other provision of this Agreement, New Gulf may pay or reimburse expenses incurred by a Manager, Officer or employee in connection with the appearance as a witness or other participation in a Proceeding at a time when such Manager, Officer or employee is not a named defendant or respondent in the Proceeding.

(g) Non-exclusivity of Rights. The right to indemnification and the advancement and/or reimbursement of expenses conferred in this Section 6.5 shall not be exclusive of any other right which any Person may have or hereafter acquire under any statute, agreement, Law, vote of the Board or otherwise (such other rights, "Supplemental Indemnification Rights"). If New Gulf grants any Manager any Supplemental Indemnification Rights, then New Gulf shall grant all other Managers the same Supplemental Indemnification Rights. The Board may grant any rights comparable to any of those set forth in this Section 6.5 to such other Persons (including agents of New Gulf, its Subsidiaries and their respective predecessors for the period beginning May 1, 2014) as the Board may determine. In the event any provider of Supplemental Indemnification Rights pays any amount with respect to any Indemnified Person, such provider of Supplemental Indemnification Rights shall be subrogated

to such Indemnified Person's rights to indemnification hereunder to the extent of payment made by such holder of Supplemental Indemnification Rights on behalf of such Indemnified Person.

(h) Primacy of Obligations. New Gulf and each Member acknowledge and agree that the indemnification and advancement and reimbursement of expenses obligations of New Gulf hereunder, and under any insurance policy procured pursuant to Section 6.5(i), shall be deemed primary coverage and in no event shall New Gulf (or any provider of insurance pursuant to Section 6.5(i)) be entitled to any contribution from any provider of Supplemental Indemnification Rights. In furtherance of Section 6.5(g), New Gulf acknowledges that certain Indemnified Persons may have rights to indemnification, advancement and/or reimbursement of expenses or insurance provided by Persons other than New Gulf (collectively, the "Outside Indemnitors"). New Gulf hereby agrees (i) that New Gulf (or any of its insurers) is the indemnitor of first resort (i.e., its obligations to such Indemnified Persons are primary, and any obligation of the Outside Indemnitors to advance and/or reimburse expenses or to provide indemnification for the same expenses or liabilities incurred by such Indemnified Persons are secondary), (ii) that New Gulf shall be required to advance and/or reimburse the full amount of expenses incurred by such Indemnified Persons and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of this Agreement (or any other agreement between New Gulf and such Indemnified Persons), without regard to any rights such Indemnified Persons may have against the respective Outside Indemnitors, and (iii) that New Gulf irrevocably waives, relinquishes and releases the Outside Indemnitors from any and all claims against the Outside Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. New Gulf further agrees that no advancement or payment by the Outside Indemnitors on behalf of any such Indemnified Person with respect to any claim for which such Indemnified Person has sought indemnification or advancement or reimbursement of expenses from New Gulf shall affect the foregoing, and the Outside Indemnitors shall have a right of contribution and/or be subrogated to the extent of any such advancement, reimbursement or payment to all of the rights of recovery of such Indemnified Person against New Gulf. New Gulf agrees that the Outside Indemnitors are express third party beneficiaries of the terms of this Section 6.5(h).

(i) Insurance. New Gulf shall maintain, or cause to be maintained, insurance, at New Gulf's or its Subsidiaries' expense, to protect any Indemnified Person against any expense, liability or loss of the nature described in Section 6.5(a) or Section 6.5(b) above, whether or not New Gulf would have the power to indemnify such Indemnified Person against such expense, liability or loss under the provisions of this ARTICLE VI. Each Manager shall be entitled to the same benefits under such insurance as each other Manager. New Gulf shall ensure that any such insurance policies comply with Section 6.5(g) and Section 6.5(h), including that there be no right of contribution against any provider of Supplemental Indemnification Rights and that providers of Supplemental Indemnification Rights are subrogated to an Indemnified Person's rights under such insurance policies.

(j) Limitation. Notwithstanding anything contained herein to the contrary (including in this Section 6.5(j)), any indemnification by New Gulf relating to the matters covered in this Section 6.5 shall be provided out of, and only to the extent of, New Gulf's or its Subsidiaries' assets only, and no Member (unless such Member otherwise agrees in writing or is found in a final decision by a court of competent jurisdiction to have personal liability on

account thereof) shall have personal liability on account thereof or shall be required to make additional Capital Contributions, loans or other advances to help satisfy such indemnity of New Gulf (except as otherwise expressly provided herein).

(k) Savings Clause. If this Section 6.5 (or any portion hereof) shall be invalidated on any ground by any court of competent jurisdiction, then New Gulf shall nevertheless indemnify and hold harmless each Indemnified Person pursuant to this Section 6.5 to the fullest extent permitted by any applicable portion of this Section 6.5 that shall not have been invalidated and to the fullest extent permitted by applicable Law. In addition, this Section 6.5 may not be retroactively amended to adversely affect the rights of any Indemnified Persons arising in connection with any acts, omissions, facts or circumstances occurring prior to such amendment.

Section 6.6 Prohibited Positions; Investment Opportunities and Conflicts of Interest.

(a) [No Person may hold a Prohibited Position (i) during such time as such Person is an Officer of New Gulf (or holds any equivalent position at a Subsidiary Governing Body) and (ii) until the earlier to occur of (1) [six (6)] months after such Person ceases to hold any position referred to in clause (i) and (2) the consummation of a Sale Transaction. For the avoidance of doubt, the "Person" referred to in the immediately preceding sentence shall only mean the Person serving as an Officer of New Gulf (or holding any equivalent position at a Subsidiary Governing Body) and not any other Person (including any of such Person's colleagues, associates, employers, employees, partners or Affiliates, or any Investment Fund with which such Person may be associated). For the avoidance of doubt, nothing herein shall supersede or be deemed or construed to supersede or alter any obligations any Person may have under applicable Law including, The Sherman Antitrust Act of 1890, as amended, or The Clayton Antitrust Act of 1914, as amended.][9]

(b) [Unless the Board otherwise agrees in writing, each Management Investor, for so long as such Management Investor is employed by NGR Management, New Gulf or their respective Subsidiaries, shall, and shall cause each of such Person's Affiliates to, bring to NGR Management or New Gulf all investment or business opportunities of which such Management Investor becomes aware and which are (y) within the scope and investment objectives related to the Businessas then conducted by NGR Management, New Gulf or their respective Subsidiaries, or (z) otherwise competitive with the Business as then conducted by NGR Management, New Gulf or their respective Subsidiaries.][10] The Members expressly acknowledge and agree that, subject to Section 6.6: (a) the Members (and their respective Affiliates and Related Funds) that are not Management Investors and their and their Affiliates' and Related Funds' respective managers, directors, officers, shareholders, partners, members, employees, representatives, and agents (including any of their representatives serving on the Board or on any Subsidiary Governing Body or as an Officer of New Gulf or an officer of any of its Subsidiaries) (collectively, the "Specified Persons") are permitted (i) to have and develop, and may presently or in the future have and develop, investments, transactions, business ventures, contractual, strategic or other business relationships, prospective economic advantages or other opportunities

[9] NTD: Subject to discussion.

[10] NTD: Exceptions for existing interests to be scheduled; de minimis exception to be added.

(the "Business Opportunities") in the Business (other than through New Gulf or any of its Subsidiaries) or in businesses that are or may be competitive or complementary with the Business (an "Other Business"), for their own account or for the account of any Person other than New Gulf or any of its Subsidiaries or any other Member, and (ii) to direct any such Business Opportunities to any other Person, in each case, regardless of whether such Business Opportunities are presented to a Specified Person in his, her or its capacity as a Member, Manager, director or manager on any Subsidiary Governing Body, an Officer of New Gulf or an officer of any of its Subsidiaries, or otherwise; (b) none of the Specified Persons will be prohibited by virtue of their investments in New Gulf or any of its Subsidiaries, or their service as a Manager or service on any Subsidiary Governing Body, an Officer of New Gulf or an officer of any of its Subsidiaries, or otherwise, from pursuing and engaging in any such activities or consummating transactions related thereto; (c) none of the Specified Persons will be obligated to inform New Gulf or any of its Subsidiaries or the Board or any Subsidiary Governing Body or any other Member of any such Business Opportunity or present such Business Opportunity to any of them; (d) none of New Gulf, any of its Subsidiaries or the other Members will have or acquire or be entitled to any interest or expectancy or participation (such right to any interest, expectancy or participation, if any, being hereby renounced and waived) in any Business Opportunity as a result of the involvement therein of any of the Specified Persons; and (e) the involvement of any of the Specified Persons in any Business Opportunity will not constitute a conflict of interest, breach of fiduciary duty (including breach of the duty of loyalty), or breach of this Agreement by such Persons with respect to New Gulf or any of its Subsidiaries or the other Members. This Section 6.6 shall not in any way affect, limit or modify any liabilities, obligations, duties or responsibilities of any Person under any Employment Agreement.

(c) Subject to Section 5.1(g), New Gulf may transact business with any Manager, Member or Officer or any Affiliate thereof.

Section 6.7 Confidentiality.

(a) Each Member recognizes and acknowledges that it has, and may in the future receive, certain confidential and proprietary information and trade secrets of New Gulf and its Subsidiaries (including their predecessors) (collectively, the "Confidential Information"). Except as otherwise consented to by the Board in writing, and subject to Section 6.6, each Member (on behalf of itself and, to the extent that such Member would be responsible for the acts of the following Persons under principles of agency Law, its managers, directors, officers, shareholders, partners, employees, agents and members) agrees that, during the period commencing on the Effective Date and ending on the [first] anniversary of the date on which such Member (and its Affiliates or Related Funds) no longer beneficially owns, holds or controls any Membership Interests or Equity Securities of New Gulf or any of its Subsidiaries, it will not, whether directly or indirectly through an Affiliate or otherwise, disclose Confidential Information to any Person for any reason or purpose whatsoever, except (i) to authorized directors, officers, representatives, agents and employees of New Gulf or its Subsidiaries and as otherwise may be proper in the course of performing such Member's obligations, or enforcing such Member's rights, under this Agreement and the agreements expressly contemplated hereby, (ii) as part of such Member's normal reporting, rating or review procedure (including normal credit rating and pricing process), or in connection with such Member's (or such Member's Affiliates' or Related Funds') normal fundraising, marketing, informational or reporting

activities, or to such Member's (or any of its Affiliates' or Related Funds') Affiliates, managers, officers, directors, employees, partners, members, auditors, accountants, attorneys or other agents; provided that, in each case of any such permitted disclosure, such Person that such information is disclosed to is informed of, and directed to comply with, the non-disclosure obligations of such Member under this Section 6.7(a) and such Member shall remain liable for the breach of such obligations by any such Person other than (A) any such Person that has a professional obligation of confidentiality with respect to such Member (provided that such Member shall enforce such professional obligations against such Person in the event of any breach thereof) and (B) any such Person that enters into a separate confidentiality agreement with New Gulf, (iii) to any bona fide prospective purchaser of the equity or assets of such Member or its Affiliates or Related Funds or the Membership Interests held by such Member, or prospective merger partner of such Member or its Affiliates or Related Funds; provided that such purchaser or merger partner agrees to be bound by a confidentiality agreement approved by the Board (such approval not to be unreasonably withheld, conditioned or delayed) or (iv) as is required to be disclosed by order of a court of competent jurisdiction, administrative body or governmental body, or by subpoena, summons or legal process, or by Law, rule or regulation; provided that the Member required to make such disclosure pursuant to clause (iv) above shall provide to New Gulf prompt written notice of such disclosure to enable New Gulf to seek an appropriate protective order or confidential treatment with respect to the Confidential Information required to be disclosed. For purposes of this Section 6.7, the term "Confidential Information" shall not include any information of which (x) such Person learns from a source other than New Gulf or any of its Subsidiaries, or any of their respective representatives, employees, agents or other service providers, and in each case who is not known by such Person to be bound by a confidentiality obligation to New Gulf or any of its Subsidiaries, (y) at the time of disclosure or thereafter is or becomes generally available to the public other than as a result of disclosure directly or indirectly by such Person or any of such Person's Affiliates, Related Funds, employees or representatives or (z) is independently developed by such Person without use of or reference to any Confidential Information. Nothing in this Section 6.7 shall in any way limit or otherwise modify any confidentiality covenants entered into by the Management Investors pursuant to any Employment Agreement, Equity Agreement or other agreement entered into with NGR Management or New Gulf or any of their Subsidiaries.

(b) Each Management Investor acknowledges and agrees that the individual ownership of Membership Interests by each Management Investor is sensitive and Confidential Information and that information regarding the individual ownership of New Gulf by Management Investors relates to such Person's compensation as an employee of NGR Management and/or New Gulf or one or more of their Subsidiaries. Therefore, notwithstanding anything in this Agreement to the contrary, in no event shall any Management Investor have the right, and each Management Investor hereby waives any right, whether by contract or under applicable Law, to the fullest extent of the Law, to have access to or receive any information with respect to what Equity Securities are, or have been, issued to or held by any other Management Investor, including the Membership Interest Ownership Ledger. In no event shall any Management Investor request, or be entitled to receive, any such information (including the Membership Interest Ownership Ledger and any other books and records with respect to ownership of the Equity Securities of New Gulf); provided that nothing in this Section 6.7(b) shall prohibit any Management Investor from receiving (a) a capitalization schedule showing the aggregate number of each class or series and type of Equity Securities of New Gulf that are

outstanding as of any particular date or (b) the number and type of Equity Securities held by such Management Investor and such Management Investor's Permitted Transferees. Nothing in this Section 6.7(b) shall restrict any Manager's right to receive information as a member of the Board or any Person's express right to receive information pursuant to any contract with NGR Management or New Gulf or any of their Subsidiaries, regardless of whether such Person is also a Management Investor.

(c) Notwithstanding any other statement in this Agreement or any confidentiality agreement contemplated by (or required to be entered into pursuant to) this Agreement, New Gulf, each Manager or Officer, the Board and each committee thereof, and their respective advisors, authorize each Member and each of its employees, representatives or other agents, from and after the commencement of any discussions with any such party, to disclose to any and all Persons, without limitation of any kind, the U.S. income and franchise tax treatment and U.S. income and franchise tax structure of New Gulf and any transaction entered into by New Gulf and all materials of any kind (including tax opinions or other tax analyses) reasonably relating to such tax treatment or tax structure that are provided to such Member, insofar as such treatment and/or structure relates to a U.S. income or franchise tax strategy provided to such Member by New Gulf, any Officer or Manager, the Board or any committee thereof, or any of their respective advisors, except for any information identifying any Officer or Manager, or any other Member, or (except to the extent relevant to such tax structure or tax treatment) any non-public commercial or financial information.

ARTICLE VII

BOOKS, RECORDS, ACCOUNTING AND REPORTS; INSPECTION

Section 7.1 Records and Accounting. New Gulf shall keep, or cause to be kept, appropriate books and records with respect to New Gulf's business, including all books and records necessary to provide any information, lists and copies of documents required to be provided pursuant to Section 7.2 or pursuant to applicable Laws. All matters concerning (a) the determination of the relative amount of allocations and distributions among the Members pursuant to ARTICLE III and ARTICLE IV not specifically and expressly provided by the terms of this Agreement, and (b) accounting procedures and determinations shall be determined by the Board, whose determination shall be final and conclusive as to all of the Members absent manifest clerical error.

Section 7.2 Reports. Subject to Section 6.7, New Gulf shall deliver or cause to be delivered:[6]

(a) to each Member, as soon as practicable after the end of each Fiscal Year (and New Gulf shall use its commercially reasonable efforts to make such delivery no later than delivery of the materials contemplated by Section 7.2(c)), an annual report containing a statement of changes in the Member's Membership Interests (or other Equity Securities) during, and such Member's Capital Account balance as of the end of, such Fiscal Year;

[6] NTD: Reporting requirements subject to discussion.

(b) to each Person who was a Member at any time during a Fiscal Year, as soon as practicable after the end of such Fiscal Year (and New Gulf shall use its commercially reasonable efforts to make such delivery no later than [75] days following such Fiscal Year), such information relating to New Gulf or its Subsidiaries in New Gulf's possession as is necessary for the preparation of such Person's United States federal, state and local income Tax returns, including such Member's Schedule K-1 or analogous schedule;

(c) to each Member, as soon as available (and New Gulf shall use its commercially reasonable efforts to make such delivery no later than [90] days) after the end of each Fiscal Year, a copy of an audited consolidated balance sheet of New Gulf and its Subsidiaries as of the end of such Fiscal Year, and the related statements of income or operations, members' equity and cash flows for such Fiscal Year, all prepared in accordance with GAAP and accompanied by a report or opinion issued by a national accounting firm in accordance with United States generally accepted auditing standards, together with management's reasonably detailed discussion and analysis of New Gulf's and its Subsidiaries' financial condition and results of operations (an "MD&A") reflected in such financial statements and including period to period comparisons of the financial statements contained therein;

(d) to each Member, as soon as available (and New Gulf shall use its commercially reasonable efforts to make such delivery no later than [45] days) after the end of each of the first, second and third quarters of each Fiscal Year, a copy of the unaudited balance sheet of New Gulf and its Subsidiaries as of the end of such quarter and the related statements of income, members' equity and cash flows for such quarter and the year to date period, all prepared in accordance with GAAP, together with an "MD&A" with respect to such financial statements and including period to period comparisons of the financial statements contained therein;

(e) to each Significant Interest Holder, as soon as available (and New Gulf shall use its commercially reasonable efforts to make such delivery within 30 days of Board approval), a copy of the annual budget of New Gulf and its Subsidiaries for such Fiscal Year, as approved by the Board; and

(f) without in any way expanding the circumstances in which a Member is entitled to Transfer Membership Interests hereunder, and until such time as New Gulf or any of its Subsidiaries is subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act, to each Significant Interest Holder that has agreed in writing to be bound by the terms and conditions of this Agreement, upon the reasonable request of such Significant Interest Holder, a brief description of the nature of New Gulf's business and such other information as is reasonably necessary in order to permit compliance with the information requirements of Rule 144A(d)(4) under the Securities Act in connection with any Transfer of Membership Interests or Equity Securities permitted hereunder; provided, that the Transferee shall have agreed to be bound by a written confidentiality agreement in form and substance reasonably satisfactory to New Gulf with respect to such information.

Notwithstanding anything in this Section 7.2 to the contrary, New Gulf shall not be obligated (unless required by applicable Law) to provide any information pursuant to Section 7.2 to any Member whom the Board has reasonably determined in good faith is in breach in any

material respect of any confidentiality, non-competition or non-solicitation agreement or covenant with New Gulf or any of its Subsidiaries.

For the purposes of determining the rights of any Member pursuant to Section 7.2(c), Section 7.2(d), Section 7.2(e), Section 7.2(f) and Section 7.3, and without limiting the provisions set forth in the second sentence of the definition of Significant Interest Holder: (i) the ownership of Membership Interests by such Member shall be aggregated with the ownership of Membership Interests by such Member's Affiliates and Related Funds and each of their respective Permitted Transferees.

Section 7.3 Access to Management. The Significant Interest Holders shall have an opportunity on a quarterly basis to discuss the performance and operations of New Gulf and its Subsidiaries with senior management of New Gulf and its Subsidiaries (a "Management Discussion"), and New Gulf shall cause such senior management to be reasonably available for such Management Discussions; provided, however, that New Gulf shall not be obligated to hold a Management Discussion more frequently than once per Fiscal Quarter. Following the written request of any Significant Interest Holder to hold such a quarterly Management Discussion, such quarterly Management Discussion shall be held at such time and date, and by telephone conference or at such place, as the Board shall reasonably determine (but if the Management Discussion is to take place in person, then a telephone conference option must be made available); provided that each Management Discussion shall be held during business hours (between 9:00 a.m. – 6:00 p.m. (prevailing Eastern time)) on a Business Day and shall not be held earlier than the [third (3rd)] Business Day following the date on which New Gulf provides notice of such Management Discussion to the Significant Interest Holders or later than [fifteen (15)] Business Days after receipt by New Gulf of any written request for a Management Discussion.

ARTICLE VIII

TAX MATTERS

Section 8.1 Preparation of Tax Returns. New Gulf shall arrange for the preparation and timely filing of all Tax returns required to be filed by New Gulf, including making the elections described in Section 8.2. Each Member shall furnish to New Gulf all pertinent information in its possession relating to New Gulf's operations that is necessary to enable New Gulf's income Tax returns to be prepared and filed.

Section 8.2 Tax Elections. The Taxable Year shall be the Fiscal Year unless the Board shall determine otherwise. The Board shall (pursuant to Section 5.1(b)(vi)) determine whether to make or revoke any available election pursuant to the Code. Each Member will upon request supply any information reasonably necessary to give proper effect to such election.

Section 8.3 Tax Controversies. NGR Management shall be the "tax matters partner" (within the meaning set forth in Section 6231 of the Code, prior to amendment by the Bipartisan Budget Act of 2015 (with respect to taxable years beginning prior to January 1, 2018) and the "partnership representative" within the meaning of Section 6223 of the Code, as amended by the Bipartisan Budget Act of 2015 (with respect to taxable years beginning after December 31,

2017) (collectively, the "Tax Matters Representative") and, as such, shall be authorized and required to represent New Gulf (at New Gulf's expense) in connection with all examinations of New Gulf's affairs by Tax authorities, including resulting Proceedings, and to expend New Gulf's funds for professional services and reasonably incurred in connection therewith. Each Member agrees to reasonably cooperate with New Gulf and to do or refrain from doing any or all things reasonably requested by New Gulf with respect to the conduct of such Proceedings.

Section 8.4 Code §83 Safe Harbor Election.

(a) By executing this Agreement, each Member authorizes and directs New Gulf to elect to have the "Safe Harbor" described in the proposed Revenue Procedure set forth in the Internal Revenue Service Notice 2005-43 (the "IRS Notice") or in any successor guidance or provision apply to any interest in New Gulf transferred to a service provider by New Gulf on or after the effective date of such Revenue Procedure in connection with services provided to New Gulf. For purposes of making such Safe Harbor election, the Tax Matters Partner is hereby designated as the "partner who has responsibility for federal income Tax reporting" by New Gulf and, accordingly, that execution of such Safe Harbor election by the Tax Matters Partner constitutes execution of a "Safe Harbor Election" in accordance with Section 3.03(1) of the IRS Notice. Each Member hereby agrees to comply with all requirements of the Safe Harbor described in the IRS Notice, including the requirement that each Member shall prepare and file all federal income Tax returns reporting the income Tax effects of each Membership Interest issued by New Gulf that qualifies for the Safe Harbor in a manner consistent with the requirements of the IRS Notice.

(b) [Any Member or former Member that fails to comply with requirements set forth in Section 8.4(a) shall indemnify and hold harmless New Gulf, and each adversely affected Member and former Member, from and against any and all losses, liabilities, Taxes, damages, judgments, fines, costs, penalties, amounts paid in settlement and reasonable out-of-pocket costs and expenses incurred in connection therewith (including, costs and expenses of Proceedings, and reasonable fees and disbursements of counsel), in each case resulting from such Member's or former Member's failure to comply with such requirements. The Board may offset against Distributions to which a Person is otherwise entitled under this Agreement against such Person's obligation to indemnify New Gulf and any other Person under this Section 8.4(b) (and any amount so offset with respect to such Person's obligation to indemnify a Person other than New Gulf shall be paid over to such other Person by New Gulf). A Member's obligations to comply with the requirements of Section 8.4(a), and to indemnify New Gulf and any Member or former Member under this Section 8.4(b), shall survive such Member's ceasing to be a Member of New Gulf and/or the termination, dissolution, liquidation and winding up of New Gulf, and, for purposes of this Section 8.4, New Gulf shall be treated as continuing in existence. New Gulf and any Member or former Member may pursue and enforce all rights and remedies it may have against each Member or former Member under this Section 8.4(b), including (i) instituting a Proceeding to collect such indemnification and contribution, with interest calculated at a rate equal to the Base Rate plus three percentage points per annum (but not in excess of the highest rate per annum permitted by Law), compounded on the last day of each Fiscal Quarter and (ii) specific performance and/or immediate injunctive or other equitable relief from any court of competent jurisdiction (without the necessity of showing actual money damages, or posting any

bond or other security) in order to enforce or prevent any violation of the provisions of Section 8.4(a).]

(c) Each Member authorizes the Board to amend paragraph (a) of this to the extent necessary to achieve substantially the same Tax treatment with respect to any interest in New Gulf Transferred to a service provider by New Gulf in connection with services provided to New Gulf as set forth in Section 4 of the IRS Notice (e.g., to reflect changes from the rules set forth in the IRS Notice in subsequent Internal Revenue Service guidance); provided that such amendment is not materially adverse to any Member (as compared with the after-Tax consequences that would result if the provisions of the IRS Notice applied to all interests in New Gulf Transferred to a service provider by New Gulf in connection with services provided to New Gulf).

ARTICLE IX

TRANSFER OF MEMBERSHIP INTERESTS

Section 9.1 [Transfers Generally.

(a) Until the earliest to occur of (x) a Sale Transaction, (y) an IPO and (z) the fifth anniversary of the Effective Date, no Member shall Transfer any interest (whether economic, voting or otherwise) in any Membership Interests without (i) complying with the terms of Section 9.6 and, in the case of any Management Investor, the terms of any applicable Equity Agreement and/or Employment Agreement and (ii) complying with Section 9.2, except that Members may Transfer Membership Interests without compliance with Section 9.2 (A) pursuant to Section 9.2(a), Section 9.4 and Section 10.1, (B) pursuant to the forfeiture, redemption and repurchase provisions set forth in any applicable Equity Agreement and/or Employment Agreement, (C) to a Permitted Transferee or (D) to an Specified Initial Interest Holder (clauses (A), (B), (C) and (D) being referred to herein as "Exempt Transfers"); provided that if a Member Transfers any Membership Interests to a Permitted Transferee and such Transferee ceases to be a Permitted Transferee of such Member, then such Transferee shall, prior to ceasing to be a Permitted Transferee, Transfer such interest to the Member who made such Transfer (unless otherwise determined by the Board in its sole discretion). Any Transfer permitted pursuant to this Section 9.1(a) must comply with the remainder of the provisions of this ARTICLE IX, to the extent applicable.

(b) No Member shall directly or indirectly seek to avoid the provisions of this Agreement (including this ARTICLE IX) by issuing, or permitting the issuance of, or Transferring, or permitting the Transfer of, any direct or indirect equity, debt or other security or beneficial interest in such Member (or any right to acquire the same) (including any Blocker Corporation Shares), in each such case, in a manner which would fail to comply with this ARTICLE IX if any such interests were treated as Membership Interests hereunder and such Member had Transferred or sought to Transfer Membership Interests, unless such Member first complies with the terms of this ARTICLE IX with respect to such interests; provided, however, that, in each case, with respect to a Member that is either (x) an Investment Fund, (y) a Blocker Corporation that is owned (directly or indirectly) by an Investment Fund (or a group of investors in such Investment Fund), or (z) owned (directly or indirectly) by an Investment Fund or a

Blocker Corporation that is owned (directly or indirectly) by an Investment Fund (or a group of investors in such Investment Fund), the following shall not be deemed to violate this Section 9.1(b): (i)(A) any bona fide Transfer of any direct or indirect security or interest in such Investment Fund or such Blocker Corporation, (B) any bona fide issuance of any direct or indirect security or interest in such Investment Fund or such Blocker Corporation (including those made in the course of such Investment Fund's normal fundraising activities or the funding of capital commitments in such Investment Fund), in each case in the ordinary course consistent with such Investment Fund's past practice, and (C) any repurchases or forfeitures of any direct or indirect security or interest in such Investment Fund or such Blocker Corporation from any departing, withdrawing or defaulting investor in such Investment Fund or such Blocker Corporation, and (ii) any issuance or Transfer of any direct or indirect security or interest in any such Member, Investment Fund or Blocker Corporation made for tax or regulatory reasons, or to comply with any court order or applicable Law; provided, further, that no such transaction referred to in clauses (i) and (ii) above shall be made or consummated with the purpose or intent of avoiding the provisions of this ARTICLE IX. For purposes of clauses (i)(A), (i)(B) and (i)(C) set forth in the first proviso of the immediately preceding sentence, a bona fide issuance, Transfer, repurchase or forfeiture of any direct or indirect security or interest in a Blocker Corporation referred to in such clauses shall only include (1) in the case of a Transfer, a Transfer by an investor of a direct or indirect security or interest in such Blocker Corporation that is made as part of the Transfer by such investor of a pro rata portion of its overall investment in, and/or commitments to, the related Investment Fund, and (2) in the case of an issuance, repurchase or forfeiture, an issuance, repurchase or forfeiture by such Blocker Corporation or Investment Fund of securities or interests in such Blocker Corporation to or from an investor that is made as part of with such investor's overall investment in, and/or commitment to, the related Investment Fund.

(c) Each Member or Blocker Corporation that has been formed for the purpose of making an investment in New Gulf or for which the ownership interest in New Gulf constitutes a substantial portion of the assets of such Member (each, a "Newco Member") shall not permit any Transfer of Equity Securities of such Newco Member or the issuance of Equity Securities in such Newco Member to the extent such Transfer has the purpose of avoiding or is otherwise undertaken in contemplation of avoiding or, at least in part, to avoid, the restrictions on Transfers in this Agreement (it being understood that the purpose of this Section 9.1(c) is to prohibit the Transfer of Equity Securities of such Newco Member or issuances of Equity Securities of such Newco Member that has the result and effect that such Newco Member has indirectly made a Transfer of Membership Interests or Equity Securities of New Gulf that would not have been directly permitted as a Transfer under this Section 9.1).]

Section 9.2 [Right of First Refusal.[12]

(a) Right of First Refusal. Subject to the terms and conditions specified in this Section 9.2, New Gulf and each Significant Interest Holder shall have a right of first refusal if any other Member (the "Transferring Member"), receives an offer from an Independent Third Party that the Transferring Member desires to accept to purchase all or any portion of the Membership Interests owned by the Transferring Member (the "Offered Membership Interests").

[12] NTD: ROFR may be revised to make clear the interaction between it and tag and drag provisions.

Each time the Transferring Member receives an offer for any of its Membership Interests, the Transferring Member shall first make an offering of the Offered Membership Interests to New Gulf and the Significant Interest Holders in accordance with the following provisions of this Section 9.2 prior to Transferring such Offered Membership Interests to the Independent Third Party [(other than Transfers that are permitted by Section 9.2(a), Section 9.4, or Section 10.1,) (ii) to a Permitted Transferee, subject to compliance with all other provisions of this Agreement (including Section 9.1(a)), or (iii) transfers by and among Specified Initial Interest Holders).

(b) Offer Notice.

(i) The Transferring Member shall, within [five] Business Days of receipt of an offer from the Independent Third Party that the Transferring Member desires to accept, give written notice (the "Offer Notice") to New Gulf stating that it has received a bona fide offer from an Independent Third Party and specifying: (w) the number of Offered Membership Interests to be sold by the Transferring Member; (x) the name of the person or entity who has offered to purchase such Offered Membership Interests; (y) the price for the Offered Membership Interest (which for the avoidance of doubt shall be cash) and the other material terms and conditions of the sale; and (z) the proposed date, time and location of the closing of the Transfer, which shall not be less than [__] Business Day from the date of the Offer Notice. New Gulf shall deliver the Offer Notice to the Significant Interest Holders within [two] Business Days after receipt of the Offer Notice by New Gulf.

(ii) The Offer Notice shall constitute the Transferring Member's offer to Transfer the Offered Membership Interests to New Gulf and the Significant Interest Holders, which offer shall be irrevocable until the end of the ROFR Notice Period.

(iii) By delivering the Offer Notice, the Transferring Member represents and warrants to New Gulf and each Significant Interest Holders that: (x) the Transferring Member has full right, title and interest in and to the Offered Membership Interests; (y) the Transferring Member has all the necessary power and authority and has taken all necessary action to sell such Offered Membership Interests as contemplated by this Section 9.2; and (z) the Offered Membership Interests are free and clear of any and all Liens other than those arising as a result of or under the terms of this Agreement.

(c) Exercise of Right of First Refusal.

(i) New Gulf's Election. New Gulf may (upon the approval of the Board) elect to purchase all (but not less than all) of the Offered Membership Interests at the price and on the other terms set forth in the Offer Notice, by delivering written notice of such election to the Transferring Member within [__] Business Days following receipt by New Gulf of the Offer Notice.

(ii) Significant Interest Holder Election. If New Gulf does not elect to purchase all of the Offered Membership Interests, then within [__] days following receipt by New Gulf of the Offer Notice it will notify each Significant Interest Holder of such fact. The Significant Interest Holders may elect to purchase all (but not less than all) of the Offered Membership Interests at the price and on the other terms set forth in the Offer Notice, by

delivering written notice (the "ROFR Offer Notice") of such election to the Transferring Member within [__] Business Days after delivery to New Gulf of the Offer Notice (the "ROFR Notice Period"). Any ROFR Offer Notice shall be binding upon delivery and irrevocable by the applicable Significant Interest holder. If more than one Significant Interest Holder delivers a ROFR Offer Notice, each such Significant Interest Holder (each a "Purchasing Significant Interest Holder") shall be entitled to purchase the number of Offered Membership Interests equal to the lesser of (a) the number of Offered Membership Interests it elected to purchase; and (b) the number of Offered Membership Interests multiplied by a fraction, the numerator of which is equal to the number of Offered Membership Interests elected to be purchased by such Purchasing Significant Interest Holder, and the denominator of which is the aggregate number of Offered Membership Interests proposed to be purchased by all Purchasing Significant Interest Holders.

(iii) Each Significant Interest Holder that does not deliver a ROFR Offer Notice during the ROFR Notice Period shall be deemed to have waived all of such Significant Interest Holder's rights to purchase the Offered Membership Interests under this Section 9.2.

(d) Consummation of Sale. If (i) New Gulf does not elect to purchase Offered Membership Interests pursuant to Section 9.2(c)(c)(i) or (ii) no Significant Interest Holder delivers a ROFR Notice in accordance with Section 9.2(c), the Transferring Member may, during the [__] Business Day period immediately following the expiration of the ROFR Notice Period (which period may be extended for a reasonable time not to exceed [__] Business Days to the extent reasonably necessary to obtain any government approvals) (the "Waived ROFR Transfer Period"), and subject to the provisions of Section 9.2 with respect to those Significant Interest Holders who have not delivered ROFR Offer Notices, Transfer all of the Offered Membership Interests to the Independent Third Party on terms and conditions no more favorable to the Independent Third Party than those set forth in the Offer Notice. If the Transferring Member does not Transfer the Offered Membership Interests within such period or, if such Transfer is not consummated within the Waived ROFR Transfer Period, the rights provided hereunder shall be deemed to be revived and the Offered Membership Interests shall not be Transferred to the Independent Third Party unless the Transferring Member sends a new Offer Notice in accordance with, and otherwise complies with, this Section 9.2.

(e) Cooperation. Each Significant Interest Holder shall take all actions as may be reasonably necessary to consummate the sale contemplated by this Section 9.2 including, without limitation, entering into agreements and delivering certificates and instruments and consents as may be deemed necessary or appropriate.

(f) Closing. At the closing of any sale and purchase pursuant to this Section 9.2, the Transferring Member shall deliver to the Purchasing Significant Interest Holder(s) certificate or certificates representing the Offered Membership Interests to be sold (if any), accompanied by evidence of transfer and all necessary transfer taxes paid and stamps affixed, if necessary, against receipt of the purchase price therefore from such Purchasing Significant(s) by certified or official bank check or by wire transfer of immediately available funds.

(g) Pledges. Notwithstanding anything to the contrary in this Agreement, Members may pledge, or grant security interests in or liens on, interests in Membership Interests

as security for a loan or debt financing without satisfying any conditions in this Section 9.2, or complying with any other restrictions on the Transfers of Membership Interests in this Agreement; provided, however, that any Transfer of Membership Interests resulting from an exercise of remedies pursuant to any such pledge, security interest or lien shall be subject to the procedures and restrictions of this Agreement unless otherwise determined by the Board.

(h) Termination. This Section 9.2 shall terminate upon the earliest to occur of (i) a Sale Transaction, (ii) an IPO and (iii) the [fifth] anniversary of the Effective Date.]

Section 9.3 Tag Along Rights.

(a) Participation Right. Except for Transfers (i) pursuant to Section 9.4 or Section 10.1, (ii) to a Permitted Transferee or (iii) by and among Significant Interest Holders, in the event that one or more Significant Interest Holders (individually and collectively, the "Tag Along Selling Member") desire to Transfer Membership Interests or other Equity Securities representing more than [40]% of the then outstanding Membership Interests or other Equity Securities (the "Tag Along Securities") to any Transferee in any transaction or a related series of transactions (any such transaction subject to this Section 9.2(a), a "Tag Along Sale"), then such Tag Along Selling Member shall give New Gulf written notice (the "Tag Along Sale Notice") specifying in reasonable detail the material terms and conditions of the Tag Along Sale, including the identity of the prospective Transferee(s), the number and class of Tag Along Securities to be Transferred and the proposed amount and form of consideration to be paid in connection with such Tag Along Sale. Within [two (2)] Business Days after receipt of the Tag Along Sale Notice, New Gulf shall deliver the Tag Along Sale Notice (together with a statement as to the total number of outstanding Vested Membership Interests (and other Equity Securities that have vested, or are not subject to vesting, in accordance with the terms of the applicable Equity Agreement pursuant to which they were issued) held by the Tag Along Selling Member and all of the Tag Along Rights Holders) to each Member (other than the Tag Along Selling Member and any Management Investor) that has agreed in writing to be bound by the terms and conditions of this Agreement (the "Tag Along Rights Holders"). Each Tag Along Rights Holder may irrevocably elect to sell in such Tag Along Sale, up to an aggregate amount of Membership Interests and/or Equity Securities equal to the product of (x) the number of Tag Along Securities proposed to be sold in the contemplated Tag Along Sale and (y) a fraction, the numerator of which is the number of Vested Membership Interests (and other Equity Securities that have vested, or are not subject to vesting, in accordance with the terms of the applicable Equity Agreement pursuant to which they were issued) held by such Tag Along Rights Holder, and the denominator of which is the total number of outstanding Vested Membership Interests (and other Equity Securities that have vested, or are not subject to vesting, in accordance with the terms of the applicable Equity Agreement pursuant to which they were issued) held by the Tag Along Selling Member and all of the Tag Along Rights Holders, by giving written notice of such irrevocable election to New Gulf within [__] days of receipt by such Tag Along Rights Holders of the Tag Along Sale Notice (which notice New Gulf will promptly deliver to the Tag Along Selling Member within [15] days after delivery of the Tag Along Sale Notice to the Tag Along Rights Holders by New Gulf (such Members delivering such notice of election in accordance with this Section 9.2(a), collectively, the "Electing Members").

(b) Participation Amounts. In the event that any Tag Along Rights Holder elects to sell less than the maximum amount of Membership Interests or other Equity Securities such Tag Along Rights Holder is entitled to sell pursuant to Section 9.3(a) (including if any Tag Along Rights Holder elects to sell no Membership Interests or other Equity Securities, or if any Tag Along Rights Holder fails to give written notice of its election to sell Membership Interests or other Equity Securities within the [15]-day period referred to in Section 9.3(a)), then New Gulf shall notify in writing each other Tag Along Rights Holder that has validly elected to sell the full portion of the Membership Interests or other Equity Securities such Tag Along Rights Holder is entitled to sell pursuant to Section 9.3(a) ("Fully Electing Members") and the Tag Along Selling Member of such fact and a portion thereof not so elected to be sold (the "Unsubscribed Tag Along Securities") may be sold by each of the Fully Electing Members and the Tag Along Selling Member, by delivering a written notice to New Gulf within [two (2)] Business Days after delivery of the written notice from New Gulf described in this sentence, in an amount equal to (i) the number of Unsubscribed Tag Along Securities multiplied by (ii) a fraction, (1) the numerator of which is the amount of Tag Along Securities such Fully Electing Member was initially entitled to sell pursuant to Section 9.3(a) (or, in the case of the Tag Along Selling Member, the number of Tag Along Securities less the aggregate number of Tag Along Securities that the Tag Along Rights Holders would be entitled to sell pursuant to Section 9.3(a) if each such Tag Along Rights Holder was a Fully Electing Member) and (2) the denominator of which is equal to (A) the amount of Tag Along Securities all Fully Electing Members were entitled to sell pursuant to Section 9.3(a) plus (B) the number of Tag Along Securities less (C) the aggregate number of Tag Along Securities that the Tag Along Rights Holders would be entitled to sell pursuant to Section 9.3(a) if each such Tag Along Rights Holder was a Fully Electing Member. To the extent the procedure described in the preceding sentence does not result in the sale of all Unsubscribed Tag Along Securities, such procedure shall be repeated until no Fully Electing Member has further elected to sell any then remaining Unsubscribed Tag Along Securities as set forth in this Section 9.3(b), in which case the Tag Along Selling Member shall be entitled to sell all such remaining Unsubscribed Tag Along Securities. Subject to the other terms set forth in this Section 9.2(a), each Electing Member participating in such Tag Along Sale shall Transfer its Membership Interests or other Equity Securities on the same terms and conditions as the Tag Along Selling Member, with the aggregate consideration to be paid for all Transferred Membership Interests or other Equity Securities in such Tag Along Sale allocated among each Transferred Membership Interest or other Equity Security based on such Transferred Membership Interest's (or other Transferred Equity Security's) Pro Rata Share, which shall be determined based on the Total Equity Value implied by the price offered in the Tag Along Sale and taking into account such Equity Securities, including, if applicable, on an as converted or as exercised basis, and any related conversion or exercise price. If the Tag Along Rights Holders have not elected to participate in the contemplated Tag Along Sale (through notice to such effect or expiration of the [15] days after delivery of the Tag Along Sale Notice to the Tag Along Rights Holders by New Gulf without providing written notice of election to participate to New Gulf within such period), then the Tag Along Selling Member may Transfer the Tag Along Securities specified in the Tag Along Sale Notice at a price not more than the price, and on other terms and conditions not materially more favorable to the Tag Along Selling Member, in each case, than those specified in the Tag Along Sale Notice during the [90]-day period beginning on the expiration of such [15]-day period. Any of the Tag Along Securities not Transferred during such [90]-day period shall be subject to the provisions of this Section 9.2(a) upon subsequent

Transfer. The election (or failure to elect) by any Tag Along Rights Holder to sell or not to sell all or any portion of such Tag Along Rights Holder's Membership Interests or Equity Securities in any Tag Along Sale shall not adversely affect such Tag Along Rights Holder's right to participate in any future Tag Along Sale.

(c) Participation Procedure; Conditions. With respect to any Tag Along Sale, the Tag Along Selling Member shall use commercially reasonable efforts to obtain the agreement of the Transferee to the participation of the Electing Members in such contemplated Tag Along Sale (with the Tag Along Securities being reduced by and substituted with the Membership Interests and Equity Securities elected by such Electing Members to be sold in such Tag Along Sale), and the Tag Along Selling Member shall not Transfer any of the Tag Along Securities to any prospective Transferee pursuant to such Tag Along Sale if such prospective Transferee(s) declines to allow the participation of the Electing Members on the terms provided herein, unless in connection with such Tag Along Sale, the Tag Along Selling Member purchases the number and class of Membership Interests or Equity Securities from each Electing Member that such Electing Member would have been entitled to sell pursuant to Section 9.3(a) and Section 9.3(b) at the same price (including amount and form of consideration) and on the same terms and conditions on which such Membership Interests or Equity Securities were intended to be sold to the Transferee(s) as set forth in the Tag Along Sale Notice; provided that the Tag Along Selling Member shall not be obligated to purchase any Blocker Corporation Shares pursuant to Section 9.3(e).

(d) Indemnification; Expenses. Notwithstanding anything herein to the contrary, the Electing Members shall be obligated to join in any indemnification or escrow obligation the Tag Along Selling Member has agreed to in connection with such Tag Along Sale (including any such indemnification obligations that relate specifically to a particular Member, such as indemnification with respect to representations and warranties given by a Member regarding such Member's title to and ownership of Membership Interests); provided that no Electing Member shall be liable for any indemnification, or be required to participate in any escrow arrangement, relating to the Tag Along Sale in excess of the amount of proceeds payable to such Electing Member in connection with such Tag Along Sale (or in an amount that is disproportionate to the liability or participation of the Tag Along Selling Member or any other Electing Member, taking into account the Pro Rata Share of each Membership Interest or Equity Security to be sold in such Tag Along Sale by the Tag Along Selling Member and each Electing Member); provided further that, unless the prospective Transferees permit a Member to give a guarantee, letter of credit or other mechanism (which shall be dealt with on an individual basis), any escrow of proceeds of any such transaction shall be withheld from participating Members based on their respective Tag Along Indemnity Pro Rata Shares and, if applicable, shall be subsequently distributed to participating Members based on their respective Pro Rata Shares; and provided further that the Tag Along Selling Member and the Electing Members shall share on a several (and not joint) basis in indemnification liabilities related to such Tag Along Sale (other than liabilities (if any) related solely to a participating Member which will be borne entirely (subject to the limitations set forth in the first proviso above) by such participating Member) based on their respective Tag Along Indemnity Pro Rata Shares. Subject to the foregoing, the Tag Along Selling Member and each Electing Member shall enter into any reasonable indemnification or contribution or other agreement reasonably requested by the Tag Along Selling Member to ensure compliance with this Section 9.3(d), and the Tag Along Selling

Member will provide draft copies of any such agreement to the Electing Members as part of the Tag Along Sale Notice. The Tag Along Selling Member and each Electing Member shall pay its Tag Along Indemnity Pro Rata Share of the expenses incurred by the participating Members pursuant to a Tag Along Sale to the extent such expenses are incurred for the benefit of all Members (including the costs and expenses (including reasonable attorney's fees and expenses) incurred in connection with enforcing or implementing the terms and provisions of this Section 9.3(d)) and are not otherwise paid by New Gulf, any of its Subsidiaries or the Transferee. Expenses incurred by any Member on its own behalf (including the fees and disbursements of counsel, advisors and other Persons retained by such Member in connection with the Tag Along Sale) will not be considered costs incurred for the benefit of all Members and, to the extent not paid by New Gulf, will be the responsibility of such Member. ["Tag Along Indemnity Pro Rata Share" means, with respect to any Tag Along Sale and any Member, the application of such Member's Pro Rata Share determined based on giving reverse effect to the application of Section 4.1(c) contemplated by the definition of Pro Rata Share (e.g., last proceeds out are to be the first returned, withheld or reduced) with respect to the Total Equity Value implied by the price offered in the Tag Along Sale as the actual proceeds of such Tag Along Sale are reduced by any escrow, indemnification, expenses or similar amounts as contemplated by this Section 9.3(d).]

(e) Blocker Corporation. If any Electing Member is, or is owned by, a Blocker Corporation, then the Tag Along Selling Member shall request that the prospective Transferee(s) allow the holders of the shares of, or interests in, such Blocker Corporation ("Blocker Corporation Shares") to sell such Blocker Corporation Shares in lieu of such Electing Member's Membership Interests (but otherwise on the terms and conditions set forth in this Section 9.2(a)); provided that such sale would not result in any adverse economic impact to, or the imposition of any liability on, any Person (including New Gulf, the Tag Along Selling Member or any other Member) other than such Blocker Corporation, the pre-Tag Along Sale holders of such Blocker Corporation Shares of such Blocker Corporation or the prospective Transferee(s); provided further that, if the holders of any Blocker Corporation Shares of any Blocker Corporation that is included in the definition of "Tag Along Selling Member" are entitled to sell Blocker Corporation Shares in connection with any Tag Along Sale, then all holders of Blocker Corporation Shares of any other Blocker Corporation that is, or owns, an Electing Member shall be entitled to sell such Blocker Corporation Shares in connection with such Tag Along Sale on the same basis as the holders of the Blocker Corporation Shares of such Significant Interest Holder Blocker Corporation. For the avoidance of doubt, notwithstanding this Section 9.2(a) or anything else in this Agreement to the contrary, the prospective Transferee(s) shall be free, in its sole discretion, to elect to purchase, or not to purchase, any Blocker Corporation Shares.

(f) Termination. This Section 9.2(a) shall terminate upon the earlier to occur of (i) a Sale Transaction and (ii) an IPO.

Section 9.4 Approved Sale; Drag Along Obligations.

(a) Approved Sale. If at any time prior to the consummation of an IPO or a Sale Transaction, one or more Members (together with their respective Affiliates) who hold more than [60]% of the then outstanding Membership Interests (individually and collectively, the "Drag Along Selling Member") propose to sell Membership Interests representing more than

[60]% of the then outstanding Membership Interests in a single transaction or related series of transactions (an "Approved Sale"), such Drag Along Selling Member shall have the right, after delivering the Drag Along Notice and subject to compliance with this Section 9.4, to require all other Members (each, a "Dragged Holder," and, collectively, the "Dragged Holders") to vote for, consent to and raise no objections against, and cooperate in any reasonable manner with the Drag Along Selling Member in connection with, such Approved Sale. In furtherance of the foregoing, if the Approved Sale is structured as a (x) merger or consolidation, a conversion or sale of assets, each Dragged Holder shall waive any dissenters' rights, appraisal rights or similar rights in connection with such merger or consolidation or sale of assets, or (y) sale of Membership Interests or other Equity Securities, each Dragged Holder shall agree to sell and Transfer, and shall sell and Transfer, all (or such lesser portion reflecting such Dragged Holder's Pro Rata Share of the aggregate portion of the Total Equity Value implied in the Approved Sale being Transferred in such Approved Sale) of such Dragged Holder's Membership Interests and other Equity Securities, in each case, on the terms and conditions approved by the Drag Along Selling Member; provided, that such terms and conditions shall not be less favorable to any Dragged Holder than those terms and conditions applicable to the Drag Along Selling Member (taking into account the Pro Rata Share of each Membership Interest to be sold in such Approved Sale). Each Dragged Holder shall take all reasonably necessary actions in connection with the consummation of the Approved Sale (whether in such Person's capacity as a Member, Manager or otherwise) as reasonably requested by the Drag Along Selling Member (including executing and delivering any and all reasonable and customary agreements, instruments, consents, waivers and other documents that are required by the buyer in such Approved Sale in the same forms executed by the Drag Along Selling Member (including any applicable purchase agreement, stockholders agreement, escrow agreement and/or indemnification and/or contribution agreement); [provided, that a Dragged Holder shall not be required to enter into any non-competition or non-solicitation agreement (except for a Dragged Holder that is subject to an Employment Agreement, who may be required to enter into a non-competition or non-solicitation agreement, provided that such agreement is no more restrictive than the most restrictive non-competition or non-solicitation covenant in such Dragged Holder's Employment Agreement)]; provided, that no Dragged Holder shall be required to make any payment or incur any expenses in connection therewith, except as set forth in Section 9.4(c). The Drag Along Selling Member shall provide each Dragged Holder with written notice (the "Drag Along Sale Notice") specifying in reasonable detail the material terms and conditions of the Approved Sale, including the identity of the prospective buyer in such Approved Sale, the number of Membership Interests to be Transferred and the proposed amount and form of consideration to be paid in connection with such Approved Sale, at least [ten (10)] Business Days prior to any such Approved Sale, and the Drag Along Selling Member shall attach to any such Drag Along Sale Notice draft copies of all of the agreements referred to in the immediately preceding sentence; provided that each Dragged Holder shall retain and treat such copies in accordance with Section 6.7.

(b) Conditions. The obligations of the Members with respect to the Approved Sale are subject to the satisfaction of the following additional conditions: (i) the consideration payable upon consummation of such Approved Sale to all Members shall be allocated among the Members based upon the Pro Rata Share represented by the Membership Interests Transferred by such Member pursuant to such Approved Sale; (ii) upon the consummation of the Approved Sale, all of the Members of a particular class of Membership Interest shall receive (or shall have

the option to receive) the same form of consideration for such class of Membership Interest and the same per Membership Interest amount of consideration for such class of Membership Interest; provided that, in the event that any securities are part of the consideration payable to the Members, each Member that is not an Accredited Investor may, in the discretion of the Board, receive, and hereby agrees to accept, in lieu of such securities, cash consideration equal to the Fair Market Value of such securities as of the closing of such Approved Sale; and (iii) if any Member of a particular class of Membership Interests is given an option as to the form and amount of consideration to be received or any other right or benefit with respect to the Approved Sale, each other Member of such class of Membership Interests shall be given the same option, right or benefit (other than, in the case of clause (ii) and clause (iii) of this Section 9.4(b), any consideration, option, right or benefit to be received by a Management Investor on account of such individual's employment relationship with New Gulf or any of its Subsidiaries (e.g., stay bonus, non-competition agreement, right to reinvest or rollover equity, etc.).

(c) Indemnification; Expenses. Notwithstanding anything to the contrary in this Agreement, the Dragged Holders shall be obligated to join in any indemnification or escrow obligation the Drag Along Selling Member has agreed to in connection with an Approved Sale (including any such indemnification obligations that relate specifically to a particular Member, such as indemnification with respect to representations and warranties given by a Member regarding such Member's title to and ownership of Membership Interests); provided that no Dragged Holder shall be liable for any indemnification, or be required to participate in any escrow arrangement, relating to the Approved Sale in excess of the amount of proceeds payable to such Dragged Holder in connection with such Approved Sale (or in an amount that is disproportionate to the liability or participation of the Drag Along Selling Member or any other Dragged Holder, taking into account the Pro Rata Share of each Membership Interest to be sold in such Approved Sale by the Drag Along Selling Member and each Dragged Holder); provided further that, that unless a prospective Transferee permits a Member to give a guarantee, letter of credit or other mechanism (which shall be dealt with on an individual basis), any escrow of proceeds of any such Approved Sale shall be withheld from Members based on their respective Drag Along Indemnity Pro Rata Shares and, if applicable, shall be subsequently distributed to the Members based on their respective Pro Rata Shares; and provided further that the Drag Along Selling Member and the Members shall share on a several (and not joint) basis in indemnification liabilities related to such Approved Sale (other than liabilities (if any) related solely to a Member which will be borne entirely (subject to the limitations set forth in the first proviso above) by such Member) based on their respective Drag Along Indemnity Pro Rata Shares. Subject to the foregoing, the Drag Along Selling Member and each Dragged Holder shall enter into any reasonable indemnification or contribution or other agreement reasonably requested by the Drag Along Selling Member to ensure compliance with this Section 9.4(c), and the Drag Along Selling Member will provide draft copies of any such agreement to the Dragged Holders as part of the Drag Along Sale Notice; provided that each Dragged Holder shall retain and treat such copies in accordance with Section 6.7. Each Dragged Holder shall pay its Drag Along Indemnity Pro Rata Share of the expenses incurred by the Members pursuant to an Approved Sale to the extent such expenses are incurred for the benefit of all Members (including the costs and expenses (including reasonable attorney's fees and expenses) incurred in connection with enforcing or implementing the terms and provisions of this Section 9.4(c)) and are not otherwise paid by New Gulf, any of its Subsidiaries or the Transferee. Expenses incurred by any Member on its own behalf (including the fees and disbursements of counsel, advisors and

other Persons retained by such Member in connection with the Approved Sale) will not be considered costs incurred for the benefit of all Members and, to the extent not paid by New Gulf, will be the sole responsibility of such Member. ["Drag Along Indemnity Pro Rata Share" means, with respect to any Approved Sale and any Member, the application of such Member's Pro Rata Share determined based on giving reverse effect to the application of Section 4.1(c) contemplated by the definition of Pro Rata Share (e.g., last proceeds out are to be the first returned, withheld or reduced) with respect to the Total Equity Value implied by the Approved Sale as the actual proceeds of such Approved Sale are reduced by any escrow, indemnification, expenses or similar amounts as contemplated by this Section 9.4(c).]

(d) Blocker Corporation. If any Dragged Holder is or is owned by a Blocker Corporation, and the Approved Sale is structured as a sale of Membership Interests or other Equity Securities (including equity of one or more Subsidiaries of New Gulf) to one or more buyers (collectively, the "Buyer"), the Drag Along Selling Member shall request that the Buyer allow the holders of the Blocker Corporation Shares to sell Blocker Corporation Shares in lieu of such Dragged Holder's Membership Interests and other Equity Securities (but otherwise on the terms and conditions set forth in this Section 9.4); provided that such sale would not result in any adverse economic impact to, or the imposition of any liability on, any Person (including New Gulf, the Drag Along Selling Member or any other Member) other than such Blocker Corporation, the pre-Approved Sale holders of the Blocker Corporation Shares of such Blocker Corporation or the Buyer; provided further that, if the holders of any Blocker Corporation Shares of any Blocker Corporation that is included in the definition of "Drag Along Selling Member" are entitled to sell Blocker Corporation Shares in connection with any Approved Sale, then all holders of Blocker Corporation Shares of any other Blocker Corporation that is, or owns, a Dragged Holder shall be entitled to sell such Blocker Corporation Shares in connection with such Approved Sale on the same basis as the holders of the Blocker Corporation Shares of such Drag Along Selling Member Blocker Corporation. For the avoidance of doubt, notwithstanding this Section 9.4 or anything else in this Agreement to the contrary, the Buyer shall be free, in its sole discretion, to elect to purchase, or not to purchase, the Blocker Corporation Shares.

(e) Purchaser Representative. If New Gulf, the Tag Along Selling Member and/or the Drag Along Selling Member enter into any negotiation or transaction with respect to a Tag Along Sale or Approved Sale for which Rule 506 of Regulation D (or any similar rule then in effect) promulgated by the SEC may be available with respect to such negotiation or transaction (including a merger, consolidation, conversion, share exchange or other reorganization), any Member who is not an Accredited Investor shall, at the request of New Gulf or the Drag Along Selling Member, as the case may be, appoint a Purchaser Representative designated by New Gulf and reasonably acceptable to the Drag Along Selling Member. If any Member appoints a Purchaser Representative in accordance with this Section 9.4(e), New Gulf shall pay the fees and expenses of such Purchaser Representative. However, if any such Member declines to appoint the Purchaser Representative designated by New Gulf, such Member shall appoint another Purchaser Representative (reasonably acceptable to New Gulf and the Drag Along Selling Member), and such Member shall be solely responsible for the fees and expenses of the Purchaser Representative so appointed.

(f) Waiver of Dissenters Rights or Appraisal Rights. In no circumstances shall this Section 9.4 be construed to grant to any Member any dissenters rights or appraisal

rights or give any Member any right to vote in any transaction structured as a merger or consolidation or sale of assets (it being understood that all Members have waived any rights under Section 18-210 of the Delaware Act pursuant to Section 1.2). In the circumstances in which this Section 9.4 applies, each Member expressly grants to the Board the sole right to approve or consent to an Approved Sale, regardless of how structured, whether as a merger, conversion, consolidation, sale of assets, sale of Membership Interests or other Equity Securities or otherwise, without any requirement for receipt of the vote, approval or consent of any Member (subject to the compliance of the Board and New Gulf with this Section 9.4).

(g) Termination. This Section 9.4 shall terminate upon the earlier to occur of (i) a Sale Transaction and (ii) an IPO.

Section 9.5 Effect of Assignment.

(a) Termination of Rights. Any Member that assigns any Membership Interests or other interest in New Gulf shall cease to be a Member with respect to such Membership Interests or other interest and, except as referred to in Section 2.8, shall no longer have any rights or privileges of a Member with respect to such Membership Interests or other interest; provided that, notwithstanding the foregoing, unless and until the Assignee is admitted as a Substituted Member in accordance with the provisions of Section 2.3 (the "Admission Date"), (i) such assigning Member shall retain all of the duties, liabilities and obligations of a Member with respect to such Membership Interests or other interest, including the obligation (together with its Assignee) pursuant to Section 9.5(c) to return Distributions on account of such Membership Interests or other interest pursuant to the terms of this Agreement and (ii) the Board may, in its sole discretion, reinstate all or any portion of the rights and privileges of such Member with respect to such Membership Interests or other interest for any period of time prior to the Admission Date. Nothing contained herein shall relieve any Member who Transfers any Membership Interests or other interest in New Gulf from any liability of such Member to New Gulf or the other Members with respect to such Membership Interests or other interest that may exist on the Admission Date or that is otherwise specified in the Delaware Act and incorporated into this Agreement or for any liability to New Gulf or any other Person for any breaches of any representations, warranties or covenants by such Member (in its capacity as such) contained herein (or in any Equity Agreement to which such Person is a party) or in the other agreements with New Gulf or any of its Subsidiaries.

(b) Deemed Agreement. Any Person who acquires in any manner whatsoever any interest in any Membership Interests or other interest in New Gulf, irrespective of whether such Person has accepted and adopted in writing the terms and provisions of this Agreement, shall be deemed by the acceptance of the benefits of the acquisition thereof or the benefits of any Equity Agreement or Employment Agreement, to have agreed to be subject to and bound by all of the terms and conditions of this Agreement or any such Equity Agreement or Employment Agreement that the Transferor of such Membership Interests or other interest in New Gulf was subject to or by which such Transferor was bound.

(c) Assignee's Rights. A Transfer of Membership Interests permitted hereunder shall be effective as of the date of assignment and compliance with the conditions to such Transfer set forth in this Agreement, and such Transfer shall be shown on the books and

records of New Gulf (including the Membership Interest Ownership Ledger). Profits, Losses and other New Gulf items shall be allocated between the Transferor and the Assignee according to Section 706 of the Code. Distributions made before the effective date of such Transfer shall be paid to the Transferor, and Distributions made after such date shall be paid to the Assignee. Unless and until an Assignee becomes a Member pursuant to Section 2.2 or Section 2.3 hereof, the Assignee shall not be entitled to any of the rights or privileges granted to a Member hereunder or under applicable Law, other than the rights and privileges specifically granted to Assignees pursuant to this Agreement; provided that, without relieving the Transferring Member from any such limitations or obligations, such Assignee shall be bound by any limitations and obligations of a Member contained herein by which a Member would be bound on account of the ownership of Membership Interests by the Assignee (including the obligation, if any, to return Distributions on account of such Membership Interests as set forth in Section 6.1(c) and the obligations set forth in ARTICLE IX).

Section 9.6 Additional Restrictions on Transfer.

(a) Restrictions. In addition to any other restrictions on the Transfer of Equity Securities contained in this Agreement, notwithstanding anything in this Agreement to the contrary, no Transfer of any Equity Security shall be made if such Transfer would violate then applicable Law, including U.S. federal or state securities Laws or rules and regulations of the SEC, any state securities commission or any other applicable securities Laws of a Governmental Entity (including those outside the jurisdiction of the U.S.) with jurisdiction over such Transfer or have the effect of rendering unavailable any exemption under applicable Law relied upon for a prior Transfer of such Equity Securities. In furtherance of the foregoing, Membership Interests are Transferable only pursuant to (i) public offerings registered under the Securities Act, (ii) Rule 144 or Rule 144A under the Securities Act (or any similar rules then in force) if such rule is available, (iii) any other available exemption from the registration requirements of Section 5 of the Securities Act and (iv) other legally available means of Transfer permitted by this Agreement. If any Member proposes to Transfer any Membership Interests pursuant to Rule 144A under the Securities Act, then as an additional condition to such Transfer, the Transferee must execute and deliver to New Gulf the Rule 144A certificate in form and substance as attached hereto as Exhibit E. Notwithstanding any other provision of this Agreement, no Transfer of a Membership Interest shall be permitted without the consent of the Board if such Transfer (A) would cause New Gulf to have more than 100 partners, as determined for purposes of U.S. Department of Treasury Reg. §1.7704-1(h) including the look-through rule in Treasury Reg. §1.7704-1(h)(3), (B) would cause New Gulf to be treated as a publicly traded partnership within the meaning of Code §7704 and U.S. Department of Treasury Reg. §1.7704-1, (C) would cause all or any portion of the assets of New Gulf to constitute "plan assets" for purposes of ERISA, (D) would cause New Gulf to be required to register the Membership Interests under the Securities Exchange Act unless, at the time of such Transfer, New Gulf is already subject to reporting obligations under Section 13 or Section 15(d) of the Securities Exchange Act, or (E) is to a Competitor (as determined by the Board in its sole, but good faith, discretion).

(b) Execution of Counterpart. Except in connection with an Approved Sale or a Public Sale, each Transferee of Membership Interests or other Equity Securities shall, as a condition precedent to such Transfer, execute and deliver to New Gulf a Joinder or counterpart to

this Agreement in form and substance reasonably acceptable to the Board pursuant to which such Transferee shall agree to be bound by the provisions of this Agreement.

(c) Tax Information. Except in connection with an Approved Sale or a Public Sale, each Transferee of Membership Interests or other interests in New Gulf shall, as a condition precedent to such Transfer, execute and deliver the appropriate tax documents determined in accordance with the following: (i) if the Transferee is a "United States person" for U.S. federal tax purposes, the Transferee shall complete, execute and deliver to New Gulf a Form W-9 of the Internal Revenue Service, and (ii) if the Transferee is not a "United States person" for U.S. federal tax purposes, the Transferee shall complete, execute and deliver (and, if the Transferee is not a "United States person" and is also a "flow-through entity" for U.S. federal tax purposes, the Transferee shall cause each beneficial owner of such Transferee of any amounts to be allocated or distributed to the Transferee by New Gulf for U.S. federal income tax purposes (each such beneficiary, a "Beneficial Tax Owner") to complete, execute and deliver) to New Gulf the applicable Form W-8 of the Internal Revenue Service (or Form W-9 in the case of any Beneficial Tax Owner that is a "United States person" for U.S. federal tax purposes) (collectively, such Forms W-8 and W-9 are referred to herein as the "Tax Forms"). More specifically, Transferees and Beneficial Tax Owners that are not "United States persons" are required to provide information about their status for withholding tax purposes on Form W-8BEN or W-8 BEN-E (for non-United States Beneficial Owners), Form W-8IMY (for non-United States intermediaries, flow-through entities, and certain United States branches), Form W-8EXP (for non-United States governments, non-United States central banks of issue, non-United States tax-exempt organizations, non-United States private foundations, and governments of certain United States possessions), or Form W-8ECI (for non-"United States persons" receiving income that is effectively connected with the conduct of a trade or business in the United States), as more specifically described in the instructions accompanying those forms. Any Transferee that is not a "United States person" must also provide a United States taxpayer identification number on the applicable Form W-8. For purposes of determining which Tax Form to prepare, "United States person" means (i) a United States citizen or resident, (ii) a partnership or corporation (for U.S. federal income tax purposes) organized under United States Law, (iii) a United States estate (or any other estate whose income from sources outside of the United States is subject to U.S. federal income tax regardless of the source) or (iv) a trust if a court within the United States is able to exercise primary supervision over the trust's administration and one or more United States persons have the authority to control all of its substantial decisions or if a valid election to be treated as a United States person is in effect with respect to such trust.

(d) Notice. In connection with the proposed Transfer of any Membership Interests or other Equity Securities or interest in New Gulf, the holder of such Membership Interests or Equity Securities will deliver prior written notice to New Gulf describing in reasonable detail the proposed Transfer and the proposed Transferee, including the name, jurisdiction of organization (if applicable) and contact information for the proposed Transferee.

(e) Legal Opinion. No Transfer of Membership Interests or any other Equity Securities or interest in New Gulf (other than a Transfer to a Permitted Transferee) may be made unless in the written opinion of Transferor's counsel, satisfactory in form and substance to the Board and counsel for New Gulf (which opinion requirement may be waived by the Board in whole or in part at the sole discretion of the Board), such Transfer would not violate any federal

securities Laws, or cause New Gulf to be required to register as an "Investment Company" under the U.S. Investment Company Act of 1940, as amended. Such opinion of counsel shall be delivered in writing to New Gulf prior to the date of the Transfer. In addition, if the Member holding such Membership Interests delivers to New Gulf an opinion of counsel (who may be counsel for New Gulf), reasonably satisfactory in form and substance to the Board and counsel for New Gulf (which opinion may be waived, in whole or in part, at the sole discretion of the Board) that no subsequent Transfer of such Membership Interests by any Person that is not an Affiliate of New Gulf (or that may be deemed to have been an Affiliate of New Gulf during the three (3) months preceding any such Transfer) will require registration under the Securities Act, subject to any further requirements of any transfer agent of New Gulf, New Gulf will promptly upon such contemplated Transfer deliver, or caused to be delivered, new certificates or instruments, as the case may be, for such Membership Interests which do not bear the portion of the restrictive legend below relating to the Securities Act.

Section 9.7 Legend.

Certificates, if any, representing Membership Interests will bear the following legend.

"THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE WERE ORIGINALLY ISSUED ON, _____, HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR APPLICABLE STATE SECURITIES LAWS ("STATE ACTS") AND MAY NOT BE SOLD, ASSIGNED, PLEDGED, TRANSFERRED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR STATE ACTS OR AN EXEMPTION FROM REGISTRATION THEREUNDER. THE TRANSFER OF THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO THE CONDITIONS SPECIFIED IN AN AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT AS AMENDED AND MODIFIED FROM TIME TO TIME, GOVERNING THE ISSUER (THE "COMPANY"), BY AND AMONG CERTAIN INVESTORS (THE "LLC AGREEMENT"), A COPY OF WHICH SHALL BE FURNISHED BY THE COMPANY TO THE RECORD HOLDER HEREOF UPON WRITTEN REQUEST WITHOUT CHARGE."

To the extent applicable, any Membership Interest certificates held by Management Investors may also bear a legend in substantially the following form.

"THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE MAY ALSO BE SUBJECT TO CERTAIN VESTING PROVISIONS, REPURCHASE OPTIONS, REDEMPTION RIGHTS, OFFSET RIGHTS AND FORFEITURE PROVISIONS SET FORTH IN THE LLC AGREEMENT OR A SEPARATE AGREEMENT WITH THE INITIAL HOLDER OF SUCH MEMBERSHIP INTERESTS, A COPY OF WHICH SHALL BE FURNISHED BY THE COMPANY TO THE

RECORD HOLDER HEREOF UPON WRITTEN REQUEST AND WITHOUT CHARGE."

Section 9.8 Transfer Fees and Expenses. Except as provided in Section 10.2, Section 9.2(a) and Section 9.4, the Transferor and Transferee of any Membership Interests or other interest in New Gulf shall be jointly and severally obligated to reimburse New Gulf for all reasonable expenses (including reasonable attorneys' fees and expenses) incurred by New Gulf in connection with any Transfer or proposed Transfer, whether or not consummated.

Section 9.9 Void Transfers. Except pursuant to Section 10.1, any Transfer by any Member of any Membership Interests or other interest in New Gulf in contravention of this Agreement or which would cause New Gulf to not be treated as a partnership for U.S. federal income tax purposes shall be void and ineffectual *ab initio* and shall not bind or be recognized by New Gulf, any Member or any other Person. No purported Assignee in such a transaction shall have any right to any Profits, Losses or Distributions of New Gulf or any other rights under this Agreement.

ARTICLE X

INITIAL PUBLIC OFFERING; REGISTRATION RIGHTS

Section 10.1 Conversion to Corporate Form Upon an Initial Public Offering.

(a) IPO Approval. The Board may at any time approve an IPO by New Gulf or by any of its respective Subsidiaries. In the event of a planned IPO by New Gulf or a Subsidiary, New Gulf shall convert all (or the appropriate portion) of the Membership Interests then held by Members into an economically equivalent number of shares of the common stock of New Gulf or the applicable Subsidiary effecting such IPO (the "Common Stock"). If the Board approves an IPO of NGR Management or any of its Subsidiaries, each Member hereby consents to such IPO and shall vote for (to the extent it has any voting right) and raise no objections against such IPO, and each Member shall take all reasonable actions in connection with the consummation of such IPO as requested by the Board.

(b) Required Actions. In connection with an IPO, the Board may, in its sole discretion, either (i) cause New Gulf to contribute all or substantially all of its assets to a corporation in a transaction qualified under Section 351(a) of the Code, and thereupon liquidate and dissolve New Gulf, (ii) elect to have all Members contribute their Membership Interests to a corporation, in a transaction qualifying under Section 351(a) of the Code, as long as, in the judgment of the Board, the Fair Market Value of the shares of the corporation received by all Members is equal to the Fair Market Value of the Membership Interests Transferred, (iii) cause New Gulf to distribute some or all of the shares of capital stock or equity interests of one or more Subsidiaries of New Gulf to the Members, (iv) cause New Gulf to Transfer its assets, liabilities and operations to a corporation in exchange for any combination of cash, debt or capital stock in such corporation, (v) cause a corporation to be admitted as a Member of New Gulf, with such corporation purchasing interests in New Gulf from New Gulf or Members (as determined by the Board) with the proceeds of a Public Offering of the corporation's stock; or (vi) otherwise cause New Gulf to convert into a corporation, by way of merger, consolidation or otherwise. Each

Member hereby consents to such actions and shall vote for (to the extent it has any voting right) and raise no objections with respect to such actions, and each Member shall, at the request of the Board, take all actions reasonably necessary or desirable to effect such actions (including whether by conversion to a corporation, merger or consolidation into a corporation, recapitalization or reorganization, sale of securities, or otherwise), giving effect to substantially the same economic (other than any Tax effects resulting therefrom), voting and corporate governance provisions contained herein (any such transaction contemplated by this Section 10.1, a "Corporate Conversion"). In connection with any such Corporate Conversion, each Member hereby agrees to enter into a shareholders agreement (or equivalent) with the corporate successor (the "Reorganized Issuer") and each other Member which contains restrictions on the Transfer of such capital stock and other provisions (including with respect to the governance and control of such Reorganized Issuer) in form and substance (including with respect to the termination thereof) similar to the provisions and restrictions set forth herein (including in ARTICLE V and ARTICLE IX) to the extent reasonably requested by the Board.

Section 10.2 Registration Rights. In connection with but prior to the consummation of (i) an IPO or (ii) a transaction that results in the equity securities of New Gulf becoming publicly traded, New Gulf or the applicable Reorganized Issuer shall enter into a registration rights agreement with the Members with respect to the future registration under the Securities Act of securities of New Gulf or the applicable Reorganized Issuer held by the Members, in form and substance reasonably satisfactory to the Board; provided that such registration rights agreement shall provide that:

(a) each [15]% Holder will have the right to elect to participate on a Pro Rata Basis (relative to all [15]% Holders that so elect to participate) in any Public Offerings (other than an IPO) initiated voluntarily by New Gulf or any Reorganized Issuer or initiated as a result of any exercise of contractual registration rights by any other Person, subject to customary underwriter cutbacks, lockups and other customary exceptions or limitations approved by the Board and by holders of a majority of the Membership Interests or other equity securities held by those [15]% Holders electing to participate in such Public Offering; and

(b) following the [first] anniversary of the consummation of an IPO until [__] days thereafter, subject to customary exceptions or limitations to be approved by the Board and by holders of a majority of the Membership Interests or other equity securities held by all Persons then exercising such demand registration right, each (i) [25]% Holder and (ii) each Specified Initial Interest Holder (to the extent, as of the determination date, such entity is not a [25]% Holder), provided that such entity (together with its Affiliates) then holds at least [80]% of the Membership Interests such entity held on the Effective Date [(subject to Adjustments)], shall be entitled to two (2) demand registrations.

Section 10.3 Holdback Agreement. No Member shall effect any Public Sale or distribution of any Membership Interests or of any capital stock or equity securities of New Gulf or any Reorganized Issuer, or any securities convertible into or exchangeable or exercisable for such Membership Interests, stock or equity securities, (i) in the case of an IPO, during the seven days prior to and the 180-day period beginning on the effective date of such IPO and (ii) in the case of any other underwritten Public Offering, during the seven days prior to and the 90-day period beginning on the effective date of such Public Offering, in each case, except as part of

such underwritten Public Offering or unless otherwise permitted by the Board; provided, however, that the Board shall not discriminate among the Members with respect to any holdback arrangement pursuant to this Section 10.3.

Section 10.4 [Roll-Up Transaction. In connection with any Corporate Conversion, any Significant Interest Holder that holds Membership Interests through a Blocker Corporation shall be entitled to merge such Blocker Corporation into the Reorganized Issuer and/or contribute the equity securities of such Blocker Corporation into the Reorganized Issuer, in any such case in a tax-free transaction (a "Roll-Up Transaction"), pursuant to which Roll-Up Transaction the holders of any equity securities in the Blocker Corporation that is so merged or the equity securities which are so contributed shall receive in exchange for such equity securities the same aggregate number and type of shares of capital stock of the Reorganized Issuer as would be issuable pursuant to the Corporate Conversion in respect of the Membership Interests held directly or indirectly by the Blocker Corporation immediately prior to such Roll-Up Transaction; provided, however, that no Significant Interest Holder shall be entitled to effect a Roll-Up Transaction if (and such conditions shall be applied to the Significant Interest Holders on an equal and non-discriminatory basis) (a) such Roll-Up Transaction would result in an adverse Tax consequence to any Person (including New Gulf, the Reorganized Issuer or any other Member) other than the pre-transaction shareholders of such Significant Interest Holder's Blocker Corporation or (b) such Significant Interest Holder's Blocker Corporation has any liabilities at the time of such Roll-Up Transaction (other than immaterial liabilities relating to maintaining its existence or activities incidental thereto).]

ARTICLE XI

DISSOLUTION AND LIQUIDATION

Section 11.1 Dissolution. New Gulf shall not be dissolved by the admission of Additional Members or Substituted Members. New Gulf shall dissolve, and its affairs shall be wound up upon the first of the following to occur:

(a) an election of the Board to dissolve; and

(b) the entry of a decree of judicial dissolution of New Gulf under Section 18-802 of the Delaware Act.

Except as otherwise set forth in this ARTICLE XI, New Gulf is intended to have perpetual existence. An Event of Withdrawal shall not cause the dissolution of New Gulf, and New Gulf shall continue in existence notwithstanding any such Event of Withdrawal subject to the terms and conditions of this Agreement.

Section 11.2 Liquidation and Termination. Upon the dissolution of New Gulf in accordance with this Agreement, the Board shall act as liquidator or may appoint one or more representatives, Members or other Persons as liquidator(s). The liquidators shall proceed diligently to wind up the affairs of New Gulf and make final distributions as provided herein and in the Delaware Act. The costs of liquidation shall be borne as New Gulf's expense. Until final

distribution, the liquidators shall continue to operate New Gulf's properties with all of the power and authority of the Board. The steps to be accomplished by the liquidators are as follows:

(a) The liquidators shall pay, satisfy or discharge from New Gulf's funds all of the debts, liabilities and obligations of New Gulf (including all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including the establishment of a cash fund for contingent liabilities in such amount and for such term as the liquidators may reasonably determine).

(b) As promptly as practicable after dissolution, the liquidators shall (i) determine the amount of cash and the Fair Market Value (the "Liquidation FMV") of New Gulf's other remaining assets (the "Liquidation Assets") in accordance with ARTICLE XII hereof, (ii) determine the amounts to be distributed to each Member in accordance with Section 4.1(c), and (iii) deliver to each Member a statement (the "Liquidation Statement") setting forth the amount of cash and the Liquidation FMV and the amounts and recipients of such Distributions, which Liquidation Statement shall be final and binding on all Members absent fraud, manifest error or willful misconduct.

(c) As soon as the Liquidation FMV and the proper amounts of Distributions have been determined in accordance with Section 11.2(b) above, the liquidators shall promptly distribute New Gulf's remaining cash and the Liquidation Assets to the holders of Membership Interests in accordance with Section 4.1(c) above. In making such distributions, the liquidators shall allocate such cash and each type of Liquidation Assets (i.e., cash equivalents, preferred or common equity securities, etc.) among the Members ratably based upon the aggregate amounts to be distributed with respect to the Membership Interests held by each such Member in accordance with the immediately preceding sentence; provided that, in the event that any securities are part of the Liquidation Assets, each Member that is not an Accredited Investor may, in the sole discretion of the Board, receive, and hereby agrees to accept, in lieu of such securities, cash consideration with an equivalent value to such securities as determined by the Board. Any non-cash Liquidation Assets will first be written up or down to their Fair Market Value, thus creating Profit or Loss (if any), which shall be allocated in accordance with Section 4.2 and Section 4.3. If any Member's Capital Account is not equal to the amount to be distributed to such Member pursuant to Section 11.2(b), Profits and Losses for the Fiscal Year in which New Gulf is dissolved shall be allocated among the Members in such a manner as to cause, to the extent possible, each Member's Capital Account to be equal to the amount to be distributed to such Member pursuant to Section 11.2(b). The distribution of cash and/or property to a Member in accordance with the provisions of this Section 11.2(b) constitutes a complete return to the Member of its Capital Contributions and a complete distribution to the Member of its interest in New Gulf and all of New Gulf's property and constitutes a compromise to which all Members have consented within the meaning of the Delaware Act. To the extent that a Member returns funds to New Gulf, it has no claim against any other Member for those funds.

Section 11.3 Cancellation of Certificate. On completion of the distribution of New Gulf's assets as provided herein, New Gulf shall be terminated (and New Gulf shall not be terminated prior to such time), and the Board (or such other Person or Persons as the Delaware Act may require or permit) shall file a certificate of cancellation with the Secretary of State of Delaware, cancel any other filings made pursuant to this Agreement that are or should be

canceled and take such other actions as may be necessary to terminate New Gulf. New Gulf shall be deemed to continue in existence for all purposes of this Agreement until it is terminated pursuant to this Section 11.3.

Section 11.4 Reasonable Time for Winding Up. A reasonable time shall be allowed for the orderly winding up of the business and affairs of New Gulf and the liquidation of its assets pursuant to Section 11.2 in order to minimize any losses otherwise attendant upon such winding up.

Section 11.5 Return of Capital. The liquidators shall not be personally liable for the return of Capital Contributions or any portion thereof to the Members (it being understood that any such return shall be made solely from New Gulf's assets).

Section 11.6 Hart-Scott-Rodino. In the event the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "HSR Act") is applicable to any Member, the dissolution of New Gulf shall not be consummated until such time as the applicable waiting period (and extensions thereof) under the HSR Act have expired or otherwise been terminated with respect to each such Member.

ARTICLE XII

VALUATION

Section 12.1 Valuation of Membership Interests. The "Fair Market Value" of each Membership Interest shall be the fair value of each such Membership Interest determined in good faith by the Board based on the portion of the Total Equity Value to which each such Membership Interest would be entitled as of the date of valuation in accordance with Section 4.1(b) or Section 4.1(c), as applicable based on the provision of this Agreement pursuant to which the Fair Market Value of such Membership Interest is being determined.

Section 12.2 Valuation of Securities. The "Fair Market Value" of any other securities shall mean the average of the closing prices of the sales of the securities on all securities exchanges on which the securities may at the time be listed, or, if there have been no sales on any such exchange on any day, the average of the highest bid and lowest asked prices on all such exchanges at the end of such day, or, if on any day such securities are not so listed, the average of the representative bid and asked prices quoted in the NASDAQ System as of 4:00 P.M., New York time, or, if on any day such securities are not quoted in the NASDAQ System, the average of the highest bid and lowest asked prices on such day in the domestic over-the-counter market as reported by the National Quotation Bureau Incorporated, or any similar successor organization, in each such case averaged over a period of 21 days consisting of the day as of which the Fair Market Value is being determined and the 20 consecutive Business Days prior to such day. If at any time the securities are not listed on any securities exchange or quoted in the NASDAQ System or the over-the-counter market, the Fair Market Value of each such security shall be equal to the fair value thereof as of the date of valuation as determined in good faith by the Board on the basis of an orderly sale to a willing, unaffiliated buyer in an arm's-length transaction, taking into account all relevant factors determinative of value as the Board

determines relevant (and giving effect to any transfer Taxes payable or discounts in connection with such sale).

Section 12.3 Valuation of Other Assets. The "Fair Market Value" of all other non-cash assets shall mean the fair value thereof as of the date of valuation as determined in good faith by the Board on the basis of an orderly sale to a willing, unaffiliated buyer in an arm's-length transaction occurring on the date of valuation, taking into account all relevant factors determinative of value as the Board deems relevant (and giving effect to any transfer Taxes payable or discounts in connection with such sale).

ARTICLE XIII

GENERAL PROVISIONS

Section 13.1 Power of Attorney. Each Member hereby constitutes and appoints the Board and the liquidators, if any and as applicable, and their respective designees, with full power of substitution, as his, her or its true and lawful agent and attorney-in-fact, with full power and authority in his, her or its name, place and stead, to execute, swear to, acknowledge, deliver, file and record in the appropriate public offices (to the same extent such Person could take such action) all instruments necessary for any Transfer of Membership Interests pursuant to an Approved Sale pursuant to Section 9.4 that such Member shall have refused to execute, swear to, acknowledge, deliver, file and/or record within [three (3)] Business Days after being given written notice thereof (and the Board and the liquidators, if any and as applicable, may not exercise such power of attorney prior to such time or with respect to any instruments not required to be executed, sworn to, acknowledged, delivered, filed and/or recorded by any such Member pursuant to Section 9.4). The foregoing power of attorney is irrevocable and coupled with an interest, and shall survive the death, disability, incapacity, dissolution, bankruptcy, insolvency or termination of any Member and the Transfer of all or any portion of his or its Membership Interests and shall extend to such Member's heirs, successors, assigns and personal representatives.

Section 13.2 Amendments.

(a) Subject to (i) the right of the Board to amend this Agreement as expressly provided herein (including pursuant to Section 2.7) and (ii) Section 6.5(k) regarding certain indemnification rights, this Agreement may be amended, modified, or waived (including any amendment, modification, or waiver pursuant to a merger or consolidation) only with the written consent of the majority of the Board and the Majority Holders, and such amendment, modification or waiver shall be binding upon and effective as to each other Member; provided that if any such amendment, modification, or waiver (including any amendment, modification or waiver pursuant to a merger or consolidation) would adversely affect any of the rights, preferences, liabilities or obligations (as applicable) of any Member (in its capacity as a holder of Membership Interests of a particular class) set forth in this Agreement in a manner that is different or disproportionate in any material respect from the effect on the rights, preferences, liabilities or obligations (as applicable) of any of the other Members (in their capacity as a holders of Membership Interests of such particular class of Membership Interests held by the affected Member) set forth in this Agreement (other than in proportion to the number of such

Membership Interests), such amendment, modification, or waiver shall also require the written consent of such affected Member (it being understood that determining whether consent of any Member is required pursuant to this proviso, no personal circumstances of such Member shall be considered). No course of dealing or oral agreement between or among the Members (or between the Members and New Gulf) shall be effective to modify, amend, limit, restrict, eliminate, replace, alter or discharge any part of this Agreement or any rights or obligations of any Member or New Gulf or any other Person under or by reason of this Agreement or the Delaware Act.

(b) In addition to the consent required by Section 13.2(a), no amendment, modification or waiver (including any amendment, modification, or waiver pursuant to a merger or consolidation) relating to (including defined terms used therein):

(i) the Specified Initial Interest Holders' rights pursuant to Section 2.9(a) or Section 7.2 shall be effective without each Specified Initial Interest Holder's prior written consent;

(ii) any Specified Initial Interest Holder's registration rights pursuant to Section 10.2(b) shall be effective without the consent of such Specified Initial Interest Holder;

(iii) the right to appoint a member to the Board pursuant to Section 5.2Section 5.2(d) shall be effective without the prior written consent of such Person(s) having the right to appoint such Board member;

(iv) Section 2.3, [Section 5.2Section 5.2(d)], Section 9.1, Section 9.2, Section 9.5, Section 9.6, Section 9.7, Section 9.8 or Section 9.9 shall be effective without the prior written consent of each Specified Initial Interest Holder or Significant Interest Holder (as applicable) whose rights or obligations are adversely affected in any way (economic or non-economic) by such amendment, modification or waiver;

(v) this Section 13.2 shall be effective without the prior written consent of the Member or requisite percentage or number of Members that would be required to amend the underlying provision of this Agreement to which such amendment, modification or waiver relates (it being understood that any amendment, modification or waiver of this Section 13.2(b)(v) (the "Section 13.2(b)(v) amendment") shall not be effective to the extent it relates to or has the effect of any amendment, modification or waiver to any other provision of this Section 13.2 (the "Section 13.2 amendment") unless such Section 13.2(b)(v) amendment was approved in advance in writing by the Member or requisite percentage or number of Members that would be required to approve such Section 13.2 amendment);

(vi) Section 5.1(c) shall be effective without the prior written consent of the Supermajority Holders;

(vii) the definition of "Specified Initial Interest Holder" shall be effective without the prior written consent of each Specified Initial Interest Holder;

(viii) the definitions of "Värde," "Millstreet," "PennantPark," "Verition Capital," or "BulwarkBay" shall be effective without the prior written consent of Värde, Millstreet, PennantPark, Verition Capital or BulwarkBay, respectively;

(i) [the provisions related to an Officer's duties, exculpation and indemnification shall be effective without the consent of each affected Management Investor];

(ix) any provision the effect of which would be to (A) require any Member to make any Capital Contribution (or increase the amount of any commitment to make any Capital Contribution), advance or loan, (B) increase or extend the liability or obligations of, or decrease or limit the rights to (or benefits of) any exculpation, indemnification or advancement or reimbursement of expenses enjoyed by, any Member (or any Manager appointed or designated by a Member (or a group of Persons of which such Member is a part)) under this Agreement, (C) require any Member to return to any Person any money or property received by such Member as a Distribution hereunder, or (D) create any Capital Account deficit or negative balance restoration obligation of any Member, shall be effective against any Member without such Member's prior written consent; or

(x) Section 6.5(k) that affects any Indemnified Person shall be effective against such Indemnified Person without such Indemnified Person's prior written consent.

(c) Any decision, approval, adjustment, allocation, election, modification or act to be made by the Board or New Gulf under ARTICLE XII, ARTICLE IV (other than Section 4.1) or ARTICLE VIII in the discretion of the Board or New Gulf, or based on the determination of the Board or New Gulf, that adversely affects economically any Significant Interest Holder in a discriminatory manner compared to any other Significant Interest Holder shall not be effective without the prior written consent of the Significant Interest Holder so adversely affected.

Section 13.3 Title to New Gulf Assets. New Gulf's assets shall be deemed to be owned by New Gulf as an entity, and no Member, individually or collectively, shall have any ownership interest in such assets or any portion thereof. Legal title to any or all of such assets may be held in the name of New Gulf or one or more nominees, as the Board may determine. The Board hereby declares and warrants that any New Gulf assets for which legal title is held in the name of any nominee shall be held in trust by such nominee for the use and benefit of New Gulf in accordance with the provisions of this Agreement. All New Gulf assets shall be recorded as the property of New Gulf on its books and records, irrespective of the name in which legal title to such assets is held.

Section 13.4 Remedies. Each Member and New Gulf shall have all rights and remedies set forth in this Agreement and all rights and remedies which such Person has been granted at any time under any other agreement or contract and all of the rights which such Person has under any Law. Any Person having any rights under any provision of this Agreement or any other agreements contemplated hereby shall be entitled to enforce such rights specifically (without posting a bond or other security), to recover damages by reason of any breach of any provision of this Agreement and to exercise all other rights granted by Law.

Section 13.5 Successors and Assigns. All covenants and agreements contained in this Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs,

executors, administrators, successors, legal representatives and permitted assigns, whether so expressed or not.

Section 13.6 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable Law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or the effectiveness or validity of any provision in any other jurisdiction, and this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein or if such term or provision could be drawn more narrowly so as not to be illegal, invalid, prohibited or unenforceable in such jurisdiction, it shall be so narrowly drawn, as to such jurisdiction, without invalidating the remaining terms and provisions of this Agreement or affecting the legality, validity or enforceability of such term or provision in any other jurisdiction.

Section 13.7 Counterparts; Binding Agreement. This Agreement may be executed simultaneously in any number of separate counterparts, any one of which need not contain the signatures of more than one party, but each of which will be an original and all of which together shall constitute one and the same agreement binding on all the parties hereto. This Agreement and all of the provisions hereof shall be binding upon and effective as to each Person who (a) executes this Agreement in the appropriate space provided in the signature pages hereto notwithstanding the fact that other Persons who have not executed this Agreement may be listed on the signature pages hereto, (b) is deemed party to this Agreement pursuant to Section 2.3 and (c) may from time to time become a party to this Agreement by executing a counterpart of or Joinder to this Agreement.

Section 13.8 Descriptive Headings; Interpretation. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement. Whenever required by the context, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. The use of the word "including" in this Agreement shall be by way of example rather than by limitation. Reference to any agreement, document or instrument means such agreement, document or instrument as amended or otherwise modified from time to time in accordance with the terms thereof, and if applicable hereof. Whenever required by the context, references to a Fiscal Year shall refer to a portion thereof. The use of the words "or," "either" and "any" shall not be exclusive. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. Wherever a conflict exists between this Agreement and any other agreement, this Agreement shall control but solely to the extent of such conflict. Whenever in this Agreement a Member (or group thereof) is permitted or required to take any action or to make a decision or determination, such Person shall take such action or make such decision or determination in such Person's sole discretion, unless another standard is expressly set forth herein. [Whenever in this Agreement a Member is permitted or required to take any action or to make a decision or determination in its "sole discretion" or "discretion," with "complete discretion" or under a grant of similar authority

or latitude, each such Person shall be entitled to consider, solely its own interests (and not the interests of any other Person) or, at its election, any such other interests and factors as such Member desires (including the interests of such Member's Affiliates, employers, partners and their respective Affiliates), or any combination thereof.][7]

Section 13.9 Applicable Law; Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the Delaware Act and the other Laws of the State of Delaware, without giving effect to any choice of Law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware. Any dispute relating hereto shall be heard first in the Delaware Court of Chancery, and, if applicable, in any state or federal court located in Delaware in which appeal from the Court of Chancery may validly be taken under the Laws of the State of Delaware (each a "Chosen Court" and collectively, the "Chosen Courts"), and the parties, and any Member pursuant to this Agreement, by acceptance of the rights and benefits thereof, agree to the exclusive jurisdiction and venue of the Chosen Courts. Such Persons further agree that any Proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement, the other agreements referred to herein, the Membership Interests, New Gulf, the Members, any Manager, or the transactions contemplated hereby or by any matters related to the foregoing (the "Applicable Matters") shall be brought exclusively in a Chosen Court, and that any Proceeding arising out of this Agreement or any other Applicable Matter shall be deemed to have arisen from a transaction of business in the State of Delaware, and each of the foregoing Persons hereby irrevocably consents to the jurisdiction of such Chosen Courts in any such Proceeding and irrevocably and unconditionally waives, to the fullest extent permitted by Law, any objection that such Person may now or hereafter have to the laying of the venue of any such Proceeding in any such Chosen Court or that any such Proceeding brought in any such Chosen Court has been brought in an inconvenient forum. Such Persons further covenant not to bring a Proceeding with respect to the Applicable Matters (or that could affect any Applicable Matter) other than in such Chosen Court and not to challenge or enforce in another jurisdiction a judgment of such Chosen Court. Process in any such Proceeding may be served on any Person with respect to such Applicable Matters anywhere in the world, whether within or without the jurisdiction of any such Chosen Court. Without limiting the foregoing, each such Person agrees that service of process on such party as provided in Section 13.10 shall be deemed effective service of process on such Person.

Section 13.10 Addresses and Notices. All notices, demands or other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given, made or received when (a) delivered personally to the recipient, (b) faxed/emailed to the recipient (with hard copy sent to the recipient by reputable overnight courier service (charges prepaid) that same day) if faxed/emailed before 5:00 p.m. New York, New York time on a Business Day, and otherwise on the next Business Day, or (c) one Business Day after being sent to the recipient by reputable overnight courier service (charges prepaid). Such notices, demands and other communications shall be sent to the address, facsimile number or e-mail address for such recipient set forth in New Gulf's books and records, or to such other address, facsimile number or e-mail address, or to the attention of such other person, as the recipient party has specified by prior written notice to the sending party and initially as set forth

[7] NTD: To be included in Article VI

on the Membership Interest Ownership Ledger as of the Effective Date. Any notice to the Board shall be deemed given if delivered to each member of the Board at the last known address of such members. Any notice to New Gulf shall be sent to the address, facsimile number or email address as set forth below.

[____]

with a copy to:

[____]

and

[____]

Section 13.11 Creditors; Indebtedness.

(a) None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of New Gulf or any of its Affiliates, and no creditor who makes a loan to New Gulf or any of its Affiliates may have or acquire (except pursuant to the terms of a separate agreement executed by New Gulf in favor of such creditor) at any time as a result of making the loan any direct or indirect interest in New Gulf Profits, Losses, Distributions, capital or property other than as a secured creditor.

(b) Anything herein to the contrary notwithstanding, nothing contained in this Agreement shall affect, limit or impair the rights and remedies of any Member as a lender to New Gulf or its Affiliates pursuant to any agreement under which New Gulf or any of its Affiliates has or from time to time will have borrowed money from any such Member or any Affiliate of such Member. Without limiting the generality of the foregoing, no such Member, in exercising its rights as a lender or other creditor, including making its decision on whether to foreclose on any collateral security, shall have any duty to consider (i) its status as a direct or indirect Member, (ii) the interests of New Gulf or any of its Affiliates or (iii) any duty it may have to any other direct or indirect Member arising from this Agreement, except as may be required under the applicable loan documents or by commercial Law applicable to creditors generally.

(c) In the event that any Significant Interest Holder seeks to acquire any interest in or to otherwise participate in any other transaction involving, any Indebtedness of New Gulf or any of its Subsidiaries, such Significant Interest Holder shall (i) no less than [five (5)] Business Days prior to engaging in such transaction provide written notice to New Gulf of the material terms of the proposed transaction sufficient to enable New Gulf to determine whether such transaction (taking into account any other notices pursuant to this Section 13.11(c) provided by any other Significant Interest Holder to New Gulf and any other Indebtedness of New Gulf or any of its Subsidiaries held by any Significant Interest Holders) would reasonably be expected to breach or cause a default under any agreement to which New Gulf or any of its Subsidiaries is a party with respect to such Indebtedness (an "Indebtedness Default") and (ii) refrain from engaging in the portion of such transaction that (A) New Gulf advises in writing during such [five (5)]-Business Day period would reasonably be expected to cause an

Indebtedness Default or (B) that such Significant Interest Holder otherwise has knowledge would reasonably be expected to cause an Indebtedness Default. New Gulf shall use commercially reasonable efforts to respond as promptly as possible to any notice delivered to New Gulf pursuant to the preceding sentence, including in the event, if applicable, that New Gulf determines that no Indebtedness Default would reasonably be expected to occur with respect to the proposed transaction described in such notice.

Section 13.12 No Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, duty, agreement or condition.

Section 13.13 Further Action. The parties agree to execute and deliver all documents, provide all information and take or refrain from taking such actions as may be reasonably necessary to achieve the purposes of this Agreement.

Section 13.14 Entire Agreement. This Agreement and those documents expressly referred to herein or contemplated hereby embody the complete agreement and understanding among the parties with respect to the subject matter herein and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way.

Section 13.15 Delivery by Electronic Means. This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or electronic transmission in portable document format (pdf) or comparable electronic transmission, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or pdf electronic transmission or comparable electronic transmission to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

Section 13.16 Survival. Section 1.6, Section 2.5, Section 4.2, Section 4.3, Section 4.5, Section 4.6, Section 5.6 and Section 5.7 and ARTICLE III, ARTICLE VI, and ARTICLE XIII (other than Section 13.1) shall survive and continue in full force in accordance with its terms notwithstanding any termination of this Agreement or the dissolution of New Gulf.

Section 13.17 Opt-in to Article 8 of UCC. The Members hereby agree that the Membership Interests shall be securities governed by Article 8 of the Uniform Commercial Code of the State of Delaware (and the Uniform Commercial Code of any other applicable jurisdiction).

Section 13.18 Certain Acknowledgements. Upon execution and delivery of a counterpart to this Agreement or a Joinder to this Agreement, each Member (including each Substituted Member and each Additional Member) shall be deemed to acknowledge to New Gulf as follows: (a) the determination of such Person to acquire Membership Interests has been made by such Person independent of any other Person and independent of any statements or opinions as to the advisability of such purchase or as to the properties, business, prospects or condition (financial or otherwise) of New Gulf and its Subsidiaries which may have been made or given by any other Member or by any agent or employee of any other Member and (b) no other Member has acted as an agent of such Person in connection with making its investment hereunder and that no other Member shall be acting as an agent of such Member in connection with monitoring its investment hereunder.

Section 13.19 WAIVER OF JURY TRIAL. AS A SPECIFICALLY BARGAINED FOR INDUCEMENT FOR EACH OF THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT (AFTER HAVING THE OPPORTUNITY TO CONSULT WITH COUNSEL), EACH PARTY HERETO EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING IN ANY WAY FROM THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREBY.

Section 13.20 Member Representations and Warranties. Each Member represents and warrants to New Gulf and each other Member as of the date hereof in the case of the Members that are Members as of the date hereof (and as of the date of becoming a Member in the case of Members that become Members after the date hereof) that (a) such Member (after giving effect to the transactions contemplated by the Plan) is the exclusive record owner of all right, title and interest in and to the number of Membership Interests set forth opposite such Member's name on the Membership Interest Ownership Ledger, as applicable, (b) this Agreement has been duly authorized, executed and delivered by such Member and constitutes the valid and binding obligation of such Member, enforceable in accordance with its terms, (c) such Member has not granted and is not a party to any proxy, voting trust or other agreement which is inconsistent with, conflicts with, or violates any provision of this Agreement, (d) such Member is acquiring the Membership Interests for its own account with the present intention of holding such securities for investment purposes and that it has no intention of selling such securities in a public distribution in violation of the federal securities Laws or any applicable state securities Laws, such Member acknowledges that the Membership Interests have not been registered under the Securities Act or applicable state securities Laws and that the Membership Interests will be issued to such Member in reliance on exemptions from the registration requirements of the Securities Act and applicable state statutes and in reliance on such Member's representations and agreements contained herein, (e) such Member has had an opportunity to ask questions and receive answers concerning this Agreement and the terms and conditions of the Membership Interests to be acquired by it, him or her and has had full access to such other information concerning New Gulf and its Subsidiaries as such Member has requested in making its decision to invest in the Membership Interests being issued hereunder and (f) such Member is able to bear the economic risk and lack of liquidity of an investment in New Gulf and is able to bear the risk of loss of its entire investment in New Gulf, and such Member fully understands and agrees that it, he or she may have to bear the economic risk of its purchase for an indefinite period of time because, among other reasons, the Membership Interests have not been registered under the Securities Act or under the securities Laws of any state and, therefore, cannot be resold, pledged,

assigned or otherwise disposed of unless they are subsequently registered under the Securities Act and under the applicable securities Laws of certain states or unless an exemption from such registration is available. [In addition, each Member as of the date hereof represents and warrants and acknowledges and agrees that the Membership Interests issued to such person as of the date hereof constitute full satisfaction, and hereby discharge, the obligations of any Person (including New Gulf, the Board and any other Member) to such Member with respect to the issuance of any Membership Interests (as defined in the Plan) pursuant to the Plan or any of the agreements, instruments or documents contemplated thereby.]

Section 13.21 Notice of Conversion. In the event that any Member proposes to convert any New First Lien Notes into Membership Interests, notice shall be given in accordance with the applicable provisions of the indenture governing the New First Lien Notes.

ARTICLE XIV

DEFINITIONS

Capitalized terms used but not otherwise defined herein shall have the following meanings.

"[15]% Holder" means, as of any date of determination, a holder of more than [15]% of the then outstanding aggregate number of Vested Membership Interests (either individually, or together with such holder's Affiliates and Related Funds) that has agreed in writing to be bound by the terms and conditions of this Agreement.[8]

"[25]% Holder" means, as of any date of determination, a holder of more than [25]% of the then outstanding aggregate number of Vested Membership Interests (either individually, or together with such holder's Affiliates and Related Funds) that has agreed in writing to be bound by the terms and conditions of this Agreement.

"Accredited Investor" means an "accredited investor" as such term is defined in Rule 501 under the Securities Act.

"Additional Member" means a Person admitted to New Gulf as a Member pursuant to Section 2.2.

["Ad Hoc Committee" means the ad hoc committee of certain holders of second lien notes of the Debtors represented by Stroock & Stroock & Lavan LLP and Richards, Layton & Finger, PA.]

"Adjusted Capital Account Deficit" means, with respect to any Capital Account as of the end of any Taxable Year, the amount by which the balance in such Capital Account is less than zero. For this purpose, such Person's Capital Account balance shall be (i) reduced for any items described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5), and (6), and (ii) increased for any amount such Person is obligated to contribute or is treated as being obligated to

[8] Certain ownership thresholds in this Agreement may be revised to clarify whether they are measured on a primary basis or a fully diluted basis.

contribute to New Gulf pursuant to Treasury Regulation Sections 1.704-1(b)(2)(ii)(c) (relating to partner liabilities to a partnership) or 1.704-2(g)(1) and 1.704-2(i) (relating to Minimum Gain).

"Adjustments" means any Membership Interest adjustment for splits, combinations and similar organic structural events effectuated in accordance with this Agreement.

"Admission Date" has the meaning set forth in Section 9.5(a).

"Affiliate" of any Person means any other Person controlled by, controlling or under common control with such Person; provided that New Gulf and its Subsidiaries shall not be deemed to be Affiliates of any Member. As used in this definition, "control" (including, with its correlative meanings, "controlling," "controlled by" and "under common control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities, by contract or otherwise). With respect to any Person who is an individual, "Affiliates" shall include also any member of such individual's Family Group; provided that New Gulf and its Subsidiaries shall be deemed not to be an Affiliate of any Member.

"Affiliate Transaction" has the meaning set forth in Section 5.1(g).

"Agreement" has the meaning set forth in the Preamble.

"Applicable Matters" has the meaning set forth in Section 13.9.

"Applicable Tax Rate" means, for any calendar year, the sum of the highest marginal federal, state and local tax rates applicable to income of New Gulf allocated to an individual or a corporation (whichever rate is higher) resident in New York, New York or Los Angeles, California, whichever is higher, taking into account the character of New Gulf's income (e.g., ordinary v. long-term capital gain) and the deductibility of state and local taxes for federal income tax purposes).

"Approved Sale" has the meaning set forth in Section 9.4(a).

"Assignee" means a Person to whom Membership Interests have been Transferred (i.e., a Transferee) in accordance with the terms of this Agreement and the other agreements contemplated hereby, as applicable, but who has not become a Member pursuant to Section 2.2 or Section 2.3.

"Available Securities" has the meaning set forth in Section 2.9(a).

"Base Rate" means, as of any date, a variable rate per annum equal to the rate of interest most recently published by *The Wall Street Journal* as the "prime rate" at large U.S. money center banks.

"Beneficial Tax Owner" has the meaning set forth in Section 9.6(c).

"Blocker Corporation" means either (a) a Member (i) who is a corporation (or a limited liability company, limited partnership or any other entity that is taxed as a corporation) and (ii)

whose only assets are its Membership Interests, or (b) a Person (i) who is a corporation (or a limited liability company, limited partnership or any other entity that is taxed as a corporation) and (ii) whose only assets are, directly or indirectly, a Member whose only assets are its Membership Interests.

"Blocker Corporation Shares" has the meaning set forth in Section 9.3(e).

"Board" means the Board of Managers of New Gulf established pursuant to Section 5.2, which shall have the power, authority and duties described in this Agreement..

"Book Value" means, with respect to any New Gulf property, New Gulf's adjusted basis for federal income Tax purposes, adjusted from time to time to reflect the adjustments required or permitted (in the case of permitted adjustments, to the extent New Gulf makes such permitted adjustments pursuant to Section 3.8) by Treasury Regulation Sections 1.704-1(b)(2)(iv)(d)-(g).

"BulwarkBay" means Persons (and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees) affiliated with, or under management by, [BulwarkBay] (together with their respective Affiliates and Related Funds).

"Business" means the acquisition, development, exploration of crude oil and natural gas, including as the same is conducted by New Gulf and its Subsidiaries as of the Effective Date, all other businesses and activities ancillary thereto, and any potential growth or expansion opportunities (regardless of the form thereof) available to New Gulf or its Subsidiaries in connection with the foregoing.

"Business Day" means any day other than a day which is a Saturday, Sunday or legal holiday on which banks in the City of New York are authorized or obligated by Law to close.

"Business Opportunities" has the meaning set forth in Section 6.6(b).

"Buyer" has the meaning set forth in Section 9.4(d).

"Capital Account" means the capital account maintained for a Member pursuant to ARTICLE III and the other applicable provisions of this Agreement.

"Capital Contributions" means any cash, cash equivalents, promissory obligations or the Fair Market Value of other property which a Member contributes or is deemed by the Board to have contributed to New Gulf with respect to any Membership Interest pursuant to Section 3.1 or Section 3.7.

"Castle Hill" means Persons (and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees) affiliated with, or under management by, [Castle Hill] (together with their respective Affiliates and Related Funds).

"Certificate" has the meaning set forth in the Preamble.

"Chinese Wall" means reasonably effective procedures established and maintained by a Person (the "First Party") to ensure that employees or other agents (other than any third party

advisor that has a professional obligation of confidentiality with respect to the First Party (provided that such First Party shall enforce such professional obligations against such third party advisor in the event of any breach thereof)) of another Person (the "Second Party"), or any Affiliate or Related Fund of the Second Party (other than the First Party), do not gain access to, or are not furnished with, confidential information of, or competitively sensitive information relating to, New Gulf and its Subsidiaries that is in the possession of the First Party.

"Chosen Courts" has the meaning set forth in Section 13.9.

"Code" means the United States Internal Revenue Code of 1986, as amended. Such term, if elected by the Board in its sole discretion, shall be deemed to include any future amendments to the Code and any corresponding provisions of succeeding Code provisions (whether or not such amendments and corresponding provisions are mandatory or discretionary).

"Common Stock" has the meaning set forth in Section 10.1(a).

"Company Income Amount" has the meaning set forth in Section 4.1(a).

"Company Manager" has the meaning set forth in Section 5.2(b)(i).

["Competitor" means (i) a Competing Person, (ii) a Competing Interest Holder and (iii) an Affiliate or Related Fund of a Competing Interest Holder, other than any such Affiliate or Related Fund that (A) is not a Competing Person, (B) is not a Competing Interest Holder and (C) establishes and maintains with reasonable diligence and in good faith a Chinese Wall between such Person, on the one hand, and any Competing Person or Competing Interest Holder of which such Person is an Affiliate or Related Fund, on the other hand. Anything in this Agreement to the contrary notwithstanding, none of the Specified Initial Interest Holders shall constitute a "Competitor" or a "Competing Person" hereunder.]

["Competing Interest Holder" means any Person that has a direct or indirect financial interest or investment, other than a Passive Investment, in the aggregate of more than [__]% of the income, profits, revenues or assets of any Competing Person. For purposes of determining whether a Person has met the [__]% threshold in the immediately preceding sentence, the financial interest or investment of such Person in a Competing Person shall be aggregated with the financial interest or investment of such Person's Affiliates and Related Funds in such Competing Person, but only if such Person itself has a financial interest or investment in such Competing Person.]

"Competing Person" means any Person that competes directly with NGR Management, New Gulf or their respective Subsidiaries and identified as such on a list of Competing Persons approved from time to time by the Board and made available to the Members upon request.

"Confidential Information" has the meaning set forth in Section 6.7(a).

"Corporate Conversion" has the meaning set forth in Section 10.1(b).

["Covered Person" has the meaning set forth in Section 6.3.]

"Debtors" has the meaning set forth in the Preamble.

"Delaware Act" means the Delaware Limited Liability Company Act, 6 Del. L. § 18-101, et seq., as it may be amended from time to time, and any successor thereto.

"Distribution" means each distribution made by New Gulf or any of its Subsidiaries to a Member, with respect to such Person's Membership Interests or other Equity Securities of New Gulf or any of its Subsidiaries, whether in cash, property or securities and whether by liquidating distribution, redemption, repurchase or otherwise; provided that notwithstanding anything in the foregoing, none of the following shall be deemed to be a Distribution hereunder: (a) any redemption or repurchase by New Gulf or any of its Subsidiaries of any securities of New Gulf or any of its Subsidiaries in connection with the termination of employment of an employee of New Gulf or any of its Subsidiaries or any service provider of New Gulf or any of its Subsidiaries, (b) any redemption by New Gulf or any of its Subsidiaries of Membership Interests from Management Investors pursuant to the terms and conditions of any Equity Agreement, (c) any subdivision (by membership interest split or otherwise) or any combination (by reverse membership interest split or otherwise) of all outstanding Membership Interests, (d) any repurchase by New Gulf of Membership Interests pursuant to **Error! Reference source not ound.**, (e) any indemnification, whether pursuant to Section 6.5 or otherwise, or (f) any reasonable fees or remuneration paid to any Member in such Member's capacity as an employee, Officer, Manager, consultant or other provider of services to New Gulf or any of its Subsidiaries (in each case other than any such Persons who are employed by any Member or any of its Affiliates or Related Funds).

"Drag Along Indemnity Pro Rata Share" has the meaning set forth in Section 9.4(c).

"Drag Along Sale Notice" has the meaning set forth in Section 9.4(a).

"Drag Along Selling Member" has the meaning set forth in Section 9.4(a).

"Dragged Holder" has the meaning set forth in Section 9.4(a).

"Effective Date" has the meaning set forth in the Preamble.

"Electing Members" has the meaning set forth in Section 9.3(a).

"Employment Agreement" means any employment agreement, retention agreement, consulting agreement, confidentiality agreement, non-competition agreement, non-solicitation agreement, senior management agreement or any similar agreement to which New Gulf and/or any of its Subsidiaries is a party, each as amended, modified and/or waived from time to time.

"Equity Agreement" means the Incentive Equity Plan and any related agreement entered into by a Management Investor (or natural person that after such acquisition will become a Management Investor) and New Gulf (approved by the Board) in connection with the acquisition or potential acquisition by such Person of Membership Interests or the admission of such Person as a Member.

"Equity Securities" means (a) any Membership Interests, capital stock, partnership, membership or limited liability company interests, profits interest or other equity interests (including other classes, groups or series thereof having such relative rights, powers and/or obligations as may from time to time be established by the Board, including rights, powers and/or duties different from, senior or junior to or more or less favorable than existing classes, groups and series of Membership Interests capital stock, partnership, membership or limited liability company interests, profits interest or other equity interests), (b) obligations, evidences of indebtedness or other securities or interests convertible into, or exchangeable or exercisable for, Membership Interests, capital stock, partnership interests, membership or limited liability company interests, profits interest or other equity interests, and (c) warrants, options or other rights to purchase or otherwise acquire Membership Interests, capital stock, partnership interests, membership or limited liability company interests, profits interest or other equity interests. Unless the context otherwise indicates, the term "Equity Securities" refers to Equity Securities of New Gulf.

"Event of Withdrawal" means the death, retirement, resignation, expulsion, disability, adjudication of incapacity or incompetence, disassociation, Transfer of all of the Membership Interests, bankruptcy or dissolution of a Member, or the occurrence of any other event that terminates under this Agreement (or that could terminate under the Delaware Act) the continued status of a Person as a Member.

"Exempt Issuance" has the meaning set forth in Section 2.9(a)(viii).

"Exempt Transfers" has the meaning set forth in Section 9.1(a).

"Exercising Member" has the meaning set forth in Section 2.9(b).

"Fair Market Value" means, with respect to any asset or equity interest, its fair market value determined according to ARTICLE XII.

"Family Group" means, with respect to a Person who is an individual, (a) such individual's parents, spouse and descendants (whether natural or adopted) (collectively, for purposes of this definition, "relatives"), (b) such individual's executor or personal representative, (c) any trust, the trustee of which is such individual or such individual's executor or personal representative and which at all times is and remains solely for the benefit of such individual and/or such individual's relatives, (d) any corporation, limited partnership, limited liability company or other tax flow-through entity the governing instruments of which provide that such individual or such individual's executor or personal representative shall have the exclusive, nontransferable power to direct the management and policies of such entity and of which the sole record and beneficial owners of stock, partnership interests, membership interests or any other equity interests are limited to such individual, such individual's relatives and/or the trusts described in clause (c) above, and (e) any retirement plan for such individual.

"Fiscal Quarter" means each calendar quarter ending March 31, June 30, September 30 and December 31, or such other quarterly accounting period as may be established by the Board.

"Fiscal Year" means the 12-month period ending on December 31, or such other annual accounting period as may be established by the Board or as may be required by the Code.

"Forfeiture Allocations" has the meaning set forth in Section 4.2.

"Fully Electing Members" has the meaning set forth in Section 9.3(b).

"GAAP" means United States generally accepted accounting principles, consistently applied.

"Governmental Entity" means any federal, state, regional, county, city, local, municipal, foreign or other government or quasi-governmental entity or authority; any department, branch, agency, commission, board, subdivision, bureau, agency, official, political subdivision or other instrumentality of any of the foregoing; any administrative or regulatory body obtaining authority from any of the foregoing; any entity exercising executive, legislative, judicial, regulatory or administrative functions of government; or any court, tribunal, judicial or arbitral body.

"HSR Act" has the meaning set forth in Section 11.6.

"Incentive Equity Plan" means the New Gulf LLC Equity Incentive Plan.

"Indebtedness" means, as of a particular time without duplication, (a) any indebtedness for borrowed money or issued in substitution for or exchange of indebtedness for borrowed money, (b) any indebtedness evidenced by any note, bond, debenture or other debt security and (c) any credit or loan agreement or facility or other agreement, instrument or document evidencing, creating or relating to any of the foregoing.

"Indebtedness Default" has the meaning set forth in Section 13.11(c).

"Indemnified Person" has the meaning set forth in Section 6.5(b).

"Independent Third Party" means any Person that, as of any date of determination, is not New Gulf or any of its Subsidiaries, a Member, an Affiliate or Related Fund of any Member or a part of the Family Group of any Member.

"Insolvency Event" means, with respect to any Person, (a) the commencement by such Person of any case, Proceeding or other action (i) under any existing or future Law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent entity, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to such Person or such Person's Indebtedness, or (ii) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of such Person's assets, or such Person making a general assignment for the benefit of such Person's creditors; (b) there being commenced against such Person any case, Proceeding or other action of a nature referred to in clause (a) above; (c) there being commenced against such Person any case, Proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of such Person's assets; (d) such Person admitting publicly that such Person cannot pay its debts or obligations when due or that such Person and/or any of its Subsidiaries are insolvent; (e) such Person entering into an arrangement

for the benefit of creditors with respect to such Person and/or any of its Subsidiaries or (f) such Person taking any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (a) through and including (e) above.

"IPO" means an initial Public Offering of New Gulf or one of its Subsidiaries following the Effective Date.

"Investment Fund" means a bona fide collective investment fund, such as a hedge fund, private equity fund, an account, a share trust, an investment trust, an investment company, a pension fund or an insurance company, in each case, the business, operations or assets of which are held for investment purposes, which makes or is intended to make investments in multiple businesses (and not solely a direct or indirect investment in a Member or the Membership Interests or Blocker Corporation Shares), and the investments in which are professionally managed.

"Joinder" has the meaning set forth in Section 2.2.

"Laws" means any constitutional provision, federal, state, local, municipal or foreign statute, law, ordinance, regulation, rule, code, order, principle of common law or judgment enacted, promulgated, issued, enforced or entered by any Governmental Entity, or other requirement (including pursuant to any settlement, consent decree or determination of or settlement under any arbitration) or rule of law assessment or any legally binding regulatory policy statement, binding guidance, binding directive or decree of any Governmental Entity.

"Lead Manager" has the meaning set forth in Section 5.2(g).

"Liquidation Assets" has the meaning set forth in Section 11.2(b).

"Liquidation Event" has the meaning set forth in Section 4.1(c).

"Liquidation FMV" has the meaning set forth in Section 11.2(b).

"Liquidation Statement" has the meaning set forth in Section 11.2(b).

"Liquidation Value" has the meaning set forth in Section 4.1(c).

"Losses" means items of New Gulf loss and deduction determined according to Section 3.2.

"Majority Holders" means, at any time of determination, the holders of at least a majority of the outstanding Membership Interests that are entitled to vote at such time, voting together as a single class.

"Management Discussion" has the meaning set forth in Section 7.3.

"Management Investors" means the Persons that may from time to time be listed under the subheading titled "Management Investors" on the Membership Interest Ownership Ledger and any other Member who acquires Equity Securities after the date hereof and/or enters into an

Equity Agreement after the date hereof pursuant to the terms of Section 2.7 and is designated as a "Management Investor" by the Board.

"Management Services Agreement" has the meaning set forth in Section 5.1(a)(iii).

"Manager" means a Manager serving on the Board at any given time, who, for purposes of the Delaware Act, will be deemed a "manager" (as defined in the Delaware Act), but will be subject only to the rights, obligations, limitations and duties set forth in this Agreement.

"MD&A" has the meaning set forth in Section 7.2(c).

"Meeting" has the meaning set forth in Section 5.2(k).

"Member" means each of the Persons [listed on the Membership Interest Ownership Ledger on the Effective Date], and any Person admitted to New Gulf as a Substituted Member or Additional Member in accordance with the terms and conditions of this Agreement; but in each case (subject to the terms of Section 2.8) only for so long as such Person is shown on New Gulf's books and records as the owner of one or more Membership Interests. The Members shall constitute the "members" (as that term is defined in the Delaware Act) of New Gulf.

"Membership Interest" means a limited liability company interest in New Gulf of a Member or an Assignee in New Gulf representing such Member's or such Assignee's fractional equity, ownership, profit or other right, title and interest in New Gulf in such Member's or such Assignee's capacity as a Member or Assignee, respectively, including all such Member's or such Assignee's rights and interests in Profits, Losses and Distributions of New Gulf, provided that any class, group or series of Membership Interests issued shall have the relative rights, powers and obligations set forth in this Agreement (or, if applicable, in any Equity Agreement pursuant to which such Membership Interest was issued). Membership Interests shall for all purposes be personal property. A Member shall have no interest in specific property of New Gulf, including any property contributed to New Gulf by such Member as part of any Capital Contribution by such Person.

"Membership Interest Ownership Ledger" has the meaning set forth in Section 2.5.

"Millstreet" means Persons (and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees) affiliated with, or under management by, [Millstreet Capital Management LLC] (together with their respective Affiliates and Related Funds).

"Minimum Gain" means the partnership minimum gain determined pursuant to Treasury Regulation Section 1.704-2(d).

"New First Lien Notes" means the [10%/12.5% Senior Secured Convertible PIK Toggle Notes Due 2021 issued pursuant to an indenture, dated as of [_____] [__], 2016, by and among New Gulf, the guarantors party thereto and [_____], as trustee and collateral agent].

"New Gulf" has the meaning set forth in the Preamble.

"Newco Member" has the meaning set forth in Section 9.1(c).

"NGR Management" has the meaning set forth in the Preamble.

"Observer" has the meaning set forth in Section 5.2(k).

"Offeree" has the meaning set forth in Section 2.9(a).

"Offered Membership Interests" has the meaning set forth in Section 9.2(a).

"Offer Notice" has the meaning set forth in Section 9.2(b).

"Officers" means each person designated as an officer of New Gulf to whom authority and duties have been delegated pursuant to Section 5.3 and/or Section 5.5, subject to any resolution of the Board appointing or removing such person as an officer or relating to such appointment.

"Other Business" has the meaning set forth in Section 6.6(b).

"Outside Indemnitor" has the meaning set forth in Section 6.5(h).

"Participating Member" has the meaning set forth in Section 2.9(a).

"Passive Investment" means a direct or indirect financial interest or investment of a Person (taken together with such Person's Affiliates or Related Funds) in [10]% or less of the income, profits, revenues or assets of any Competing Person held solely by a Passive Investor.

"Passive Investor" means, with respect to any Person having or holding an interest, directly or indirectly, in a Competing Person, that such Person or its Affiliates has no actual influence or control over the management and policies of such Competing Person. Without limiting the foregoing, no Person shall be deemed a Passive Investor hereunder if such Person or its Affiliates has appointed members of the board (or equivalent) of, exercises board observer status with respect to, has any veto or consent rights over material decisions of, provides services or advice to or has any other material business relationships with (other than its investment therein), a Competing Person.

"PennantPark" means Persons (and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees) affiliated with, or under management by, [PennantPark Investment Corporation] (together with their respective Affiliates and Related Funds).

"Permitted Transferee" means (a) with respect to any Person who is an individual, a member of such Person's Family Group and (b) with respect to any Person which is an entity (other than any Person that is a Management Investor), any of such Person's Affiliates or Related Funds, or any partner, member, stockholder or other equityholder of such Person or any of its Affiliates or Related Funds; provided that no Competitor shall be a Permitted Transferee.

"Person" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, association or other entity or a Governmental Entity.

"Plan" has the meaning set forth in the Preamble.

"Preemptive Rights Notice" has the meaning set forth in Section 2.9(b).

["Prohibited Position" means, with respect to a Competing Person and any Person formed for the sole purpose of holding the equity of a Competing Person (a "Holding Company"), a director, manager, general partner, officer or member of senior management of such Competing Person or such Holding Company (or any other position having reasonably similar responsibilities or reasonably equivalent access to such Competing Person's or such Holding Company's confidential information not otherwise made available to investors in such Competing Person or such Holding Company generally).]

"Pro Rata Basis" means, as the context requires, with respect to a Member, (i) the aggregate number of Membership Interests held by such Member relative to all Membership Interests then outstanding or (ii) the number of applicable Membership Interests held by such Member relative to the number of applicable Membership Interests held by all applicable Members.

"Pro Rata Share" means, as of any date of determination, with respect to (i) each Membership Interest, the proportionate amount such Membership Interest would receive if an amount equal to the Total Equity Value were distributed on such date to all Membership Interests in accordance with Section 4.1(c) and (ii) each Member, such Member's share of Total Equity Value represented by all Membership Interests (each Membership Interest as determined in accordance with clause (i)) owned by such Member as of such date, in each case as determined in good faith by the Board.

"Proceeding" means any suit, countersuit, action, cause of action (whether at law or in equity), arbitration, audit, hearing, litigation, claim, counterclaim, complaint, defenses, administrative or similar proceeding (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Entity.

"Profits" means items of New Gulf's income and gain determined according to Section 3.2.

"Public Offering" means any sale of common equity securities of a Person (or any successor thereto, whether by merger, conversion, consolidation, recapitalization, reorganization or otherwise) pursuant to an effective registration statement under the Securities Act filed with the Securities and Exchange Commission (other than any such offerings that are registered on Form S-4 or Form S-8 under the Securities Act); provided that the following shall not be considered a Public Offering: (i) any issuance of common equity securities in connection with and as consideration for a merger or acquisition and (ii) any issuance of common equity securities or rights to acquire common equity securities to employees, officers, directors, consultants or other service providers of New Gulf or any of its Subsidiaries or others as part of

an incentive or compensation plan, agreement or arrangement or any Equity Agreement. Unless otherwise indicated herein, "Public Offering" shall refer to a Public Offering of the common equity securities of New Gulf (or its successor).

"Public Sale" means any sale of Membership Interests to the public pursuant to an offering registered (other than any such offerings that are registered on Form S-4 or Form S-8) under the Securities Act or to the public through a broker, dealer or market maker pursuant to the provisions of Rule 144 adopted under the Securities Act.

"Purchaser Representative" means a "purchaser representative" as such term is defined in Rule 501 Rule 501 of Regulation D promulgated under the Securities Act.

"Purchasing Significant Interest Holder" has the meaning set forth in (c)(ii).

"Registration Rights Agreement" has the meaning set forth in Section 10.2.

"Regulatory Allocations" has the meaning set forth in Section 4.3(e).

"Related Fund" means, with respect to any Person (i) any fund, account or investment vehicle that is controlled or managed by (A) such Person, (B) an Affiliate of such Person or (C) the same investment manager or advisor as such Person or an Affiliate of such investment manager or advisor or (ii) any Person formed and controlled by any of the foregoing, individually or collectively, for the purpose of consummating the Plan.

"Reorganized Issuer" has the meaning set forth in Section 10.1(b).

"ROFR Notice Period" has the meaning set forth in (c)(ii).

"ROFR Offer Notice" has the meaning set forth in (c)(ii).

"Roll-Up Transaction" has the meaning set forth in Section 10.4.

"Sale Transaction" means (i) any transaction or series of related transactions (whether pursuant to an equity issuance, transfer of equity, merger or otherwise) that results in any Person or group (within the meaning of Section 13(d)(3) of the Securities Exchange Act) of Persons (other than an Specified Initial Interest Holder) acquiring Membership Interests that represent more than [__]% of the combined voting power of the then outstanding Membership Interests or other voting securities of New Gulf or (ii) a sale or disposition of all or substantially all of the assets of New Gulf and its Subsidiaries on a consolidated basis (other than to a Person with respect to which, following such sale or other disposition, at least [__]% of the combined voting power of the then outstanding voting securities of such Person is then beneficially owned, directly or indirectly, by all or substantially all of the Persons (or Affiliates of such Persons) who were the beneficial owners, respectively, of the Membership Interests immediately prior to such sale or other disposition).

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

"Securities Act" means the Securities Act of 1933, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Securities Act shall be deemed to include any corresponding provisions of future Law.

"Securities Exchange Act" means the Securities Exchange Act of 1934, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Securities Exchange Act shall be deemed to include any corresponding provisions of future Law.

"Significant Interest Holder" means, as of any date of determination, a holder of more than [5]% of the then outstanding aggregate number of Vested Membership Interests (either individually, or together with such holder's Affiliates and Related Funds) that has agreed in writing to be bound by the terms and conditions of this Agreement; provided, however, each Specified Initial Interest Holder shall be deemed a Significant Interest Holder regardless of whether it actually holds more than [5]% of the then outstanding Membership Interests; provided that no Transferee of a Specified Initial Interest Holder (other than a Transferee included in the definition of Specified Initial Interest Holder under this Agreement) shall be deemed a Significant Interest Holder unless such Person meets the [5]% threshold set forth in this definition.

"Specified Initial Interest Holder" means individually, and "Specified Initial Interest Holders" means collectively, (i) each Member that is included in the definition of any of Värde, Millstreet, PennantPark, Castle Hill, Verition Capital and BulwarkBay, for so long as such Member continues to hold at least [80]% of the Membership Interests held by such Member on the Effective Date [(subject to Adjustments)] and (ii) any Member that directly acquires 100% of the Membership Interests held by any of Värde, Millstreet, PennantPark, Castle Hill, Verition Capital and BulwarkBay.

"Specified Persons" has the meaning set forth in Section 6.6(b).

"Subsidiary" means, with respect to any Person, any corporation, limited liability company, partnership, association or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity (other than a corporation), a majority of the partnership or other similar ownership interests thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof and without limitation, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity (other than a corporation) if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control the manager, managing member, managing director (or a board comprising any of the foregoing) or general partner of such limited liability company, partnership, association or other business entity. For purposes hereof, references to a "Subsidiary" of any

Person shall be given effect only at such times that such Person has one or more Subsidiaries, and, unless otherwise indicated, the term "Subsidiary" refers to a Subsidiary of New Gulf.

"Subsidiary Governing Body" means the board of managers, board of directors, or other governing body of any Subsidiary of New Gulf.

"Substituted Member" means a Person that is admitted as a Member to New Gulf pursuant to Section 2.3.

"Supermajority Holders" means, at any time of determination, the holders of at least two-thirds (2/3) of the outstanding Membership Interests that are entitled to vote at such time, voting together as a single class.

"Supplemental Indemnification Rights" has the meaning set forth in Section 6.5(g).

"Tag Along Indemnity Pro Rata Share" has the meaning set forth in Section 9.3(d).

"Tag Along Rights Holders" has the meaning set forth in Section 9.3(a).

"Tag Along Sale" has the meaning set forth in Section 9.3(a).

"Tag Along Sale Notice" has the meaning set forth in Section 9.3(a).

"Tag Along Securities" has the meaning set forth in Section 9.3(a).

"Tag Along Selling Member" has the meaning set forth in Section 9.3(a).

"Tax Distribution" has the meaning set forth in Section 4.1(a).

"Tax Distribution Percentage" has the meaning set forth in Section 4.1(a).

"Tax Forms" has the meaning set forth in Section 9.6(c).

"Tax Matters Partner" has the meaning set forth in Section 6231 of the Code.

"Taxable Year" means New Gulf's accounting period for federal income Tax purposes determined pursuant to Section 8.2.

"Total Equity Value" means the aggregate proceeds which would be received by the Members if: (i) the assets of New Gulf (including, for the avoidance of doubt, Equity Securities of New Gulf's Subsidiaries) were sold at their fair market value as a going concern to an Independent Third Party on arm's-length terms, with neither the seller nor the buyer being under compulsion to buy or sell such assets; (ii) New Gulf satisfied and paid in full all of its obligations and liabilities (including all Indebtedness, Taxes, costs and expenses incurred in connection with such transaction and any amounts reserved by the Board with respect to any contingent or other liabilities); and (iii) such net sale proceeds were then distributed in accordance with Section 4.1(c), all as determined in good faith by the Board.

"Transfer" means any sale, transfer, assignment, pledge, mortgage, exchange, hypothecation, grant of a participation interest in, grant of a security interest or other direct or indirect disposition or encumbrance of an interest (whether with or without consideration, whether voluntarily or involuntarily or by operation of Law), but excluding conversions and redemptions of Equity Securities by New Gulf made in accordance with this Agreement or any merger or consolidation of New Gulf. The terms "Transferee," "Transferor," "Transferred," and other forms of the word "Transfer" shall have the correlative meanings.

"Transferring Member" has the meaning set forth in Section 9.2(a).

"Treasury Regulations" means the income Tax regulations promulgated under the Code and effective as of the date hereof. Such term, if elected by the Board in its sole discretion, shall be deemed to include any future amendments to such regulations and any corresponding provisions of succeeding regulations (whether or not such amendments and corresponding provisions are mandatory or discretionary).

"Unsubscribed Offered Securities" has the meaning set forth in Section 2.9(b).

"Unsubscribed Tag Along Securities" has the meaning set forth in Section 9.3(b).

"Unvested Membership Interests" means, with respect to any Membership Interests that are subject to vesting pursuant to the applicable Equity Agreement pursuant to which they were issued, any Membership Interests other than Vested Membership Interests.

"Waived ROFR Transfer Period" has the meaning set forth in (d).

"Värde" means Persons (and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees) affiliated with, or under management by, [Värde Partners, Inc.] (together with their respective Affiliates and Related Funds).

"Verition Capital" means Persons (and/or their investment advisors, managers, managed funds or accounts, intermediaries or nominees) affiliated with, or under management by, [Verition Capital] (together with their respective Affiliates and Related Funds).

"Vested Membership Interests" means any Membership Interests that are not subject to vesting or, with respect to Membership Interests that are subject to vesting pursuant to the applicable Equity Agreement pursuant to which they were issued, any Membership Interests that have vested in accordance with the terms of the applicable Equity Agreement pursuant to which they were issued.

* * * * *

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Amended and Restated Limited Liability Company Agreement as of the date first written above,

NEW GULF RESOURCES, LLC

By: _____
Name:
Title:

[NTD: Signature pages for Members to be inserted]

EXHIBIT A

FORM OF JOINDER AGREEMENT

[To come.]

EXHIBIT B

FORM OF MEMBERSHIP INTEREST OWNERSHIP LEDGER

MEMBER NAME AND ADDRESS FOR NOTICE	NO. OF MEMBERSHIP INTERESTS	CAPITAL CONTRIBUTION FOR MEMBERSHIP INTERESTS

EXHIBIT C

FORM OF CONFIDENTIALITY AGREEMENT

[To come.]

EXHIBIT D

FORM OF RULE 144A CERTIFICATE

I, _____, do hereby certify that I am the _____ of _____ (the "Certifying Person"), and, as such, I am authorized to execute and deliver this Certificate pursuant to and in satisfaction of, Section 9.7(a) of the Amended and Restated Limited Liability Company Agreement (as amended or amended and restated from time to time, the "LLC Agreement") of New Gulf Resources, LLC (the "Company"). Capitalized terms used, but not otherwise defined herein, shall have the meanings ascribed to such terms in the LLC Agreement, on behalf of the Certifying Person, and I do hereby certify, represent, warrant, acknowledge and agree, on behalf of the Certifying Person, as follows:

(a) the Certifying Person is acquiring _____ Membership Interests (the "Acquired Securities") from _____ (the "Transferor") and such Acquired Securities consist of "restricted securities" under the U.S. securities laws inasmuch as such Acquired Securities are being acquired from the Transferor in a transaction not involving a public offering and in reliance on Rule 144A of the Securities Act;

(b) the Certifying Person is a "qualified institutional buyer" (as such term is defined in Rule 144A of the Securities Act of 1933, as amended (the "Securities Act"));

(c) the undersigned has read and fully understands the terms and conditions of the LLC Agreement and agrees that the Transfer of such Acquired Securities are subject to restrictions contained therein (including the restrictions on transfer set forth in Article IX thereof);

(d) information related to the Company has been made available to the Certifying Person (including such information in respect of the Company as is specified pursuant to Rule 144A(d)(4) under the Securities Act), and the Certifying Person has been given an opportunity to ask questions of, and receive answers from, the Company and its representatives and the Transferor concerning the matters pertaining to the acquisition of the Acquired Securities by the Certifying Person and has been given the opportunity to review such additional information as was necessary to evaluate the merits and risks of acquiring such Acquired Securities;

(e) the Certifying Person understands and has evaluated the risks associated with acquiring such Acquired Securities from the Transferor;

(f) the Certifying Person is acquiring such Acquired Securities for its own account or the account of a "qualified institutional buyer" and not with a view to the resale thereof, in whole or in part, except in accordance with Item (g) below; and

(g) the Certifying Person will not Transfer all or any number of such Acquired Securities, or solicit offers to buy any such Acquired Securities from or otherwise approach or negotiate in respect thereof with any Person or Persons whomsoever, except (i) to a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act or pursuant to another exemption from registration under the Securities Act (which the Certifying Person

acknowledges requires the delivery of an opinion of counsel to the Transferor as to the availability of such exemption), nor will the Certifying Person effect any of the foregoing in any manner that would violate or cause the Company or any of its stockholders to violate applicable federal or state securities laws and (ii) as permitted under the LLC Agreement.

Capitalized terms used but not defined in this certificate are used with the meanings provided in the LLC Agreement.

[Remainder of Page Intentionally Left Blank; Signatures Appear on Following Page]

IN WITNESS WHEREOF, I have executed this Certificate on behalf of the Certifying Person on this _____ day of _____, 20__.

[ ]

_____

Name:

EXHIBIT E

FORM OF REGISTRATION RIGHTS AGREEMENT

[To come.]

EXHIBIT F

FORM OF MANAGEMENT SERVICES AGREEMENT

[To come.]

EXHIBIT G

NEW MANAGEMENT INCENTIVE PLAN

[To come.]

Exhibit E

PRELIMINARY DRAFT 3/17/16
SUBJECT TO CHANGE

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

NGR FINANCE CORP.

*** * * * * ***

NGR Finance Corp., a corporation organized and existing under the laws of the State of Delaware, does hereby certify that:

FIRST: The name of the corporation is NGR Finance Corp. (the "corporation").

SECOND: The corporation's original Certificate of Incorporation (the "Original Certificate of Incorporation") was filed with the Secretary of State of the State of Delaware on April 9, 2014.

THIRD: This Amended and Restated Certificate of Incorporation (this "Certificate of Incorporation") was duly adopted on [INSERT EFFECTIVE DATE].

FOURTH: The Original Certificate of Incorporation is hereby restated and further amended to read in its entirety as follows:

1. The name of the corporation is:

NGR Finance Corp.

2. The address of its registered office in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle 19801. The name of its registered agent at such address is The Corporation Trust Company.

3. The nature of the business or purpose to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (the "DGCL").

4. The total number of shares of stock which the corporation shall have authority to issue is one thousand (1,000) shares of common stock, $0.01 par value per share.

5. The corporation shall not issue any class of nonvoting equity securities unless and solely to the extent permitted by Section 1123(a)(6) of chapter 11 of title 11 of the United States Bankruptcy Code (11 U.S.C. § 101-1330), as amended (the "Bankruptcy Code"), as in effect on the date of filing this Certificate of Incorporation with the Secretary of State of the State of Delaware; provided, however, that this Article 5 of this Certificate of Incorporation: (A) will have no further force and effect beyond that required under Section 1123(a)(6) of the Bankruptcy Code; (B) will have such force and effect, if any, only for so long as Section 1123(a)(6) of the

Bankruptcy Code is in effect and applicable to the corporation; and (C) in all events may be amended or eliminated in accordance with applicable law from time to time in effect.

6. The corporation is to have perpetual existence.

7. In furtherance and not in limitation of the powers conferred by statute, the board of directors of the corporation is expressly authorized to make, adopt, alter, amend or repeal the By-laws of the corporation.

8. Meetings of the stockholders may be held within or without the State of Delaware, as the By-laws may provide. The books of the corporation may be kept (subject to any provision contained in the DGCL) outside the State of Delaware at such place or places as may be designated from time to time by the board of directors of the corporation or in the By-laws of the corporation. Elections of directors of the corporation need not be by written ballot unless the By-laws of the corporation shall so provide.

9. The corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by the DGCL, and all rights conferred upon stockholders herein are granted subject to this reservation.

10. (A) Directors of the corporation shall have no personal liability to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent now or hereafter required by law.

(B) [The corporation shall indemnify, to the fullest extent permitted from time to time by the DGCL or any other applicable laws as presently or hereafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including, without limitation, an action by or in the right of the corporation, by reason of the fact that he is or was a director or officer of the corporation or is or was serving at the request of the corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise (and the corporation, in the discretion of the board of directors, may so indemnify a person by reason of the fact that he is or was an employee or agent of the corporation or is or was serving at the request of the corporation in any other capacity for or on behalf of the corporation or was serving at the request of the corporation as an employee or agent of another corporation, partnership, joint venture, trust or other enterprise), against any liability or expense actually and reasonably incurred by such person in respect thereof; provided, however, the corporation shall be required to indemnify a director or officer of the corporation in connection with an action, suit or proceeding initiated by such person only if such action, suit or proceeding was authorized by the board of directors of the corporation. Such indemnification is not exclusive of any other right to indemnification provided by law or otherwise. The right to indemnification conferred by this paragraph shall be deemed to be a contract between the corporation and each person referred to herein.]

(C) No amendment to or repeal of the provisions of this Article 10 shall apply to or have any effect on the liability or alleged liability of any person for or with respect to any acts or omissions of such person occurring prior to such amendments.

IN WITNESS WHEREOF, NGR Finance Corp. has caused this Amended and Restated Certificate of Incorporation to be signed by its _____ this _____ day of _____, 2016.

NGR Finance Corp.

_____

Name:
Title:

Exhibit F

PRELIMINARY DRAFT 3/17/16
SUBJECT TO CHANGE

NGR TEXAS, LLC
SECOND AMENDED AND RESTATED
OPERATING AGREEMENT

This Second Amended and Restated Operating Agreement is made as of _____ _____, 2016, by NGR Texas, LLC, a Delaware limited liability company (the "Company") and New Gulf Resources, LLC, its sole member (the "Member"). This Second Amended and Restated Operating Agreement amends and restates in its entirety that certain First Amended and Restated Operating Agreement dated June 12, 2013 by and among the Company and the Member/Manager.

1. ***Formation***. Member agrees to form and become the sole Member in the Company in accordance with this agreement and pursuant to the Delaware Limited Liability Company Act (the "Act").

2. ***Purposes***. The purpose of the Company shall be to engage in any lawful act or activity for which limited liability companies may be formed under the Act. The Company shall have all the powers necessary or convenient to effect any purpose for which it is formed, including all powers granted by state law.

3. ***Name***. The name of the Company shall be NGR Texas, LLC.

4. ***Place of Business***. The principal place of business of the Company shall be 10441 S. Regal Blvd., Suite 210, Tulsa, Oklahoma 74133 or such other place as Member may from time to time designate.

5. ***Management***. The business and affairs of the Company shall be solely managed by Member, unless Member changes the structure of management. New Gulf Resources, LLC shall be the initial manager of the Company (the "Manager"). The Manager may, from time to time, designate one or more officers with such titles as may be designated by the Manager to act in the name of the Company with such authority as may be delegated to such officers by the Manager (each such designated person, an "Officer"). Any such Officer shall act pursuant to such delegated authority until such Officer is removed by the Manager or until death or resignation. Any action taken by an Officer designated by the Manager pursuant to authority delegated to such Officer shall constitute the act of and serve to bind the Company. Persons dealing with the Company are entitled to rely conclusively on the power and authority of any Officer set forth in this Agreement and any instrument designating such Officer and the authority delegated to him or her.

6. ***Capital and Voting of Member***. Member agrees to contribute cash and properties to the Company from time to time, and the fair market value thereof shall be credited to the capital account of Member as follows: One Hundred Percent (100%) to New Gulf Resources, LLC. Member shall vote in proportion to its capital account.

7. ***Section 1123(a)(6) of the Bankruptcy Code***. Notwithstanding anything herein to the contrary, the Company shall not be authorized to issue non-voting membership interests of any class, series or other designation to the extent prohibited by Section 1123(a)(6) of chapter 11 of title 11 of the United States Bankruptcy Code (11 U.S.C. § 101-1330), as amended (the

"Bankruptcy Code"); provided, however, that the foregoing restriction shall (i) have no further force and effect beyond that required under Section 1123(a)(6) of the Bankruptcy Code and (ii) only have such force and effect to the extent and for so long as such Section 1123(a)(6) is in effect and applies to the Company.

8. ***Profits, Losses and Distributions***. Profits and losses of the Company shall be allocated to Member in proportion to its capital account. All distributions to the Member of the Company shall be made in proportion to its capital account.

9. ***General Powers of Manager***. Without limitation, the Manager shall have all powers and authority necessary to make and implement decisions concerning the business and affairs of the Company.

10. ***[Exculpation of Liability and Indemnity***. Unless otherwise provided for by law or expressly assumed, the Member, Manager, or Officers shall not be liable for the acts, debts, or liabilities of the Company. Further, no Manager, Member or Officer of the Company shall be liable in damages to the Member or the Company for any act or omission to act if such conduct does not constitute willful misconduct, recklessness, a breach of loyalty, a lack of good faith, or a knowing violation of law or a transaction from which he derived an improper personal benefit. In any action or proceeding in which any Manager, Member or Officer is a party by virtue of its status as Manager, Member or Officer the Company shall, solely from Company assets, indemnify the Manager, Member or Officer against all liabilities incurred by it in connection therewith, so long as its act or omission does not constitute willful misconduct, recklessness, a breach of loyalty, a lack of good faith, or a knowing violation of law or a transaction from which it derived an improper personal benefit. These indemnification rights shall be in addition to any other rights and remedies to which the Manager, Member or Officer shall be entitled.]

11. ***Records***. The Company shall maintain records required by the Act at the Company's principal place of business.

12. ***Dissolution***. The Company shall dissolve and its affairs shall be wound upon the consent of the Member.

13. ***Counterparts***. This agreement may be executed in any number of identical counterparts, each of which shall be considered an original for all purposes.

PRELIMINARY DRAFT 3/17/16
SUBJECT TO CHANGE

This Second Amended and Restated Operating Agreement is made and adopted by the Company and its sole Member/Manager as of the day and year listed on the first page of this agreement.

NGR Texas, LLC, a Delaware
Limited Liability Company

By: _____
Name:
Title:

New Gulf Resources, LLC, a Delaware
Limited Liability Company
Member/Manager

By: _____
Name:
Title:

Exhibit G

Modification of "First Lien" Debt Basket
For New First Lien Notes Being Offered In Rights Offering

Exhibit G

Modification of "First Lien" Debt Basket
For New First Lien Notes Being Offered In Rights Offering

Exhibit J to the Disclosure Statement provides that the form of indenture governing the New First Lien Notes will contain a "basket" that would permit the incurrence of future indebtedness arising under a debt facility to be secured by liens that would rank ***pari passu*** with the liens securing the New First Lien Notes to be issued under the indenture. In lieu of such *pari passu* basket, the form of indenture governing the New First Lien Notes will contain a debt basket that would permit the incurrence of future indebtedness arising under a revolving line of credit facility to be secured by liens that will rank **senior** to the liens securing the New First Lien Notes to be issued under the indenture. The priority of the liens securing indebtedness incurred under this basket will be established pursuant to an intercreditor agreement on terms reasonably acceptable to the holders of a majority in aggregate principal amount of the then-outstanding New First Lien Notes. The maximum amount of future indebtedness permitted to be incurred under this basket will be equal to the greater of (i) $30 million and (ii) a percentage of Reorganized New Gulf's Adjusted Consolidated Net Tangible Assets (as defined in the indenture). The Debtors anticipate that, as of the issue date of the New First Lien Notes, approximately $30 million in such senior indebtedness will be permitted to be incurred under this basket. As of the Effective Date, no indebtedness will be outstanding under this basket, and the future incurrence of any such indebtedness will be subject to the approval of the board of directors of Reorganized New Gulf.

In connection with the basket described above, the "New First Lien Notes" described above shall henceforth be referred to as the "New Secured Notes." In addition, all references to the "New First Lien Notes" in the Disclosure Statement, including all exhibits thereto, as the same may be amended from time to time, will be deemed to refer to New Secured Notes.

The indenture filed with this Plan Supplement is subject to further negotiations between the Debtors and the Requisite Backstop Parties. A revised draft of the indenture will be filed on the docket of the Bankruptcy Court prior to the Voting Deadline and the Rights Offering Expiration Date, and Rights Offering Participants are encouraged to review such document in its entirety.

Exhibit H

NEW GULF RESOURCES, LLC,

as the Company,

AND EACH OF THE GUARANTORS FROM TIME TO TIME PARTY HERETO

10%/12.5% SENIOR SECURED CONVERTIBLE PIK TOGGLE NOTES DUE 2021

INDENTURE

Dated as of [_____], 2016

[_____]

as Trustee and Collateral Agent

TABLE OF CONTENTS

Page

EXHIBITS

INDENTURE dated as of [_____], 2016 among **New Gulf Resources, LLC**, a limited liability company organized under the laws of Delaware (the "*Company*"), the Guarantors (as defined herein) and [_____], as Trustee and Collateral Agent.

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders (as defined herein) of the Company's 10%/12.5% Senior Secured PIK Toggle Convertible Notes due 2021 (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 A** 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.

["*Accredited Investor*" means an entity or natural person that is an "accredited investor" as defined in Rule 501 of Regulation D under the Securities Act, as amended.

"*Accredited Investor Global Note*" means a Global Note substantially in the form of **Exhibit A** 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 Accredited Investors.]

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

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

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

Acquired Debt will be deemed to be incurred on the date the acquired Person becomes a Subsidiary.

"*Adjusted Consolidated Net Tangible Assets*" means (without duplication), as of the date of determination:

(1) the sum of:

(a) discounted future net revenue from proved crude oil and natural gas reserves of the Company and its Restricted Subsidiaries calculated in accordance with SEC guidelines (but giving effect to applicable Hedging Obligations in place as of the date of determination (whether positive or negative)) before any state or federal income taxes, as estimated in a reserve report prepared by the Company as of the end of the Company's most recently completed fiscal year (or, at the Company's option, on a more frequent basis) (the "*Reserve Report*"), as increased by, as of the date of determination, the discounted future net revenue (giving effect to applicable Hedging Obligations in place as of the date of determination (whether positive or negative)) from:

(i) estimated proved crude oil and natural gas reserves of the Company and its Restricted Subsidiaries attributable to acquisitions consummated since the date of such Reserve Report, and

(ii) estimated crude oil and natural gas reserves of the Company and its Restricted Subsidiaries attributable to extensions, discoveries and other additions and upward determinations of estimates of proved crude oil and natural gas reserves (including previously estimated development costs incurred during the period and the accretion of discount since the prior year end) due to exploration, development or exploitation, production or other activities which reserves were not reflected in such Reserve Report,

in each case calculated in accordance with SEC guidelines (utilizing the prices utilized in such Reserve Report), and decreased by, as of the date of determination, the discounted future net revenue attributable to

(iii) estimated proved crude oil and natural gas reserves of the Company and its Restricted Subsidiaries reflected in such Reserve Report produced or disposed of since the date of such Reserve Report and

(iv) reductions in the estimated proved crude oil and natural gas reserves of the Company and its Restricted Subsidiaries reflected in such Reserve Report since the date of such Reserve Report attributable to downward determinations of estimates of proved crude oil and natural gas reserves due to exploration, development or exploitation, production or other activities conducted or otherwise occurring since the date of such Reserve Report,

in each case calculated in accordance with SEC guidelines (utilizing the prices utilized in such Reserve Report); *provided, however*, that in the case of each of the determinations made pursuant to clauses (i) through (iv), such increases and decreases shall be as estimated by the Company's petroleum engineers, unless there is a Material Change as a result of such acquisitions, dispositions or revisions, in which case the discounted future net revenues utilized for purposes

of this clause 1(a) shall be confirmed in a written report of independent petroleum engineers delivered to the Trustee;

(b) the capitalized costs that are attributable to the Oil and Gas Properties of the Company and its Restricted Subsidiaries to which no proved crude oil and natural gas reserves are attributed, based on the Company's books and records as of a date no earlier than the date of the Company's latest annual or quarterly financial statements;

(c) the Net Working Capital on a date no earlier than the date of the Company's latest annual or quarterly financial statements; and

(d) the greater of (i) the net book value on a date no earlier than the date of the Company's latest annual or quarterly financial statements and (ii) the appraised value, as estimated by independent appraisers, of other tangible assets of the Company and its Restricted Subsidiaries as of a date no earlier than the date of the Company's latest audited financial statements; *provided* that if no such appraisal has been performed, the Company shall not be required to obtain such an appraisal and only clause (1)(d)(i) of this definition shall apply;

(2) *minus*, to the extent not otherwise taken into account in the immediately preceding clause (1), the sum of:

(a) minority interests;

(b) any net gas balancing liabilities of the Company and its Restricted Subsidiaries reflected in the Company's latest audited financial statements or the Company's most recent quarterly balance sheet if it reflects greater Hydrocarbon balancing liabilities;

(c) the discounted future net revenue, calculated in accordance with SEC guidelines (utilizing the same prices utilized in the Company's Reserve Report), attributable to reserves subject to participation interests, overriding royalty interests or other interests of third parties, pursuant to participation, partnership, vendor financing or other agreements then in effect, or which otherwise are required to be delivered to third parties;

(d) the discounted future net revenue, calculated in accordance with SEC guidelines (utilizing the same prices utilized in the Company's Reserve Report), attributable to reserves that are required to be delivered to third parties to fully satisfy the obligations of the Company and its Restricted Subsidiaries with respect to Volumetric Production Payments on the schedules specified with respect thereto; and

(e) the discounted future net revenue, calculated in accordance with SEC guidelines, attributable to reserves subject to Dollar-Denominated Production Payments that, based on the estimates of production included in determining the discounted future net revenue specified in the immediately

preceding clause (1)(a) (utilizing the same prices utilized in the Company's Reserve Report), would be necessary to satisfy fully the obligations of the Company and its Restricted Subsidiaries with respect to Dollar-Denominated Production Payments on the schedules specified with respect thereto.

If the Company changes its method of accounting from the successful efforts method to the full cost method or a similar method of accounting, "*Adjusted Consolidated Net Tangible Assets*" will continue to be calculated as if the Company were still using the successful efforts method of accounting.

"*Affiliate*" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "*control*," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms "*controlling*," "*controlled by*" and "*under common control with*" have correlative meanings.

"*Affiliate Transaction*" has the meaning ascribed to such term in Section 4.11.

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

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

"*Asset Sale*" means:

(1) the sale, lease (other than operating leases entered into in the ordinary course of business), conveyance or other disposition of any assets or rights; *provided* that the sale, lease, conveyance or other disposition of all or substantially all of the assets of the Company and its Restricted Subsidiaries taken as a whole will be governed by Sections 4.15 and 5.01 and not by Section 4.10; and

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

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

(1) any single transaction or series of related transactions that involves assets having a Fair Market Value of less than $[2.5 million];

(2) a transfer of assets between or among the Company and the Guarantors;

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

(4) the sale or lease of products, inventory, equipment, real property, services, accounts receivable or other properties or assets or the licensing or lease, assignment or sub-lease of any real or personal property in the ordinary course of business and any sale or other disposition of damaged, no longer useful, worn-out or obsolete assets in the ordinary course of business;

(5) the sale or other disposition of cash or Cash Equivalents;

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

(7) the abandonment, farm-out, lease or sublease of developed or undeveloped Oil and Gas Properties in the ordinary course of business;

(8) the sale or transfer of Hydrocarbons or other mineral products in the ordinary course of business;

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

(10) any trade or exchange by the Company or any Restricted Subsidiary of Oil and Gas Properties or other properties or assets for Oil and Gas Properties owned or held by another Person (including the Capital Stock of another Person, all or substantially all of the assets of which consist of Oil and Gas Properties, that becomes a Restricted Subsidiary as a result of such trade or exchange); *provided* (i) that (A) with respect to trades or exchanges of Oil and Gas Properties or other properties or assets of the Company or any Restricted Subsidiary with an aggregate Fair Market Value equal to or less than $[25.0 million], the Fair Market Value of the properties or assets (or Capital Stock) traded or exchanged by the Company or such Restricted Subsidiary (together with any cash) is reasonably equivalent to the Fair Market Value of the properties or assets (together with any cash) to be received by the Company or such Restricted Subsidiary and (B) with respect to trades or exchanges of Oil and Gas Properties or other properties or assets of the Company or any Restricted Subsidiary with an aggregate Fair Market Value in excess of $[25.0 million], an independent Person, which Person will be an independent engineer, appraiser or other expert selected by the Company and reasonably satisfactory to the Trustee, shall have determined that the Fair Market Value of the properties or assets (or Capital Stock) traded or exchanged by the Company or such Restricted Subsidiary (together with any cash) is reasonably equivalent to the Fair Market Value of the properties or assets (together with any cash) to be received by the Company or such Restricted Subsidiary and (ii) that any net cash proceeds received from such transactions must be applied in accordance with Section 4.10;

(11) the granting, creation or perfection of Permitted Liens;

(12) a Restricted Payment that does not violate Section 4.07 or a Permitted Investment;

(13) the granting of customary royalty interests or other customary interests in Oil and Gas Properties to employees, consultants or directors in accordance with compensation arrangements approved by the Board of Directors of the Company not to exceed $[2.0 million] in the aggregate;

(14) the disposition of property received in settlement of Indebtedness owning to such Person as a result of foreclosure, perfection or enforcement of any Permitted Lien or Indebtedness permitted to be incurred pursuant to Section 4.09, which Indebtedness was owing to such Person; and

(15) the provision of services, equipment and other assets for the operation and development of the Company's and its Restricted Subsidiaries' Oil and Gas Properties in the ordinary course of the Company's and its Restricted Subsidiaries' Oil and Gas Business, notwithstanding that such transactions may be recorded as asset sales in accordance with full cost accounting guidelines.

"*Asset Sale Offer*" has the meaning ascribed to such term in Section 4.10.

"*Authentication Order*" has the meaning ascribed to such term in Section 2.02.

"*Bankruptcy Court*" means the United States Bankruptcy Court for the District of Delaware.

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

"*Beneficial Owner*" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition (other than a right conditioned on the occurrence of events or circumstances outside such person's control). The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"*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 manager, board of managers, 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.

"*Board Resolution*" means a copy of a resolution certified by the secretary or an assistant secretary of the applicable Person to have been duly adopted by the Board of Directors of such Person and to be in full force and effect on the date of such certification.

"*Business Day*" means each day that is not a Saturday, Sunday or other day on which banking institutions in New York, New York are authorized or required by law to close.

"*Capital Lease Obligation*" means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

"*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 limited liability company (including the Company), membership interests;

(4) in the case of a partnership, partnership interests (whether general or limited); and

(5) 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 until such conversion occurs.

"*Cash Equivalents*" means:

(1) United States dollars;

(2) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government

(*provided* that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than one year from the date of acquisition;

(3) certificates of deposit and eurodollar time deposits with maturities of six months or less from the date of acquisition, bankers' acceptances with maturities not exceeding six months and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of $[500.0 million] and a Thomson Bank Watch Rating of "*B*" or better;

(4) repurchase obligations with a term of not more than [30] days for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above;

(5) commercial paper having one of the two highest ratings obtainable from Moody's or S&P and, in each case, maturing within [270] days after the date of acquisition;

(6) securities issued or fully guaranteed by any state or commonwealth of the United States, or by any political subdivision or taxing authority thereof having, at the time of acquisition, one of the two highest ratings obtainable from Moody's or S&P, and, in each case, maturing within one year after the date of acquisition;

(7) marketable short-term money market and similar securities having a rating of at least P-1 or A-1 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another rating agency) and in each case maturing within one year after the date of acquisition; and

(8) money market funds at least [95]% of the assets of which constitute Cash Equivalents of the kinds described in clauses (1) through (7) of this definition.

"*Cash Interest"* has the meaning ascribed to such term in Section 4.01.

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

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

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

(3) the consummation of any transaction (including, without limitation, any merger or consolidation), the result of which is that any "person" (as defined above) other than a Permitted Holder becomes the Beneficial Owner, directly or indirectly, of more

than [50]% of the Membership Interests of the Company, measured by voting power rather than number of shares; or

(4) the Company consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into, the Company, in any such event pursuant to a transaction in which any of the outstanding Membership Interests of the Company or such other Person is converted into or exchanged for cash, securities or other property, other than any such transaction where the Membership Interests of the Company outstanding immediately prior to such transaction are converted into or exchanged for Voting Stock (other than Disqualified Equity Interests) of the surviving or transferee Person (or parent thereof) constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (or any parent thereof) immediately after giving effect to such issuance.

Notwithstanding the foregoing, (i) a Parent Holding Company Formation Transaction shall not constitute a Change of Control and (ii) the conversion of the Company from a limited liability company, corporation or limited partnership or other form of entity to a limited liability company, corporation, limited partnership or other form of entity or an exchange of all of the outstanding Equity Interests in one form of entity for Equity Interests in another form of entity shall not constitute a Change of Control, so long as following such conversion or exchange the "persons" (as that term is used in Section 13(d)(3) of the Exchange Act) who Beneficially Owned the Equity Interests of the Company immediately prior to such transactions continue to Beneficially Own in the aggregate more than [50]% of the Equity Interests of such entity, and, in either case no "person," other than Permitted Holders, Beneficially Owns more than [50]% of the Equity Interests of such entity.

"*Change of Control Offer*" has the meaning ascribed to such term in Section 4.15.

"*Change of Control Payment*" has the meaning ascribed to such term in Section 4.15.

"*Change of Control Payment Date*" has the meaning ascribed to such term in Section 4.15.

"*Clean-Up Conversion Notice*" has the meaning set forth in Section 4.15(i) hereof.

"*Clean-Up Redemption Threshold*" has the meaning set forth in Section 4.15(j) hereof.

"*Clearstream*" means Clearstream Banking, S.A. (or any successor clearing agency).

"*Closing Sale Price*" means, with respect to Membership Interests on any date, the closing sale price per unit or share (or if no closing sale price is reported, the average of the closing bid and closing ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) on such date as reported in composite transactions for the principal national or regional securities exchange, if any, on which the Membership Interests are traded, or if no such closing price is available, the last quoted bid price for such Membership Interests in the over-the-counter market as reported by Pink Sheets LLC or any similar organization, or, if the Membership Interests are not traded on the over-the-counter market or no such price is available, Closing Sale Price per unit or share shall be the fair market

value of a unit or share of Membership Interests as determined in good faith by the Board of Directors (which determination shall be conclusive and shall be evidenced by an Officer's Certificate delivered to the Trustee).

"*Collateral*" means collateral as such term is defined in the Security Documents, and any other property, whether now owned or hereafter acquired, upon which a Lien securing the Note Obligations, the Security Documents, the Notes or the Note Guarantees is granted under any Security Document; *provided*, *however*, that "Collateral" shall not include any Excluded Assets.

"*Collateral Agent*" means [_____], acting in its capacity as the collateral agent for the Holders and any other holders of [Priority Lien Obligations] until a successor replaces it in accordance with the provisions of the Collateral Trust Agreement and this Indenture and thereafter means any such successor.

"*Collateral Trust Agreement*" means the Collateral Trust Agreement, dated as of the Issue Date, among the Company, the Subsidiary Guarantors party thereto, the Trustee and the Collateral Agent, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and the terms of this Indenture.

"*Company*" has the meaning ascribed to such term in the Preamble.

"*Confirmation Order*" means that certain order confirming the Plan of Reorganization pursuant to section 1129 of the United States Bankruptcy Code, 11 U.S.C. ss. 101 et seq., as amended, entered by the United States Bankruptcy Court for the District of Delaware on [_____], [2016].

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

(1) an amount equal to any extraordinary or non-recurring items of loss plus any net loss realized by such Person or any of its Restricted Subsidiaries in connection with an Asset Sale, to the extent such losses were deducted in computing such Consolidated Net Income; *plus*

(2) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; *plus*

(3) the Fixed Charges of such Person and its Restricted Subsidiaries for such period, to the extent that such Fixed Charges were deducted in computing such Consolidated Net Income; *plus*

(4) depletion, depreciation, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period), impairment and other non-cash charges and expenses (excluding any such non-cash charge or expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent

that such depletion, depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; *plus*

(5) so long as the Company uses successful efforts or a similar method of accounting for its Oil and Gas Properties, consolidated exploration and abandonment expenses (if any) of the Company and its Restricted Subsidiaries, to the extent deducted in computing Consolidated Net Income; *minus*

(6) non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business, *minus*

(7) to the extent included in determining Consolidated Net Income, the sum of (i) the amount of deferred revenues that are amortized during such period and are attributable to reserves that are subject to Volumetric Production Payments and (ii) amounts recorded in accordance with GAAP as repayments of principal and interest pursuant to Dollar-Denominated Production Payments,

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

"*Consolidated Net Income*" means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; *provided* that:

(1) the Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions paid in cash to the specified Person or a Restricted Subsidiary of the Person;

(2) the Net Income of any Restricted Subsidiary that is not a Guarantor will be excluded to the extent that the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of such Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to such Restricted Subsidiary or its stockholders, partners or members;

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

(4) any "*ceiling limitation*" on Oil and Gas Properties or other asset impairment write-downs under GAAP or SEC guidelines will be excluded;

(5) the Net Income of any Flow Through Entity that consists of Permitted Tax Distributions will be excluded;

(6) any non-cash compensation charge arising from any grant of stock, stock options, equity interests or other equity-based awards will be excluded;

(7) any unrealized non-cash gains or losses or charges in respect of Hedging Obligations (including those resulting from the application of FAS 133 or ASC 815) will be excluded; and

(8) the amount of any Permitted Tax Distributions made by the Company during such period shall be deducted in calculating Consolidated Net Income.

["*Consolidated PDPR*" means the aggregate Proved Developed Producing Reserves of the Company and its Subsidiaries.]

"*Conversion Agent*" has the meaning set forth in Section 2.03 hereof.

"*Conversion Date*" has the meaning set forth in Section 10.02 hereof.

"*Conversion Price*" means, as of any date, $[1.00] divided by the Conversion Rate in effect as of such date.

"*Conversion Rate*" means the initial conversion rate of [__] Membership Interests per $[___] in principal amount of Notes, as adjusted from time to time in accordance with Section 10.06 hereof.

"*Conversion Threshold*" has the meaning set forth in Section 4.15(i) hereof.

"*Corporate Trust Office of the Trustee*" will be at the address of the Trustee specified in Section 14.01 hereof or such other address as to which the Trustee may give notice to the Company; *provided, however*, with respect to Sections 2.03 and 4.02 the address shall be [_____] Attention [_____].

"*Covenant Defeasance*" has the meaning ascribed to such term in Section 8.03.

"*Credit Facilities*" means one or more debt facilities, indentures or agreements or commercial paper facilities, in each case, with banks or other institutional lenders, commercial finance companies, creditors, investors or other lenders providing for revolving credit loans, term loans, bonds, debentures, hedging, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, pursuant to agreements or indentures, in each case, as amended, restated, modified, renewed, refunded, replaced (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time (and without limitation as to amount, terms, conditions, covenants and other provisions, including increasing the amount of available borrowings thereunder, changing or replacing agent banks and lenders thereunder or adding, removing or reclassifying Subsidiaries of the Company as borrowers or guarantors thereunder).

"*Custodian*" means any receiver, trustee, assignee, liquidator, sequester or similar official under any Bankruptcy Law.

"*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 2.01 or Section 2.06 hereof, substantially in the form of **Exhibit A** 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.

"*Discharge*" has the meaning ascribed to such term in Section 8.02.

"*Disqualified Equity Interests*" means any Equity Interest that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the Equity Interests), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Equity Interests, in whole or in part, on or prior to the date that is [91] days after the date on which the Notes mature. Notwithstanding the preceding sentence, any Equity Interests that would constitute Disqualified Equity Interests solely because the holders of the Equity Interests have the right to require the Company to repurchase or redeem such Equity Interests upon the occurrence of a change of control or an asset sale will not constitute Disqualified Equity Interests if the terms of such Equity Interests provide that the Company may not repurchase or redeem any such Equity Interests pursuant to such provisions unless such repurchase or redemption complies with Section 4.07 hereof. The amount of Disqualified Equity Interests deemed to be outstanding at any time for purposes of this Indenture will be the maximum amount that the Company and its Restricted Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Equity Interests, exclusive of accrued dividends or similar distributions.

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

"*Domestic Subsidiary*" means any Restricted Subsidiary of the Company that was formed under the laws of the United States or any state of the United States or the District of Columbia or that guarantees or otherwise provides direct credit support for any Indebtedness of the Company.

"*DTC*" means The Depository Trust Company, New York, New York, or a successor thereto registered under the Exchange Act or other applicable statute or regulation.

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

"*Equity Offering*" means a public offering or private placement for cash by the Company of its Equity Interests, or options, warrants or rights with respect to its Equity Interests, other

than (1) any issuances pursuant to employee benefit plans or otherwise in compensation to officers, directors or employees, (2) an issuance to any Subsidiary or (3) any offering of Equity Interests issued in connection with a transaction that constitutes a Change of Control.

"*Euroclear*" means Euroclear Bank, S.A./N.V., as operator of the Euroclear system (or any successor).

"*Event of Default*" has the meaning ascribed to such term in Section 6.01.

"*Excess Proceeds*" has the meaning ascribed to such term in Section 4.10.

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

"*Excluded Assets*" means:

(1) any asset or property right of the Company or any Subsidiary Guarantor of any nature:

(a) if the grant of a security interest shall constitute or result in (i) the abandonment, invalidation or unenforceability of such asset or property right or the Company's or any Subsidiary Guarantor's loss of use of such asset or property right or (ii) a breach, termination or default under any lease, license, contract or agreement (other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9- 407, 9-408 or 9-409 of the Uniform Commercial Code (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law (including any Bankruptcy Law) or principles of equity) to which the Company or any Subsidiary Guarantor is party; or

(b) to the extent that any applicable law or regulation prohibits the creation of a security interest thereon (other than to the extent that any such law or regulation would be rendered ineffective pursuant to any applicable law or principles of equity);

provided, *however*, that such asset, lease, license, contract, property rights or other agreement will cease to be an Excluded Asset immediately and automatically at such time as the condition causing such abandonment, invalidation or unenforceability is remedied or ceases to exist and, to the extent severable, any portion of such lease, license, contract, property rights or other agreement that does not result in any of the consequences specified in clauses (a) or (b) in this clause (1) will not be an Excluded Asset;

(2) Voting Stock of any Foreign Subsidiary (to the extent such Foreign Subsidiary is a "controlled foreign corporation" for U.S. federal income tax purposes) that is directly owned by the Company or any Subsidiary Guarantor, solely to the extent representing in excess of [65]% of the total voting power of all outstanding Voting Stock

of such Foreign Subsidiary and all Capital Stock of Foreign Subsidiaries not directly owned by any Person that is the Company or a Subsidiary Guarantor;

(3) any foreign intellectual property;

(4) any application for trademarks or service marks filed in the United States Patent and Trademark Office pursuant to 15 U.S.C. § 1051 Section 1(b) unless and until evidence of use of the mark in interstate commerce is submitted to the United States Patent and Trademark Office pursuant to 15 U.S.C. § 1051 Section 1(c) or Section 1(d);

(a) deposit and securities accounts the balance of which consists exclusively of (i) withheld income taxes and federal, state or local employment taxes in such amounts as are required to be paid to the Internal Revenue Service or state or local government agencies within the following two months with respect to employees of the Company or any Subsidiary Guarantor, and (ii) amounts required to be paid over to an employee benefit plan pursuant to DOL Reg. Sec. 2510.3- 102 on behalf of or for the benefit of employees of the Company or any Subsidiary Guarantor, and (b) all segregated deposit accounts constituting (and the balance of which consists solely of funds set aside in connection with) tax accounts, payroll accounts and trust accounts;

(5) fixed or capital assets owned by the Company or any Subsidiary Guarantor that is subject to a capital lease or purchase money obligations, in each case permitted to be incurred pursuant to Sections 4.09 and 4.12 hereof if the contract or other agreement in which such Lien is granted prohibits the creation of any other Lien on such fixed or capital assets, but only for so long as such prohibition is in effect and only with respect to the portion of such fixed or capital assets as to which such other Lien attaches and such prohibition applies;

(6) any Capital Stock of any Subsidiary to the extent (and only to the extent) that in the reasonable judgment of the Company, if such Capital Stock were not excluded from the Collateral then Rule 3-16 or Rule 3-10 of Regulation S-X would require the filing of separate financial statements of such Subsidiary with the SEC (or any other governmental agency) in connection with a registration of the Notes under the Securities Act;

(7) de minimis or immaterial assets for which perfection of the security could not be obtained without unreasonable cost and expense or under applicable law as determined by the Company in good faith to the extent the aggregate value of such assets, together with the accounts referred to in clause (10), does not exceed $[250,000];

(8) any property or assets owned by a Foreign Subsidiary;

(9) deposit and securities accounts to the extent the aggregate value of assets in all such accounts does not exceed $[250,000];

(10) leased real property constituting office space or non-essential property; and

(11) owned real property, in each case having a Fair Market Value of less than $[250,000] (together with the leased property referred to in clause (10), "*Excluded Real Property*").

"*Excluded Real Property*" has the meaning ascribed to such term in the definition of "Excluded Assets".

"*Existing Indebtedness*" means all Indebtedness of the Company and its Subsidiaries in existence on the Issue Date as set forth on Schedule [_] hereto until such amounts are repaid.

"*Fair Market Value*" means the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party. Fair Market Value of an asset or property in excess of $[10.0 million] shall be determined by the Board of Directors of the Company acting in good faith, and any lesser Fair Market Value shall be determined by an Officer of the Company acting in good faith (unless otherwise provided in this Indenture).

"*Fixed Charge Coverage Ratio*" means with respect to any specified Person for any period, the ratio of the Consolidated Cash Flow of such Person for such period to the Fixed Charges of such Person for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, guarantees, repays, repurchases, redeems, defeases or otherwise discharges any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "*Calculation Date*"), then the Fixed Charge Coverage Ratio will be calculated giving *pro forma* effect to such incurrence, assumption, guarantee, repayment, repurchase, redemption, defeasance or other discharge of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the applicable four-quarter reference period.

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

(1) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations, or any Person or any of its Restricted Subsidiaries acquired by the specified Person or any of its Restricted Subsidiaries, and including any related financing transactions and including increases in ownership of Restricted Subsidiaries, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date will be given *pro forma* effect (in accordance with Regulation S-X) as if they had occurred on the first day of the four-quarter reference period;

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

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

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

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

(6) if any Indebtedness bears a floating rate of interest, the interest expense on such Indebtedness will be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligation applicable to such Indebtedness if such Hedging Obligation has a remaining term as at the Calculation Date in excess of 12 months).

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

(1) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations in respect of interest rates; *plus*

(2) the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period; *plus*

(3) any interest on Indebtedness of another Person that is guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such guarantee or Lien is called upon (excluding, in each case, a Lien of the type described in clause (19) of the definition of "*Permitted Liens*"); *plus*

(4) all dividends or similar distributions, whether paid or accrued and whether or not in cash, on any series of Disqualified Equity Interests of such Person or on any series of preferred stock of such Person or any of its Restricted Subsidiaries, other than dividends or distributions on Equity Interests payable solely in Equity Interests of the Company (other than Disqualified Equity Interests) or to the Company or a Restricted Subsidiary of the Company determined on a consolidated basis in accordance with GAAP.

"*Flow Through Entity*" means an entity that is treated as a partnership not taxable as a corporation, a grantor trust, a disregarded entity, an "S" corporation or a qualified subchapter "S" subsidiary for U.S. federal income tax purposes or subject to treatment on a comparable basis for purposes of state, local or foreign tax law.

"*Foreign Subsidiary*" means any Restricted Subsidiary of the Company that is not a Domestic Subsidiary.

"*GAAP*" means generally accepted accounting principles in the United States, which are in effect from time to time.

"*Global Note Legend*" means the legend set forth in Section 2.06(g)(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 Depositary or its nominee, substantially in the form of **Exhibit A** hereto and that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"*Government Securities*" means securities that are:

(1) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged, or

(2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America,

which, in either case, are not callable or redeemable at the option of the issuers thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such Government Securities or a specific payment of principal of or interest on any such Government Securities held by such custodian for the account of the holder of such depository receipt; *provided* that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Securities or the specific payment of principal of or interest on the Government Securities evidenced by such depository receipt.

"*Governmental Authority*" means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"*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. When used as a verb, "*guarantee*" has a correlative meaning.

"*Guaranteed Obligations*" means, collectively,

(1) the prompt and full payment of Note Obligations when due, whether at maturity, by acceleration, redemption or otherwise, and the prompt and full payment of the interest on the overdue Note Obligations, if any, if lawful, and all other Obligations of the Company to the Holders or the Trustee under the Note Documents, including all amounts that constitute part of the Guaranteed Obligations and would be owed by the Company but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving the Company; and

(2) in case of any extension of time of payment or renewal of any Notes or any of such other Guaranteed Obligations, the prompt and full payment when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise.

"*Guarantors*" means the NGR Guarantor and the Subsidiary Guarantors.

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

(1) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;

(2) other agreements or arrangements designed to manage interest rates or interest rate risk; and

(3) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates or commodity prices.

in each case, not entered into for speculative purposes.

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

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

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

"*incur*" has the meaning ascribed to such term in Section 4.09.

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

(1) any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent:

(a) in respect of borrowed money;

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

(c) in respect of banker's acceptances;

(d) representing Capital Lease Obligations;

(e) representing the balance deferred and unpaid of the purchase price of any property or services due more than six months after such property is acquired or such services are completed; or

(f) representing any Hedging Obligations; and

(2) with respect to any Production Payment, any warranties or guaranties of production or payment by such Person with respect to such Production Payment but excluding other contractual obligations of such Person with respect to such Production Payment;

in each case, if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes (i) all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person), provided that the amount of such Indebtedness shall be deemed equal to the lesser of (x) the Fair Market Value of such assets on the date of determination and (y) the amount Indebtedness owed by such other Person, and (ii) to the extent not otherwise included, the guarantee by the specified Person of any Indebtedness of any other Person. Subject to clause (2) of this definition, Production Payments shall not be deemed to be Indebtedness.

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

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

"*Institutional Accredited Investor*" means an institution that is an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act, as amended.

[*"Intercreditor Agreement"* means an intercreditor agreement establishing the priority of the Liens securing the Priority Lien Obligations over the Liens securing the Note Obligations, in form and substance reasonably acceptable to Holders of a majority in aggregate principal amount of the then outstanding Notes, as it may be amended, restated, supplemented or otherwise modified from time to time.]

"*Interest Make-Whole Premium*" means, with respect to any Note and any applicable Interest Make-Whole Trigger Date, an amount calculated using the Net Present Value Methodology, equal to the sum of the value of all interest payments that would have been payable on the principal amount of such Note (including all PIK Interest that has previously been paid in kind by increasing the principal amount of such Note and any interest that would have been payable on interest that would have been added to such principal) from the last interest payment date on which Cash Interest or PIK Interest was paid on such Note immediately prior to such Interest Make-Whole Trigger Date through, and including, the Stated Maturity as though such Note had remained outstanding through the Stated Maturity. For the avoidance of doubt, and notwithstanding anything in this Indenture to the contrary, the Company shall not be required to make separate payments of accrued interest from the last interest payment date to the Interest Make-Whole Trigger Date to the extent such interest is included in the Interest Make-Whole Premium.

"*Interest Make-Whole Trigger Date*" means, with respect to any Note, the earliest of (i) the Conversion Date, if any, with respect to such Note, (ii) the date, if any, on which such Note becomes payable pursuant to an acceleration prior to the Stated Maturity (whether as a result of an Event of Default or by operation of law), and (iii) any redemption or repayment of the Note by the Company or any Affiliate thereof that is permitted or required pursuant to this Indenture (including a redemption pursuant to a Change of Control Offer).

"*Investments*" means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including guarantees or other obligations), advances or capital contributions (excluding commission, payroll, travel, relocation and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If the Company or any Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of the Company such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Subsidiary that were not sold or disposed of in an amount determined as provided in Section 4.07(d). For purposes of the definition of "Unrestricted Subsidiary" and Section 4.07, "Investments" shall include the portion (proportionate to the Company's equity interest in such Subsidiary) of the Fair Market Value of the net assets of a Subsidiary of the Company at the time such Subsidiary is designated as an Unrestricted Subsidiary. The acquisition by the Company or any Subsidiary of the Company of a Person that holds an

Investment in a third Person will be deemed to be an Investment by the Company or such Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in Section 4.07(d). Except as otherwise provided in this Indenture, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value.

"*Issue Date*" means the date of the original issuance of the Notes under this Indenture.

"*Lease*" has the meaning ascribed to such term in Section 4.22.

"*Leased Premises*" has the meaning ascribed to such term in Section 4.22.

"*Legal Defeasance*" has the meaning ascribed to such term in Section 8.02.

"*Lien*" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

"*Material Change*" means an increase or decrease (excluding changes that result solely from changes in prices) of more than [10]% during a fiscal quarter in the estimated discounted future net cash flows from proved oil and gas reserves of the Company and its Restricted Subsidiaries, calculated in accordance with clause (1)(a) of the definition of "Adjusted Consolidated Net Tangible Assets"; *provided*, *however*, that there will be excluded from the calculation of Material Change the estimated future net cash flows from:

(1) any acquisitions during the fiscal quarter of oil and gas reserves that have been audited by a nationally recognized firm of independent petroleum engineers and on which a report or reports exist; and

(2) any disposition of properties held at the beginning of such quarter that have been disposed of as provided in Section 4.10.

["*Membership Interests*" shall mean the Company's Membership Interests, or any Capital Stock of the Company into which the Membership Interests shall thereafter be reclassified or changed.]

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

"*Mortgages*" means the mortgages, deeds of trust, deeds to secure Indebtedness or other similar documents granting Liens on the Company's and its Restricted Subsidiaries' properties and interests or Premises to secure the Notes.

"*Net Income*" means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends (or, in the case of any partnership or limited liability company, any similar distribution), excluding, however:

(1) any gain (loss), together with any related provision for taxes on such gain (loss), realized in connection with: (a) any Asset Sale; or (b) the disposition of any securities by such Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries;

(2) any extraordinary gain (loss), together with any related provision for taxes on such extraordinary gain (loss); and

(3) the portion of such Net Income attributable to non-controlling interests in Subsidiaries.

"*Net Present Value Methodology*" means with respect to a stream of interest payments and an applicable Interest Make-Whole Trigger Date, the net present value of such stream of interest payments as of such Interest Make-Whole Trigger Date, using a discount rate equal to the yield to maturity as of such date of United States Treasury securities with a constant maturity that has become publicly available at least two Business Days prior to such date most nearly equal to the period from such Interest Make-Whole Trigger Date to the Stated Maturity, plus 50 basis points.

"*Net Proceeds*" means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of (1) the direct costs relating to such Asset Sale (or sale or other disposition of any non-cash consideration received in any Asset Sale), including, without limitation, legal, accounting and investment banking fees, title and recording expenses, and sales commissions, and any relocation expenses incurred as a result of the Asset Sale, (2) taxes paid or payable as a result thereof (including Permitted Tax Distributions), in each case, after taking into account any allowable tax credits or deductions and any tax sharing arrangements, (3) 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 Asset Sale, (4) any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP or any amount placed in escrow for adjustment in respect of the purchase price of such Asset Sale, until such time as such reserve is reversed or such escrow arrangement is terminated, in which case Net Proceeds shall be increased by the amount of the reserve so reversed or the amount returned to the Company of its Restricted Subsidiaries from such escrow arrangement, as the case may be, and (5) any distributions and other payments required to be made to minority interest holders in any Restricted Subsidiaries as a result of such Asset Sale.

"*Net Working Capital*" means:

(1) all current assets of the Company and its Restricted Subsidiaries, minus

(2) all current liabilities of the Company and its Restricted Subsidiaries, except current liabilities included in Indebtedness;

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

["*NGR Guarantor*" means NGR Management for so long as NGR Management owns directly or indirectly [1]% or more of the Membership Interests of the Company.]

"*NGR Management*" means NGR Management Company LLC, a Delaware limited liability company.

"*Non-Electing Membership Interest*" has the meaning ascribed to such term in Section 10.12.

"*Non-Recourse Debt*" means Indebtedness:

(1) as to which none of the Company, the Guarantors or any of the Company's Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise, or (c) constitutes the lender, in each case, except pursuant to a Lien of the type described in clause (19) of the definition of "Permitted Liens";

(2) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Company, the Guarantors or any of the Company's Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its Stated Maturity; and

(3) as to which the lenders have been notified in writing that they will not have any recourse to the equity interests or assets of the Company, the Guarantors or any of the Company's Restricted Subsidiaries (other than the stock of such Unrestricted Subsidiary held by the Company, the Guarantors or any of the Company's Restricted Subsidiaries).

"*Note Documents*" means (a) this Indenture, the Notes, the Note Guarantees, the Security Documents and each of the other agreements, documents or instruments evidencing or governing any Note Obligations and (b) any other related documents or instruments executed and delivered pursuant to any Note Document described in clause (a) above evidencing or governing any Obligations thereunder (including Note Obligations), in each case, as amended, restated, modified, renewed, refunded, replaced (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

"*Note Guarantee*" means the guarantee by each Guarantor of the Company's obligations under this Indenture and the Notes executed pursuant to the provisions of this Indenture.

"*Note Obligations*" means, without duplication, any principal, interest (including any interest accruing subsequent to the filing of a petition in bankruptcy, reorganization or similar proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable state, federal or foreign law), premium (including, without limitation, Interest-Make Whole Premium), penalties, fees, indemnifications, reimbursements (including, without limitation, reimbursement obligations with respect to letters of credit and banker's acceptances), damages and other liabilities, and guarantees of payment of such principal, interest, premium (including, without limitation, Interest-Make Whole Premium), penalties, fees, indemnifications, reimbursements, damages and other liabilities, in each case, payable under this Indenture, the Notes or any other Note Documents.

"*Notes*" means the $[135.25 million] aggregate principal amount of notes issued under this Indenture on the Issue Date, any other Notes (including any PIK Notes) and any other Notes issued upon registration of transfer thereof or in exchange therefor. For purposes of this Indenture, all references to "principal amount" of the Notes shall include any increase in the principal amount of the Notes as a result of the payment of PIK Interest.

"*Notes Register*" has the meaning ascribed to such term in Section 2.03.

"*Obligations*" means, without duplication, any principal, interest (including any interest accruing subsequent to the filing of a petition in bankruptcy, reorganization or similar proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable state, federal or foreign law), penalties, fees, indemnifications, reimbursements (including, without limitation, reimbursement obligations with respect to letters of credit and banker's acceptances), damages and other liabilities, and guarantees of payment of such principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities, in each case, payable under the documentation governing any Indebtedness.

"*Offer Amount*" has the meaning ascribed to such term in Section 3.09.

"*Offer Period*" has the meaning ascribed to such term in Section 3.09.

"*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, any Assistant 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 set forth in this Indenture.

"*Oil and Gas Business*" means:

(1) the acquisition, exploration, exploitation, development, operation, production and disposition of, for or in interests in Oil and Gas Properties;

(2) the gathering, marketing, treating, processing (but not refining), storage, swapping, selling and transporting of any production from those interests, including any hedging activities related thereto; and

(3) any activity necessary, appropriate, incidental or reasonably related to the activities described in clauses (1) and (2) above.

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

"*Opinion of Counsel*" means an opinion reasonably acceptable to the Trustee that meets the requirements of Section 14.03 hereof. The opinion must be from legal counsel who may be an employee of or counsel to NGR Management, the Company or any Subsidiary of the Company.

"*Other Pari Passu Obligations*" means any Indebtedness (i) ranking *pari passu* in right of payment with the Notes or the Note Guarantees, as applicable, (ii) not secured by any Lien on the Collateral that ranks senior in priority to any Lien on the Collateral held by the Collateral Agent for the benefit of the Notes and (ii) containing provisions similar to those set forth in this Indenture with respect to offers to purchase, prepay or redeem with the proceeds of sales of assets.

"*Parent Holding Company Formation Transaction*" means a transaction, whether by merger, consolidation, contribution, recapitalization or otherwise, pursuant to which the Company becomes a Wholly Owned Subsidiary of any Person (the "*Parent Holding Company*"); *provided* that the holders of the Company's Capital Stock immediately prior to such transaction shall be the holders of the Capital Stock of such Parent Holding Company in the same proportion immediately after such transaction.

"*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).

"*Paying Agent*" has the meaning ascribed to such term in Section 2.03.

"*Payment Default*" has the meaning ascribed to such term in Section 6.01.

["*PDPR Secured Debt Ratio*" means, as of any date of determination, the ratio of (x) the sum of (i) the PDPR Value of the Company's Consolidated PDPR as of such date (excluding the amount of any cash derived from the issuance and sale of the Notes until spent) plus (ii) the amount of unrestricted cash and Cash Equivalents of the Company and its Restricted Subsidiaries as of such date, to (y) the aggregate principal amount of Indebtedness of the Company and its Restricted Subsidiaries that is secured by assets of the Company or any Restricted Subsidiary as of such date.]

["*PDPR Value*" means, as of any date of determination, the present value of future cash flows from the Company's Consolidated PDPR estimated in a reserve report prepared by an independent reserve engineering firm of national standing, calculated based on a price deck being the lower of (i) the SEC PV-10 value or (ii) the NYMEX five-year strip pricing scenario, in either case adjusted for energy content, transportation fees, and regional price differentials, and utilizing a [10]% discount rate.

"*PDPR Value Report*" means collectively, (i) a report prepared by an independent reserve engineering firm of national standing setting forth the PDPR Value of the Company Consolidated PDPR as of a date specified in such report (the "*Measurement Date*"), together with (ii) an Officers' Certificate of the Company certifying as to the PDPR Secured Debt Ratio as of the Measurement Date.]

"*Permitted Acquired Indebtedness*" means Indebtedness or Disqualified Equity Interests of the Company or any of its Restricted Subsidiaries to the extent such Indebtedness or Disqualified Equity Interests were Indebtedness or Disqualified Equity Interests of any other Person existing at the time (a) such Person became a Restricted Subsidiary of the Company, (b) such Person was merged or consolidated with or into the Company or any of its Restricted Subsidiaries, or (c) properties or assets of such Person were acquired by the Company or any of its Restricted Subsidiaries and such Indebtedness was assumed in connection therewith, *provided* that on the date such Person became a Restricted Subsidiary of the Company or the date such Person was merged or consolidated with or into the Company or any of its Restricted Subsidiaries, or on the date of such property or asset acquisition, as applicable, either:

(1) immediately after giving effect to such transaction and any related financing transactions on a *pro forma* basis as if the same had occurred at the beginning of the applicable four-quarter period, the Company or such Restricted Subsidiary, as applicable, would be permitted to incur at least $[1.00] of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a), or

(2) immediately after giving effect to such transaction and any related financing transactions on a *pro forma* basis as if the same had occurred at the beginning of the applicable four-quarter period, the Fixed Charge Coverage Ratio of the Company would be equal to or greater than the Fixed Charge Coverage Ratio of the Company immediately prior to such transaction.

"*Permitted Business Investments*" means Investments made in the ordinary course of, and of a nature that is or shall have become customary in, the Oil and Gas Business, including through agreements, transactions, interests or arrangements that permit one to share risk or costs, comply with regulatory requirements regarding local ownership or satisfy other objectives customarily achieved through the conduct of the Oil and Gas Business jointly with third parties, including without limitation:

(1) direct or indirect ownership of crude oil, natural gas, other related hydrocarbon and mineral properties or any interest therein or gathering, transportation, processing (but not refining), storage or related systems; and

(2) the entry into operating agreements, joint ventures, processing agreements, working interests, royalty interests, mineral leases, farm-in agreements, farm-out agreements, development agreements, production sharing agreements, area of mutual interest agreements, contracts for the sale, transportation or exchange of crude oil and natural gas and related hydrocarbons and minerals, unitization agreements, pooling arrangements, joint bidding agreements, service contracts, partnership agreements (whether general or limited), or other similar or customary agreements, transactions, properties, interests or arrangements and Investments and expenditures in connection therewith or pursuant thereto, in each case made or entered into in the ordinary course of the Oil and Gas Business, excluding, however, investments in corporations and publicly traded partnerships (other than Restricted Subsidiaries).

"*Permitted Debt*" has the meaning ascribed to such term in Section 4.09(b).

["*Permitted First Lien Credit Facility*" means _____.]

["*Permitted Holders*" means [_____]. Any Person or group whose acquisition of Beneficial Ownership constitutes a Change of Control under clause (3) of the definition of "*Change of Control*" in respect of which a Change of Control Offer is made in accordance with the requirements of this Indenture (or would result in a Change of Control Offer in the absence of the waiver of such requirement by Holders of Notes in accordance with this Indenture) will thereafter constitute additional Permitted Holders.]

"*Permitted Investments*" means:

(1) any Investment in the Company or in a Restricted Subsidiary of the Company; *provided* that the aggregate amount of Investments made by the Company and the Guarantors pursuant to this clause (1) in Restricted Subsidiaries that are not Guarantors shall not exceed $[5.0 million] at any one time outstanding;

(2) any Investment in Cash Equivalents;

(3) any Investment by the Company or any Restricted Subsidiary of the Company in a Person whose primary business is the Oil and Gas Business, if as a result of such Investment:

(a) such Person becomes a Guarantor; or

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

or any Investment held by such Person at the time of such transaction, provided such Investment was not made in contemplation of such transaction;

(4) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.10; [*provided* that such Investments shall be pledged as Collateral to the extent the assets subject to such Asset Sale constituted Collateral];

(5) any Investment made solely in exchange for the issuance of Equity Interests (other than Disqualified Equity Interests) of the Company or NGR Holding;

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

(7) Investments represented by Hedging Obligations;

(8) loans or advances to employees, directors, officers and consultants made in the ordinary course of business of the Company or any Restricted Subsidiary of the Company in an aggregate principal amount not to exceed $[1.0 million] at any one time outstanding;

(9) repurchases of the Notes;

(10) [reserved];

(11) Permitted Business Investments;

(12) any Investment existing on the date of this Indenture and any Investment that replaces, refinances or refunds any existing Investment; *provided* that the new Investment is in an amount that does not exceed the amount replaced, refinanced or refunded, and is made in the same Person as the Investment replaced, refinanced or refunded;

(13) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of intellectual property, including advances, deposits and prepayments, in each case in the ordinary course of business;

(14) Investments in receivables owing to the Company or any Restricted Subsidiary, prepaid expenses, negotiable instruments held for collection and lease, utility and worker's compensation, performance and other similar deposits provided to third parties and endorsements for collection or deposit arising in the ordinary course of business; and

(15) other Investments in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (15) that are at the time outstanding not to exceed the greater of (a) $[_____] and (b) [___]% of Adjusted Consolidated Net Tangible Assets; [*provided* that at the time of making such Investment, the PDPR Secured Debt Ratio of the Company, as reflected in the most recent PDPR Value Report delivered to the Trustee and the Holders in accordance with Section 4.24, shall be at least [__] after giving effect to such Investment].

In connection with any assets or property contributed or transferred to any Person as an Investment, the amount of such Investment shall be equal to the Fair Market Value of such assets or property at the time of the Investment, without regard to subsequent changes in value. With respect to any Investment, the Company may, in its sole discretion, allocate (and from time to time reallocate) all or any portion of such Investment to one or more of the above clauses (1) through (15), or as a Restricted Payment made in accordance with paragraph (a) or (b) of Section 4.07.

["*Permitted Liens*" means:

(1) Liens on assets of the Company or any Guarantor securing [Priority Lien Obligations] that were permitted to be incurred pursuant to clause (1) of Section 4.09(b) [and Hedging Obligations];

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

(3) Liens on property of a Person existing at the time such Person is, or all or substantially all of the assets of such Person are, acquired by, merged with or into or consolidated with the Company or any Restricted Subsidiary of the Company; *provided* that such Liens were in existence prior to the contemplation of such acquisition, merger

or consolidation and do not extend to any assets other than those of the Person acquired by, merged into or consolidated with the Company or such Restricted Subsidiary;

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

(5) Liens to secure the performance of statutory or regulatory obligations, surety or appeal bonds, performance bonds, the reimbursement of administrative expenses incurred in connection with any deposit account or other obligations of a like nature incurred in the ordinary course of business;

(6) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by clause (4) of Section 4.09(b) covering only the assets acquired with or financed by such Indebtedness; *provided*, *however*, [with the exception of Capital Lease Obligations,] such Liens are created within [180] days of the later of the acquisition, lease, completion of improvements, construction, repairs or additions or commencement of full operation of the assets or property subject to such Lien and do not encumber any other assets or property of the Company or any Restricted Subsidiary other than such assets or property and assets affixed or appurtenant thereto;

(7) Liens existing on the Issue Date (other than Liens securing [Priority Lien Obligations] that were permitted to be incurred pursuant to clause (1) of Section 4.09(b);

(8) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; *provided* that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;

(9) Liens imposed by law, such as carriers', warehousemen's, landlord's and mechanics' Liens, in each case, incurred in the ordinary course of business;

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

(11) Liens created for the benefit of (or to secure) the Notes (or the Note Guarantees) and other Obligations arising under this Indenture;

(12) Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred pursuant to clause (5) of Section 4.09(b); *provided, however*, that:

(a) the new Lien shall be limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Indebtedness (plus improvements, replacements, and accessions to, such property or proceeds or distributions thereof) and with no greater Lien priority than the original Lien; and

(b) the Indebtedness secured by the new Lien is not increased to any amount greater than the sum of (x) the outstanding principal amount, or, if greater, committed amount, of the Permitted Refinancing Indebtedness and (y) an amount necessary to pay any fees and expenses, including premiums, related to such renewal, refunding, refinancing, replacement, defeasance or discharge and with no greater priority than the original Lien;

(13) provisions with respect to the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, stock sale agreements, agreements respecting Permitted Business Investments and other similar agreements entered into in the ordinary course of business;

(14) Liens on cash or other deposits or net worth imposed by (a) customers under contracts entered into in the ordinary course of business and (b) banks or other depositary institutions on accounts held at such bank or depositary institution;

(15) (a) Liens on any specific property or any interest therein, construction thereon or improvement thereto to secure all or any part of the costs incurred (*provided* that such costs are not past due and unpaid more than [90] days or, if more than [90] days past due and unpaid, are being contested in good faith) for surveying, exploration, drilling, extraction, development, operation, production, construction, alteration, repair or improvement of, in, under or on such property and the plugging and abandonment of wells located thereon (it being understood that, in the case of oil and gas producing properties, or any interest therein, costs incurred for development shall include costs incurred for all facilities relating to such properties or to projects, ventures or other arrangements of which such properties form a part or which relate to such properties or interests); (b) Liens on an Oil and Gas Property to secure obligations incurred (*provided* that such obligations are not monetary obligations which are past due and unpaid more than [90] days or, if more than [90] days past due and unpaid, are being contested in good faith) or guarantees of obligations incurred in connection with or necessarily incidental to commitments for the purchase or sale of, or the transportation or distribution of, the Hydrocarbons or other products derived from such property; and (c) Liens arising under oil and gas leases or subleases, assignments, farm-out agreements, farm-in agreements, division orders, contracts for the sale, purchase, exchange, transportation, gathering or processing of Hydrocarbons, unitizations and pooling designations, declarations, orders and agreements, development agreements, joint venture agreements, partnership agreements, operating agreements, royalties, working interests, net profits interests, joint interest billing arrangements, participation agreements, production sales contracts, area of mutual interest agreements, gas balancing or deferred production agreements, injection, repressuring and recycling agreements, salt water or other disposal agreements, seismic or geophysical permits or agreements, licenses, sublicenses, and other agreements which

are customary in the Oil and Gas Business; *provided*, *however*, in all instances that such Liens are incurred customarily for such transactions and are limited to the assets that are the subject of the relevant agreement, program, order or contract;

(16) Liens on pipelines, pipeline facilities, terminals, terminalling facilities, gas processing plants and similar properties and facilities that arise by operation of law;

(17) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, in each case incurred in the ordinary course of business;

(18) [Liens securing Hedging Obligations so long as the related Indebtedness is, and is permitted to be incurred under clause (8) of Section 4.09(b);]

(19) Liens on Equity Interests of an Unrestricted Subsidiary or any joint venture owned by the Company or any Restricted Subsidiary to the extent securing Non-Recourse Debt of such Unrestricted Subsidiary or joint venture;

(20) Liens incurred with respect to any judgments, decree or order of any court, so long as such Lien is adequately bonded and any appropriate legal proceedings which may have been duly initiated for the review of such judgment, decree or order shall not have been finally terminated or the period within which such proceedings may be initiated shall not have expired;

(21) Liens securing Indebtedness incurred in connection with the acquisition by the Company or any Restricted Subsidiary of assets used in the Oil and Gas Business (including the office buildings and other real property used by the Company or such Restricted Subsidiary in conducting its operations); *provided* that (a) such Liens attach only to the assets acquired with the proceeds of such Indebtedness; (b) such Indebtedness is not in excess of the purchase price of such fixed assets; and (c) such Indebtedness is permitted to be incurred under Section 4.09;

(22) any Liens consisting of (a) rights or title of lessors under operating leases or (b) rights of collecting banks having rights of setoff, revocation, refund or chargeback with respect to money or instruments of the Company or the Restricted Subsidiaries on deposit with or in the possession of such banks;

(23) Liens securing Production Payments and Reserve Sales that are not prohibited by this Indenture; *provided*, *however*, that such Liens do not extend to any property other than the property that is the subject of such Production Payments and Reserve Sales; and

(24) Liens incurred in the ordinary course of business of the Company or any Restricted Subsidiary of the Company with respect to obligations that do not exceed the

greater of (a) $[30.0 million] and (b) [ ]% of Adjusted Consolidated Net Tangible Assets determined on the date of such incurrence at any one time outstanding; [*provided*, that at the time any such Lien is incurred pursuant to this clause (24), the PDPR Secured Debt Ratio of the Company, as reflected in the most recent PDPR Value Report delivered to the Trustee and the Holders in accordance with Section 4.24, shall be at least [__].]

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

(1) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged (plus all accrued interest on the Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith);

(2) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged;

(3) if the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged is subordinated in right of payment to the Notes or any Note Guarantee, such Permitted Refinancing Indebtedness has a final maturity date later than [90] days after the final maturity date of, and is subordinated in right of payment to, the Notes or such Note Guarantee on terms at least as favorable to the Holders as those contained in the documentation governing the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged; and

(4) such Indebtedness is incurred either by the Company, a Guarantor, or by the Restricted Subsidiary who is the obligor on the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged.

["*Permitted Tax Distributions*" means with respect to each taxable year or portion thereof that the Company qualifies (or any predecessor in interest qualified) as a Flow Through Entity, the distribution, with respect to each taxable year, no later than April 10 in the following taxable year, by the Company to the holders of Equity Interests of the Company (or, if any such holder is itself a Flow Through Entity, the holders of the Equity Interests of such Flow Through Entity) of an amount equal to the product of (x) the amount of aggregate net taxable income of the Company and its Subsidiaries allocated to such holders for such period and (y) the Presumed Tax Rate. The Chief Financial Officer of the Company shall certify such calculation in writing to the Trustee on an annual basis.]

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

"*PIK Interest*" means interest paid in the form of (i) an increase in the outstanding principal amount of the Notes or (ii) the issuance of PIK Notes.

"*PIK Interest Payment*" means the payment of PIK Interest.

"*PIK Notes*" has the meaning set forth in Section 2.01(d) hereof.

"*Plan of Reorganization*" means that certain Debtors' Amended Joint Chapter 11 Plan of Reorganization filed by the Company and certain of its Affiliates on December 17, 2015 [Docket No. 23] in the Bankruptcy Court, as altered, amended, modified, or supplemented from time to time prior to entry of the Confirmation Order, including any exhibits, supplements, annexes, appendices and schedules thereto, as confirmed by such Bankruptcy Court pursuant to the Confirmation Order.

"*preferred stock*" means any Equity Interest with preferential rights of payment of dividends (or, in the case of any partnership or limited liability company, any similar distribution) or upon liquidation, dissolution, or winding up.

"*Premises*" has the meaning ascribed to such term in Section 4.21.

"*Presumed Tax Rate*" means [45]%.

["*Priority Lien Collateral Agent*" means the collateral agent or other representative of lenders or holders of Priority Lien Obligations designated pursuant to the terms of the Priority Lien Documents and the Intercreditor Agreement.]

["*Priority Lien Documents*" means, collectively, any indenture, supplemental indenture, credit agreement or other agreement governing any Priority Lien Obligations.]

["*Priority Lien Obligations*" means, collectively, (i) any Indebtedness incurred pursuant to a Credit Facility and related Priority Lien Documents to the extent that such Indebtedness is permitted by this Indenture and subject to the Intercreditor Agreement, (ii) all reimbursement obligations (if any) and interest thereon with respect to any letter of credit or similar instruments issued pursuant to any Credit Facility described above and (iii) all Hedging Obligations and Banking Services Obligations of the Company and the Guarantors to the extent that such obligations are secured equally and ratably with the other Priority Lien Obligations and all fees, expenses and other amounts payable from time to time in connection therewith; provided that, in the case of any such Indebtedness referred to in clause (i):

(1) on or before the date on which such Indebtedness is incurred, such Indebtedness is designated by the Company, in an officer's certificate delivered to the Collateral Agent, as "Priority Lien Obligations" for the purposes of this Indenture;

the collateral agent or other representative with respect to such Indebtedness, the Collateral Agent, the Company and each applicable Guarantor have duly executed and delivered the Intercreditor Agreement (or a joinder thereto); and

all requirements set forth in the Intercreditor Agreement as to the confirmation, grant or perfection of the Priority Lien Collateral Agent's Liens to secure such Indebtedness or Priority Lien Obligations in respect thereof are satisfied.]

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

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

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

"*property*" means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, including, without limitation, cash, securities, accounts and contract rights.

"*Proved Developed Producing Reserves*" means those Oil and Gas Properties designated as proved developed producing (in accordance with the Definitions for Oil and Gas Reserves approved by the Board of Directors of the Society of Petroleum Engineers, Inc. from time to time), estimated in a reserve report prepared by an independent reserve engineering firm of national standing.

"*Purchase Date*" has the meaning ascribed to such term in Section 3.09.

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

"*Record Date*" means, with respect to any dividend, distribution or other transaction or event in which the holders of Membership Interests have the right to receive any cash, securities or other property or in which the Membership Interests are exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of stockholders

entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors, by statute, contract or otherwise).

"*Registrar*" has the meaning ascribed to such term in Section 2.03.

"*Regulation S*" means Regulation S promulgated under the Securities Act, as such regulation is in effect on the Issue Date.

"*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 A** 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 A** 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 Notes initially sold in reliance on Rule 903 of Regulation S.

"*Regulation S-X*" means Regulation S-X promulgated under the Securities Act, as such regulation is in effect on the Issue Date.

"*Reserve Report*" has the meaning ascribed to such term in the definition of "Adjusted Consolidated Net Tangible Assets".

"*Responsible Officer*" when used with respect to the Trustee, means any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer 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 and who shall have direct responsibility for the administration of this Indenture.

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

"*Restricted Payments*" has the meaning ascribed to such term in Section 4.07.

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

"*Restricted Subsidiary*" of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary. Unless the context requires otherwise, any reference herein to a "Restricted Subsidiary" or "Restricted Subsidiaries" shall mean each direct and indirect Subsidiary of the Company that is not then an Unrestricted Subsidiary.

"*Reversion Date*" has the meaning ascribed to such term in Section 4.25.

"*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.

"*S&P*" means Standard & Poor's Ratings Group or any successor to the rating agency business thereof.

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

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

["*Security Agreement*" means the security agreement, dated as of the Issue Date, among the Company, the other parties thereto from time to time, and the Collateral Agent, as such agreement may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time.]

"*Security Documents*" means the Security Agreement and the security agreements, pledge agreements, mortgages, deeds of trust, deeds to secure debt, collateral assignments, control agreements, [the Intercreditor Agreement,] the Collateral Trust Agreement and related agreements (including, without limitation, financing statements under the Uniform Commercial Code of the relevant states), as amended, supplemented, restated, renewed, refunded, replaced, restructured, repaid, refinanced or otherwise modified from time to time, under which rights or remedies with respect to any such Lien are governed.

"*Significant Subsidiary*" means any Subsidiary that would be a "*significant subsidiary*" as defined in Article 1, Rule 1-02 of Regulation S-X.

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

"*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).

"*Subsidiary Guarantors*" means (1) each Subsidiary of the Company on the date of this Indenture, and (2) each other Subsidiary of the Company that executes a Note Guarantee in accordance with the provisions of this Indenture, in each case, together with their respective successors and assigns until the Note Guarantee of such Person has been released in accordance with the provisions of this Indenture.

"*Suspended Covenants*" has the meaning ascribed to such term in Section 4.25.

"*Suspension Period*" has the meaning ascribed to such term in Section 4.25(c).

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

"*Trading Day*" means any day on which the principal national or regional securities exchange on which the Membership Interests are listed is open for trading, or, if the Membership Interests are not listed on a national or regional securities exchange, any Business Day. A "Trading Day" only includes those days that have a scheduled closing time of 4:00 p.m. (New York City time) or the then standard closing time for regular trading on the relevant exchange or trading system.

"*Trustee*" means [_____] until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

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

"*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.

"*Unrestricted Subsidiary*" means any Subsidiary of the Company that is designated by the Board of Directors of the Company as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors, but only to the extent that such Subsidiary:

(1) has no Indebtedness other than Non-Recourse Debt;

(2) except as permitted by Section 4.11 hereof, is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary of the Company unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;

(3) is a Person with respect to which none of the Company, the Guarantors or any of the Restricted Subsidiaries of the Company has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results;

(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company, the Guarantors or any Restricted Subsidiary of the Company; and

(5) [has total assets of less than $[_____].]

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

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

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

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

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

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

"*Wholly Owned Subsidiary*" means, with respect to any Subsidiary of any Person, the ownership of all of the outstanding Capital Stock of such Subsidiary (other than any director's qualifying shares or Investments by foreign nationals mandated by applicable law) by such Person or one or more Wholly Owned Subsidiaries of such Person or any combination thereof.

Section 1.02 *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;

(7) unless the context requires otherwise, references to "Notes" for all purposes of this Indenture shall include any PIK Notes that are actually issued and any increase in the principal amount of the outstanding Notes (including PIK Notes) as a result of a PIK Interest Payment, and references to "principal amount" of the Notes include any increase in the principal amount of the outstanding Notes (including PIK Notes) as a result of a PIK Interest Payment;

(8) all references to "interest" on the Notes means Cash Interest or PIK Interest as the context may require; and

(9) 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.

Section 1.03 I*ncorporation 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 have the following meanings in this Indenture:

"*indenture securities*" means the Notes;

"*indenture security Holder*" means a Holder;

"*indenture to be qualified*" means this Indenture;

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

"*obligor*" on the Notes and the Guarantees means the Company and the Guarantors, respectively, and any successor obligor upon the Notes and the Guarantees, respectively.

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.

ARTICLE 2

THE NOTES

Section 2.01 *Form and Dating*

(a) *General*. Each Note will be dated the date of its authentication. The Notes shall be in denominations of $1,000 and integral multiples of $1 in excess thereof. Notwithstanding any provision of this Indenture or the Notes any *pro rata* redemptions or repurchases of the Notes by the Company pursuant to this Indenture shall, subject to the Applicable Procedures, be made in a manner that preserves the authorized denominations of the Notes.

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

(b) *Notes and Authentication*. The Notes and the Trustee's certificate of authentication will be substantially in the form of **Exhibit A** hereto. The Notes may be issued in definitive or global forms hereunder. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage.

(c) *Global and Definitive Notes*. Notes issued in global form will be substantially in the form of **Exhibit A** hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form will be substantially in the form of **Exhibit A** hereto (but without the Global Note Legend thereon and without the "Schedule of 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, transfers of Notes and payment of PIK Interest. 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.

(d) *PIK Notes.* In connection with the payment of PIK Interest in respect of the Notes (including the PIK Notes), the Company shall be entitled, without the consent of the Holders, to increase the outstanding principal amount of the Notes or issue additional Notes (the "PIK Notes") under this Indenture on the same terms and conditions as the Notes issued on the Issue Date (other than the issuance dates and the date from which interest will accrue). The Notes and

any PIK Notes subsequently issued under this Indenture shall be treated as a single class for all purposes under this Indenture, including waivers, amendments, redemptions and offers to purchase.

(e) *Regulation S Global Notes*.

(1) Global 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 an Officers' Certificate.

(2) 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.

(3) Following the termination of the Restricted Period, beneficial interests in the Regulation S Global Notes may be transferred only upon receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) under the Securities Act.

(4) 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 of the Company must sign the Notes for the Company, by manual or facsimile signature (including by means of an electronic transmission of a pdf or similar file).

If an Officer of the Company 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, in the case of Definitive Notes and Global Notes, will not be valid until authenticated by the manual signature of the Trustee (or an authenticating agent acting on its behalf) and, in the case of uncertificated Notes, will not be valid until registered in "*book-entry*"

form in the records of the Registrar. In the case of Definitive Notes and Global Notes, such signature will be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall authenticate and deliver: (i) on the date of this Indenture, an aggregate principal amount of $[135.25 million] of Notes and (ii) any PIK Notes in accordance with Section 4.01, which shall constitute a distinct issuance of Notes but be considered the same class and shall be in the same form as the Notes and which are not limited in principal amount except as otherwise provided in Section 4.01, in each case of clauses (i) and (ii), upon receipt of a written order of the Company signed by an Officer of the Company (an "*Authentication Order*"). Such Authentication Order shall specify the amount of the Notes to be authenticated and the date on which the original issue of the Notes is to be authenticated. 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.

On any interest payment date on which the Company pays PIK Interest with respect to a Global Note, upon receipt of an Officer's Certificate stating the amount of PIK Interest due and directing the Trustee to increase the principal amount of the Global Note, the Trustee shall increase the aggregate principal amount of such Global Note by an amount equal to the interest payable, rounded up to the nearest $[1.00], for the relevant interest period on the aggregate principal amount of such Global Note as of the relevant record date for such interest payment date, to the credit of the Holders on such record date, *pro rata* in accordance with their interests, and an adjustment shall be made on the books and records of the Trustee or of the Depositary (together with an endorsement made on such Global Note reflecting such increase), by the Trustee or the Depositary at the direction of the Trustee, to reflect such increase. The foregoing notwithstanding, PIK Interest on a Global Note may be paid in the form of PIK Notes should the procedures of the Depositary so require, in which case PIK Notes in a principal amount equal to the interest payable, rounded up to the nearest $[1.00], for the relevant interest period will be issued to the Holders on such record date, *pro rata* in accordance with their interests.

On any interest payment date on which the Company pays PIK Interest with respect to a Certificated Note, PIK Notes in a principal amount equal to the interest payable, rounded up to the nearest $[1.00], for the relevant interest period on the aggregate principal amount of such Certificated Notes as of the relevant record date for such interest payment date will be issued to the holders of such Certificated Notes on such record date.

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, Paying Agent and Conversion 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*") and an office or agency where Notes may be

presented for conversion ("*Conversion Agent*"). The Registrar will keep a register of the Notes (the "Notes Register") and of their transfer and exchange. The Notes Register shall contain the names and addresses of the Holders and principal amounts (and stated interest) of the amounts owing to, each Holder pursuant to the terms hereof from time to time. The entries in the Notes Register shall be conclusive absent manifest error, and the Company, the Trustee and the Holders shall treat each person whose name is recorded in the Notes Register pursuant to the terms hereof as a Holder hereunder for all purposes of this Indenture. The Notes Register shall be available for inspection by the Company [and any Holder] at any reasonable time and from time to time upon reasonable prior notice. The Company may appoint one or more co-registrars, one or more additional paying agents and one or more additional conversion agents. The term "Registrar" includes any co-registrar, the term "Paying Agent" includes any additional paying agent and the term "Conversion Agent" includes any additional conversion agent. The Company may change any Paying Agent, Registrar or Conversion Agent without prior 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, Paying Agent or Conversion Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent, Registrar or Conversion Agent.

The Company initially appoints DTC to act as Depositary with respect to the Global Notes.

The Company initially appoints the Trustee to act as the Registrar, Paying Agent and Conversion Agent.

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 regular record 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 and the Company shall otherwise comply with TIA § 312(a).

Section 2.06 *Transfer and Exchange*[1]

(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;

(2) the Company in its sole discretion (and subject to the procedures of the Depositary) determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and deliver a written notice to such effect to the Trustee; *provided* that in no event shall the Regulation S Temporary Global Note be exchanged by the Company for Definitive Notes 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; or

(3) upon the request of the Depositary after there has occurred and is continuing a Default or Event of Default with respect to the Notes.

Upon the occurrence of any of the preceding events, 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), (c) or (f) 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

[1] NTD: Transfer and exchange provisions may be revised to incorporate a right of first refusal and certain other transfer restrictions from the New Gulf LLC Operating Agreement.

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. 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 subparagraph (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.

(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

(C) if the transferee will take delivery in the form of a beneficial interest in the Accredited Investor 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)(d) 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 the Registrar receives the following:

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

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

(C) any documentation required to be delivered to it or the Depositary by the Applicable Procedures,

and, in each such case, 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 exchange or transfer is effected 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 so exchanged or transferred.

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.

(5) *Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in another Restricted Global Note*. A beneficial interest in any Restricted Global Note may be exchanged by any Holder thereof for a beneficial interest in another Restricted Global Note if:

(A) the exchange complies with the requirements of Section 2.06(b)(2) above; and

(B) the Registrar receives a certificate from such Holder in the form of **Exhibit C** hereto, including the certifications in item (2) thereof.

(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 Accredited Investor or 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)(d) 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(h) 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 designated 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 2.06(c)(1)(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 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 the Registrar receives the following:

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

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

Holder in the form of **Exhibit B** hereto, including the certifications in item (4) thereof;

(C) any documentation required to be delivered to it or the Depositary by the Applicable Procedures,

and, in each such case, if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the 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 an Unrestricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted 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(h) hereof, and the Company will execute and the Trustee will authenticate and deliver to the Person designated in the instructions an Unrestricted Definitive Note in the designated principal amount. Any Unrestricted 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 Unrestricted 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 Accredited Investor or 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)(d) 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 and increase or cause to be increased the aggregate principal amount of the appropriate 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 the Registrar receives the following:

(A) 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;

(B) 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;

(C) any documentation required to be delivered to it or the Depositary by the Applicable Procedures,

and, in each such case, 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 in an Unrestricted Global Note is effected pursuant to subparagraphs, 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)(d) 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 the Registrar receives the following:

(A) 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

(B) 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, 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) or (C) 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 SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS

AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A)(1) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (2) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (3) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (4) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (5) PURSUANT TO ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED ON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS) AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS."

(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.

(C) Additionally, notwithstanding the foregoing, if the Company determine, (upon the advice of counsel and based on such other certifications and evidence as the Company may reasonably require) that a Note is eligible for resale pursuant to Rule 144 without the need for current public information and that the Private Placement Legend is no longer necessary or appropriate in order to ensure that subsequent transfers of the Note (or a beneficial interest therein) are effected in compliance with the Securities Act, the Company may instruct the Trustee to cancel the Note and issue to the Holder thereof (or to its transferee) a new Note, of like tenor and amount, registered in the name of the Holder thereof (or its transferee), that does not bear the Private Placement Legend, and the Trustee will comply with such instruction.

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

"THIS GLOBAL NOTE IS HELD BY OR ON BEHALF OF THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS

HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

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

(4) *Additional Legends*. Definitive Notes issued to Affiliates of the Company may bear additional legends to reflect further restrictions on transfer.

(g) *Cancellation 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 a Holder to pay all taxes, duties and fees required by law in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.09, 4.10, 4.15 and 9.04 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 pursuant to 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, any authenticating 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, premium, if any, and interest on such Notes and for all other purposes (subject to the record date provisions thereof), and none of the Trustee, any Agent, any authenticating 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.

(i) The Company will not be required to transfer or exchange any Note for a period of [15] days before a selection of Notes to be redeemed. The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Participants or Beneficial Owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

(j) None of the Trustee, any Agent or any authenticating agent shall have any responsibility for any actions taken or not taken by the Depositary.

Section 2.07 *Replacement Notes*

If any mutilated Note is surrendered to the Trustee or the Company and the Trustee receives evidence 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 Company's and 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 or, if uncertificated, the Notes recorded in the book-entry records of the Registrar, except for those canceled by the Trustee, 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 thereof, 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 bona fide purchaser.

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

If the Paying Agent (other than the Company or 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.

If a Note is converted or deemed to be converted in accordance with Article 10, then from and after the time of conversion or deemed conversion on the Conversion Date, such Note shall cease to be outstanding and interest, if any, shall cease to accrue on such Note.

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 a Responsible Officer of the Trustee actually 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 execute 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.

The Company shall cause Definitive Notes to be prepared and authenticated without unreasonable delay. After the preparation of the Definitive Notes, the temporary Notes shall be exchanged for Definitive Notes upon surrender of the temporary Notes at the office or agency of the Company, without charge to the Holder. Upon surrender for cancellation of one or more temporary Notes, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of Definitive Notes of authorized denominations. Until so exchanged, 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, Paying Agent and Conversion Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange, conversion or payment. The Trustee and no one else will cancel all Notes surrendered for registration of transfer, exchange, conversion, payment, replacement or cancellation and will dispose of canceled Notes (subject to the record retention requirements of the Exchange Act (as applicable) and the Trustee). Certification of the cancellation of all canceled Notes will be delivered to the Company upon written request. The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation. To the extent that any Notes are held in the form of Global Notes and less than all of such Global Notes are to be cancelled, the reduction of the principal amount of any such Global Note and the Registrar's notation of such cancellation on its books and records shall be deemed to satisfy any cancellation requirement, *provided* that certification of such cancellation shall be delivered to the Company upon written request.

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 sent to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Section 2.13 *CUSIP Numbers*

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

any defect in or omission of such numbers. The Company shall promptly notify the Trustee in writing of any change in the CUSIP, ISIN or other numbers.

Section 2.14 *Trustee's Disclaimer*

The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Notes other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof. Neither the Trustee nor any Agent shall have any responsibility for any actions taken or not taken by the Depositary.

Section 2.15 *Acts of Holders*

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "*Act*" of Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent or of the holding by any Person of a Note (based on the Notes Register) shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section 2.15.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to such officer the execution thereof. Where such execution is by a signer acting in a capacity other than such signer's individual capacity, such certificate or affidavit shall also constitute sufficient proof of such signer's authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership of Notes shall be proved by the Notes Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Note.

(e) If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at their option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of outstanding Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the outstanding Notes shall be computed as of such record date; *provided* that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

ARTICLE 3

REDEMPTION AND PREPAYMENT

Section 3.01 *Notices to Trustee*

If the Company redeems Notes pursuant to this Indenture, the Company must furnish to the Trustee, at least [___] days before a redemption date, an Officers' Certificate setting forth:

(1) the CUSIP number of the Notes;

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

(3) the redemption date;

(4) the principal amount of Notes to be redeemed;

(5) the redemption price; and

(6) the Notes to be redeemed, if a partial redemption.

Section 3.02 *Selection and Notice*

(a) If less than all of the Notes are to be redeemed at any time, the Registrar will select Notes for redemption on a *pro rata* basis or by lot or similar method (and in the case of Global Notes, in accordance with the procedures of DTC), unless otherwise required by law or applicable stock exchange requirements; *provided* that no Notes of $[2,000] or less shall be purchased or redeemed in part.

(b) If any Note is to be redeemed in part only, the notice of redemption that relates to that Note will state the portion of the principal amount of that Note that is to be redeemed. A new Note in principal amount equal to the unpurchased or unredeemed portion of the original Note purchased or redeemed in part will be issued in the name of the Holder upon cancellation of the

original Note. Notes called for redemption become due on the date fixed for redemption, unless a condition to the redemption set forth in the notice has not been satisfied. On and after the redemption date, interest ceases to accrue on Notes or portions of Notes called for redemption.

Section 3.03 *Notice of Redemption*

Subject to the provisions of Section 3.09 hereof, at least [___] days but not more than [___] days before a redemption date, the Company will mail or cause to be mailed, by first-class mail (or transmit or cause to be transmitted otherwise in accordance with the procedures of DTC), 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 [___] 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 Article 8 or 12 hereof, respectively.

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

(1) the CUSIP number of the Notes;

(2) the redemption date;

(3) the redemption price;

(4) 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;

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

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

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

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

(9) 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 names and at their expense; *provided*, *however*, that the Company has delivered to the Trustee, at least [___] days (or such shorter period as the Trustee shall agree) 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 and stating that all conditions precedent to the giving of such notice have been complied with.

Section 3.04 *Effect of Notice of Redemption*

If any redemption of the Notes is subject to satisfaction of one or more conditions precedent, notice of such redemption shall be revocable and describe each condition, and if applicable, shall state that, in the Company's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the stated redemption date, or by the redemption date as so delayed. The Company shall send a notice to the Holders and the Trustee if such redemption shall be rescinded or delayed.

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 (including any Interest Make-Whole Premium) 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 (including any Interest Make-Whole Premium) 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 and the Interest Make-Whole Premium will be calculated from the last Interest Payment Date on which interest was paid immediately prior to the purchase 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*

Except as contemplated by Section 4.15, the Notes may not be redeemed at the option of the Company.

Section 3.08 *Clean-Up Redemption; Open Market Purchases*

Except to the extent that the Company may be required to redeem or offer to purchase Notes as set forth in Section 4.10 [4.15 or 4.15], 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 if such purchase complies with the then applicable agreements of the Company, including this Indenture.

Section 3.09 *Offer to Purchase by Application of Excess Proceeds*

In the event that, pursuant to Section 4.10 hereof, the Company is required to commence an Asset Sale Offer, it will follow the procedures specified below.

The Asset Sale Offer shall be made to all Holders. The Asset Sale Offer will remain open for a period of at least [20 Business Days] following its commencement and not more than [30 Business Day], except to the extent that a longer period is required by applicable law (the "*Offer Period*"). No later than [three Business Days] after the termination of the Offer Period (the "*Purchase Date*"), the Company will apply all Excess Proceeds (the "*Offer Amount*") to the purchase of Notes and, if applicable, such Other Pari Passu Obligations or [Priority Lien Obligations] (on a *pro rata* basis, if applicable) or, if less than the Offer Amount has been tendered, all Notes and other Indebtedness tendered in response to the Asset Sale Offer.

If the Purchase Date is on or after an interest record date and on or before the related interest payment date, any accrued and unpaid interest will be paid to the Person in whose name a Note is registered at the close of business on such record date, and no further interest will be payable on such interest payment date to Holders who tender Notes pursuant to the Asset Sale Offer.

Upon the commencement of an Asset Sale Offer, the Company will send, by first-class mail, postage prepaid, a notice to the Trustee and each of the Holders. The notice will contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Asset Sale Offer. The notice, which will govern the terms of the Asset Sale Offer will state:

(1) the CUSIP number;

(2) that such Asset Sale Offer is being made pursuant to this Section 3.09 and Section 4.10 hereof and the length of time the Asset Sale Offer will remain open;

(3) the Offer Amount, the purchase price and the Purchase Date;

(4) that any Note not tendered or accepted for payment will continue to accrete or accrue interest;

(5) that, unless the Company default in making such payment, any Note accepted for payment pursuant to the Asset Sale Offer, as applicable, will cease to accrete or accrue interest on and after the Purchase Date;

(6) that Holders electing to have a Note purchased pursuant to an Asset Sale Offer may elect to have Notes purchased in denominations of $[1,000] and integral multiples of $[1] in excess thereof;

(7) that Holders electing to have Notes purchased pursuant to any Asset Sale Offer will be required to surrender the Notes with the form entitled "*Option of Holder to Elect Purchase*" on the reverse of the Notes completed, or transfer the Notes by book-entry transfer, to the Company, a Depositary, if appointed by the Company, or a Paying Agent at the address specified in the notice at least [three] days before the Purchase Date;

(8) that Holders will be entitled to withdraw their election if the Company, the Depositary or the Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, an electronic mail, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing its election to have such Note purchased;

(9) that, if the aggregate principal amount of Notes and Other Pari Passu Obligations surrendered by holders thereof exceeds the Offer Amount, the Company will select the Notes and Other Pari Passu Obligations or [Priority Lien Obligations], as applicable, to be purchased on a pro rata basis based on the principal amount of Notes and such Other Pari Passu Obligations or [Priority Lien Obligations], as applicable, surrendered (with such adjustments as may be deemed appropriate by the Company so that only Notes in denominations of $[1,000] and integral multiples of $[1] in excess thereof will be purchased); and

(10) that Holders whose Notes were purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer).

On or before the Purchase Date, the Company will, to the extent lawful, accept for payment, on a *pro rata* basis to the extent necessary, the Offer Amount of Notes or portions thereof tendered pursuant to the Asset Sale Offer, as applicable, or if less than the Offer Amount has been tendered, all Notes tendered, and will deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 3.09. The Company, the Depositary or the Paying Agent, as the case may be, will promptly (but in any case not later than [five] days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Company will promptly issue a new Note, and the Trustee, upon written request from the Company, will authenticate and mail or deliver (or cause to be transferred by book entry) such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company will publicly announce the results of the Asset Sale Offer, as applicable, on the Purchase Date.

Other than as specifically provided in this Section 3.09, any purchase pursuant to this Section 3.09 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

[Except to the extent that the Company may be required to offer to purchase the Notes as set forth in Section 4.10 or 4.15, 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 if such purchase complies with the then applicable agreements of the Company, including this Indenture.]

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 (including any Interest Make-Whole Premium) on, the Notes on the dates and in the manner provided in the Notes and this Indenture. Principal, premium, if any, and interest (including any Interest Make-Whole Premium) 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. New York City 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 (including any Interest Make-Whole Premium) then due.

Interest on the Notes will accrue at the rate of 10.0% per annum, payable in cash on a quarterly basis, or, at the Company's election, 12.5% per annum, payable in kind on a quarterly basis (the "Interest Rate"). The Company may elect to pay such interest through a combination of cash and payment in kind, in each case, at the applicable Interest Rate.

The Company shall pay interest quarterly on [_____], [_____], [_____] and [_____] of each year (each, an "Interest Payment Date"), commencing [_____], 2016 and on the final scheduled maturity of the Notes. Interest on the Notes shall accrue from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, [_____], 2016 until the principal hereof is due. The Company shall pay interest on overdue principal at the rate borne by the Notes, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

Interest will be payable, at the election of the Company (made by delivering a notice to the Trustee prior to the beginning of each such interest period), (1) entirely in cash ("Cash Interest"), (2) by increasing the principal amount of the Notes or by issuing additional PIK Notes or (3) with a combination of Cash Interest and PIK Interest. Interest for the first period commencing on the Issue Date will be paid in the form of [PIK Interest] for such interest period.

In the absence of an interest payment election made by the Company as set forth above, interest on the Notes shall be payable in the manner described in clause (2) of the preceding paragraph.

For interest payments on the Notes that the Company elects to pay as Cash Interest, Cash Interest will accrue at a rate equal to [10]% per annum. For interest payments on the Notes that the Company elects to pay as PIK Interest, PIK Interest will accrue at a rate per annum equal to

the cash interest rate of [12.50]% per annum. At all times, PIK Interest on the Notes will be payable (x) with respect to securities represented by one or more Global Notes registered in the name of, or held by DTC or its nominee on the relevant record date, by increasing the principal amount of the outstanding Global Notes by an amount equal to the amount of PIK Interest for the applicable interest period (rounded down to the nearest whole dollar) as provided in writing by the Company to the Trustee and (y) by issuing PIK Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable interest period (rounded down to the nearest whole dollar), and the Trustee will, at the written request of the Company, authenticate and deliver such PIK Notes in certificated form for original issuance to the holders on the relevant record date, as shown by the records of the register of Holders.

Interest on the Notes will accrue from the Issue Date or, if interest has already been paid, from the date it was most recently paid. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

PIK Interest shall be considered paid on the date due if on such date the Trustee has received (i) with respect to PIK Interest to be paid by increasing the outstanding amount of any Global Note, an Officer's Certificate, pursuant to Section 2.02, to increase the outstanding amount of any Global Note and (ii) with respect to any PIK Interest to be paid through the issuance of PIK Notes, PIK Notes duly executed by the Company together with an Authentication Order, pursuant to Section 2.02, and an Officer's Certificate and, if requested by the Trustee, an Opinion of Counsel pursuant to Section 14.02, requesting the authentication of such PIK Notes by the Trustee.

PIK Interest on the Notes will be payable with respect to Notes represented by one or more Global Notes (x) by increasing the principal amount of the outstanding Global Note by an amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) as provided in an Authentication Order from the Company to the Trustee or (y) if so required by the procedures of the Depositary, by issuing PIK Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar). PIK Interest on the Notes will be payable with respect to Notes represented by one or more Certificated Notes by issuing PIK Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) as provided in an Authentication Order from the Company to the Trustee. In the case of Certificated Notes (if any), Holders shall be entitled to surrender to the Registrar for transfer or exchange Certificated Notes to receive one or more new Certificated Notes reflecting such increase in principal amount in accordance with the terms of this Indenture. Following an increase in the principal amount of the outstanding Global Notes, or any Certificated Notes, as a result of a PIK Interest Payment, the Notes will bear interest on such increased principal amount from and after the date of such PIK Interest Payment. Any PIK Notes will be dated as of the applicable interest payment date and will bear interest from and after such date. All PIK Notes issued pursuant to a PIK Interest Payment will mature on the same date as the Notes issued on the Issue Date, will be governed by, and subject to the terms, provisions and conditions of, this Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. Any PIK Notes will be issued with the description "PIK" on the face of such PIK Note.

The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal, premium, if any, and interest at the rate equal to [2]% per annum in excess of the Cash Interest rate on the Notes to the extent lawful. The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest, if applicable, at the same rate as set forth in the foregoing sentence 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 or Conversion Agent) where Notes may be surrendered for registration of transfer or for exchange or conversion 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.

All notices to the Trustee or the Collateral Agent hereunder shall be sent to the Corporate Trust Office of the Trustee at the address set forth in Section 14.01 hereof.

Section 4.03 *Reports*[2]

(a) [Whether or not required by the rules and regulations of the SEC, so long as any Notes are outstanding, the Company and the Guarantors will furnish to the Holders and the Trustee, and make available on a publicly available website, within the time periods specified in the SEC's rules and regulations:

(1) (x) all quarterly and annual financial information that would be required to be contained in a filing with the SEC on Forms 10-Q and 10-K if the Company were required to file such reports, [including a section on "Management's Discussion and Analysis of Financial Condition and Results of Operations,"] (y) with respect to the annual information only, a report on the annual financial statements by the Company's certified independent public accountants and (z) in connection with all quarterly and annual financial information delivered pursuant to clause (x) of this clause (1), the

[2] NTD: Reporting obligations to be made consistent with the LLC Agreement.

calculation of Adjusted Consolidated Net Tangible Assets as of the last day of such fiscal quarter or such fiscal year, as applicable; and

(2) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports; *provided*, *however*, that the Company shall not be required to include as an exhibit any material contract that would otherwise be required to be included as an exhibit to such current report if the Company were subject to the periodic reporting requirements of the Exchange Act.

(b) Upon request by the Company, the Trustee shall transmit such reports to Holders (or DTC, as long as the Notes are held in global form).

(c) Notwithstanding the foregoing, the Company will not be required to provide the following:

(1) *Sarbanes-Oxley*. No certifications or attestations concerning the financial statements or disclosure controls and procedures or internal controls that would otherwise be required pursuant to the Sarbanes-Oxley Act of 2002 will be required (*provided further*, however, that nothing contained in the terms herein shall otherwise require the Company to comply with the terms of the Sarbanes-Oxley Act of 2002 at any time when it would not otherwise be subject to such statute);

(2) *Financial Statements of Acquired Entities*. The financial statements required of acquired businesses will be limited to the financial statements (in whatever form) that the Company receives in connection with the acquisition, and whether or not audited;

(3) *Financial Statements of Unconsolidated Entities*. No financial statements of unconsolidated entities will be required;

(4) *Segment Reporting*. The Company will not be required to prepare its financial statements in accordance with Statement of Financial Accounting Standards No. 131; and

(5) *Supplemental Schedules*. The schedules identified in Section 5-04 of Regulation S-X will not be required.

Notwithstanding the foregoing, in the event that any direct or indirect parent company of the Company becomes a Guarantor of the Notes, the Company may satisfy its obligations under this Section 4.03 by furnishing financial information, in compliance with applicable regulations and rules prescribed by the SEC relating to such parent; *provided* that (x) such financial statements are accompanied by consolidating financial information for the Company, such parent and the other Guarantors and the Subsidiaries of the Company that are not Guarantors in the manner prescribed by the SEC and (y) such parent is not engaged in any business in any material respect other than incidental to its ownership, directly or indirectly, of the Capital Stock of the Company.

(d) The Company will hold a quarterly conference call for the Holders and securities analysts to discuss such financial information no later than [ten Business Days] after distribution of such financial information and shall provide a reasonable amount of time during such call for a question and answer session.

(e) If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by this Section 4.03 will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

(f) If the Company is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Company will nevertheless continue filing the reports specified in this Section 4.03 with the SEC within the time periods specified above unless the SEC will not accept such a filing. The Company will not take any action for the purpose of causing the SEC not to accept any such filings. If, notwithstanding the foregoing, the SEC will not accept the Company's filings for any reason, the Company will post the reports referred to in this Section 4.03 on the Company's website within the time periods that would apply if the Company were required to file those reports with the SEC.

(g) In addition, the Company and the Guarantors agree that, for so long as any of the Notes remain outstanding, if at any time they are not required to file with the SEC the reports required by this Section 4.03, they will furnish to the Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(h) Any and all Defaults or Events of Default arising from a failure to furnish or file in a timely manner a report or other information required by this Section 4.03 shall be deemed cured (and the Company shall be deemed to be in compliance with this Section 4.03) upon furnishing or filing such report or other information as contemplated by this Section 4.03 (but without regard to the date on which such report or other information is so furnished or filed); *provided* that such cure shall not otherwise affect the rights of the Holders under Article 6 hereof if payment of the Notes has been accelerated in accordance with the terms of this Indenture and such acceleration has not been rescinded or cancelled prior to such cure.]

Section 4.04 *Compliance Certificate*

(a) The Company and each Guarantor (to the extent that such Guarantor is so required under the TIA) shall deliver to the Trustee, within 90 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 herein; 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 propose 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 any of the Notes are outstanding, the Company is required to deliver to the Trustee, forthwith upon any Officer of the Company becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default.

Section 4.05 *Taxes; Stay, Extension and Usury Laws*

(a) The Company and the NGR Guarantor will pay, and will cause each of their respective 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.

(b) Each of the Company and 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 each of the Company and the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it 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 4.06 *Restrictions on Activities of the NGR Guarantor*

Notwithstanding anything to the contrary herein, the NGR Guarantor shall not, at any time, engage in any significant business or activity, incur any material Indebtedness or make any material Investment or capital expenditure other than (i) the ownership of Capital Stock in the Company, (ii) maintaining its corporate existence, (iii) participating in tax, accounting and other administrative activities of the NGR Guarantor, the Company and their respective Subsidiaries, (iv) the performance of its obligations under its organizational documents or this Indenture and the Security Documents, (v) incurrence of the Guaranteed Obligations, (vi) providing usual and customary indemnification to its officers and directors, (vii) the issuance and sale of Capital Stock and purchases thereof, and activities incidental thereto, (viii) the making of Investments in or contributions to the Company and its Subsidiaries and (ix) necessary activities incidental to the businesses and activities described in this Indenture.

Section 4.07 *Restricted Payments*

(a) The Company and the NGR Guarantor will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly:

(1) declare or pay any dividend or make any other payment or distribution on account of the Company's, the NGR Guarantor's or any of the Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Company, the NGR Guarantor or any of the Restricted Subsidiaries) or to the direct or indirect holders of the Company's, the NGR Guarantor's or any of the Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Equity Interests) of the Company and other than dividends or distributions payable to the Company or a Restricted Subsidiary of the Company);

(2) [purchase, redeem, defease or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Company) any Equity Interests of the Company or any direct or indirect parent company of the Company;]

(3) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of the Company or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee (excluding any intercompany Indebtedness between or among the Company and any Subsidiary Guarantor); or

(4) make any Restricted Investment;

(all such payments and other actions set forth in these clauses (1) through (4) 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;

(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 beginning of the applicable four-quarter period, have been permitted to incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a); and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and the Restricted Subsidiaries since the Issue Date (excluding Restricted Payments permitted by clauses (2), (3), (4), (6), (9) and (10) of Section 4.07(b)), is less than the sum, without duplication, of:

(A) [50]% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing after the Issue Date to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less [100]% of such deficit); *plus*

(B) [100]% of the aggregate net cash proceeds and [100]% of the Fair Market Value of securities or other property other than cash (including Capital Stock of Persons engaged in the Oil and Gas Business or assets used in the Oil and Gas Business) received by the Company since the Issue Date as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Company (other than Disqualified Equity Interests) or from the issue or sale of convertible or exchangeable Disqualified Equity Interests or convertible or exchangeable debt securities of the Company that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Equity Interests or debt securities) sold to a Subsidiary of the Company); *plus*

(C) to the extent that any Restricted Investment that was made after the Issue Date is sold for cash or otherwise liquidated or repaid for cash, the cash return of capital with respect to such Restricted Investment (less the cost of disposition, if any); *plus*

(D) to the extent that any Unrestricted Subsidiary of the Company designated as such after the Issue Date is redesignated as a Restricted Subsidiary (or merged, consolidated or amalgamated with or into, or otherwise transfers or conveys assets to, or is liquidated into, the Company or any of its Restricted Subsidiaries) after the Issue Date, the Fair Market Value of the Company's Investment in such Subsidiary as of the date of such redesignation or transaction; *plus*

(E) the amount equal to the net reduction in restricted Investments made by the Company or any of its Restricted Subsidiaries in any Person since the Issue Date resulting from dividends, distributions or other transfers of assets, in each case, to the Company or any Restricted Subsidiary of the Company from any Person (including, without limitation, any Unrestricted Subsidiary), to the extent that such dividends, distributions or other payments were not otherwise included in the Consolidated Net Income of the Company for such period; and]

(4) [the PDPR Secured Debt Ratio of the Company, as reflected in the most recent PDPR Value Report delivered to the Trustee and the Holders in accordance with Section 4.24, shall be at least [__].]

(b) [Subject to Section 4.07(c), Section 4.07(a) will not prohibit:

(1) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) or the consummation of any redemption within 60 days after the date of declaration of the dividend or similar distribution or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend, distribution or redemption payment would have complied with the provisions of this Indenture;

(2) the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of the Company) of, Equity Interests of the Company (other than Disqualified Equity Interests) or from the substantially concurrent contribution of common equity capital to the Company (with a sale or contribution being deemed substantially concurrent if such Restricted Payment occurs within 60 days of such sale or contribution); *provided* that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will be excluded from Section 4.07(a)(3)(B);

(3) the repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness of the Company or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee in exchange for, or with the net cash proceeds from a substantially concurrent incurrence of, Permitted Refinancing Indebtedness (with an incurrence being deemed substantially concurrent if such repurchase, redemption or defeasance occurs within 60 days of such incurrence);

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

(5) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Company or any Restricted Subsidiary of the Company held by any current or former officer, director or employee of the Company, any of its Restricted Subsidiaries or any direct or indirect parent company of the Company (or heirs, estates or other permitted transferees of such officers, directors or employees) pursuant to any equity subscription agreement or plan, stock option agreement or plan, employee benefit plan, employment agreement, shareholders' agreement or similar agreement or plan; *provided* that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed $[1.0 million] in any calendar year, with any portion of such $[1.0 million] that is unused in any calendar year to be carried forward to successive calendar years and added to such amount;

(6) the repurchase of Equity Interests deemed to occur upon the exercise of stock options, warrants, rights or other convertible or exchangeable debt or equity securities to the extent such Equity Interests represent a portion of the exercise or conversion price of those stock options, warrants, rights or other securities;

(7) the declaration and payment of regularly scheduled or accrued dividends (or, in the case of any partnership or limited liability company, any similar distribution) to holders of any class or series of Disqualified Equity Interests or preferred stock of the Company or any Restricted Subsidiary of the Company issued after the Issue Date in accordance with the Fixed Charge Coverage Ratio test described in Section 4.09(a);

(8) Permitted Tax Distributions;

(9) the purchase by the Company of fractional shares arising out of stock dividends, splits or combinations, business combinations or the conversion or exchange

of convertible or exchangeable debt or equity securities issued by the Company, and any purchase or other acquisition of Equity Interests made in lieu of withholding taxes in connection with any exercise or exchange of options, warrants or other rights to acquire Equity Interests;

(10) [Reserved]

(11) the payment of dividends or similar distributions on the Company's Equity Interests (other than preferred stock or Disqualified Equity Interests) (or the payment of any dividend or similar distribution to any direct or indirect parent of the Company to fund the payment by such parent of a dividend or similar distribution on such parent's Equity Interests (other than preferred stock or Disqualified Equity Interests)) in an amount not to exceed [6.0]% per annum of the net proceeds received by the Company from any public equity offering of such Equity Interests of the Company or contributed to the Company as common equity capital by any direct or indirect parent of the Company from any public equity offering of such Equity Interests of such parent (excluding public offerings of Equity Interests registered on Form S-8);

(12) payments or distributions to dissenting shareholders or other equity holders not to exceed $[5.0 million] in the aggregate since the Issue Date (x) pursuant to applicable law or (y) in connection with the settlement or other satisfaction of legal claims, in each case, made pursuant to or in connection with a consolidation, merger or transfer of assets that is not prohibited by this Indenture;

(13) upon the occurrence of a Change of Control or an Asset Sale and within [60] days after the completion of the offer to repurchase the Notes under Section 4.10 or 4.15 (including the purchase of all Notes tendered), any purchase of Indebtedness of the Company or any Guarantor that is subordinated in right of payment to the Notes or such Guarantor's Note Guarantee required by the terms thereof as a result of such Change of Control or Asset Sale at a purchase price not to exceed (i) 100%, in the case of an Asset Sale, or (ii) 101%, in the case of a Change of Control, of the outstanding principal amount thereof, plus accrued and unpaid interest thereon (including the Interest Make-Whole Premium), if any, *provided* that the notice to Holders relating to a Change of Control or Asset Sale hereunder shall describe this clause (13); or

(14) at any time after the initial public offering of the Capital Stock of any direct or indirect parent company of the Company, the declaration and payment of dividends or making of distributions by the Company to, or the making of loans to, any direct or indirect parent company of the Company in amounts required for the Company's direct or indirect parent company, including a corporation organized to hold interests in the Company, to pay (i) customary salary, bonus and other benefits or compensation payable to directors, managers, officers and employees of any direct or indirect parent of the Company to the extent such salaries, bonuses and other benefits are attributable to the ownership or operations of the Company and its Restricted Subsidiaries and approved reasonably and in good faith by the Board of Directors and only to the extent that such individuals do not receive a salary, bonus and other benefits from the Company and its Restricted Subsidiaries for the same services and (ii) general corporate

overhead expenses of any direct or indirect parent company of the Company to the extent such expenses are attributable to the ownership or operation of the Company and its Restricted Subsidiaries (including, without limitation, accounting and legal fees and expenses, costs and expenses associated with corporate personnel, office space, travel and insurance).

Notwithstanding the foregoing, no Restricted Payments may be made in reliance on clauses (5), (6), (7), (9), (11), (12) or (13) of this Section 4.07(b) at any time a Default has occurred and is continuing or would result therefrom.]

(c) Notwithstanding anything in this Section 4.07 to the contrary, [(i) neither the Company nor any Restricted Subsidiary of the Company shall be permitted to make any Restricted Payment described in clause (2) of the definition thereof unless, at the time of making such Restricted Payment, the PDPR Secured Debt Ratio of the Company, as reflected in the most recent PDPR Value Report delivered to the Trustee and the Holders in accordance with Section 4.24, shall be at least [__] on a *pro forma* basis after giving effect to such Restricted Payment and (ii)] neither the Company nor any Restricted Subsidiary of the Company shall be permitted to pay any dividend on, or make any other distribution with respect to, any shares of its preferred stock (including Disqualified Equity Interests) unless the declaration and payment of such dividend or the making of such distribution occurs during a period for which the Company has elected to pay 100% of the interest on the Notes that is scheduled to be paid on the next succeeding interest payment date therefore in cash.

(d) The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the assets or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The Fair Market Value of any assets or securities that are required to be valued by this Section 4.07 will be determined by the Board of Directors of the Company, whose resolution with respect thereto will be delivered to the Trustee. For purposes of determining compliance with this Section 4.07, if a Restricted Payment meets the criteria of more than one of the exceptions described in clauses (1) through (15) of Section 4.07(b), or is entitled to be made according to Section 4.07(a), the Company may, in its sole discretion, classify, and subsequently reclassify, all or any portion of the Restricted Payment in any manner that complies with this Section 4.07.

Section 4.08 *Dividend and Other Payment Restrictions Affecting Subsidiaries*

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

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

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

(3) sell, lease or transfer any of its properties or assets including Equity Interests to the Company or any of its Restricted Subsidiaries.

(b) [The restrictions in Section 4.08(a) will not apply to encumbrances or restrictions existing under or by reason of:

(1) agreements governing Existing Indebtedness as in effect on the Issue Date and any Indebtedness permitted to be entered into under this Indenture and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; *provided* that the amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings are not, in the good-faith judgment of the Company, materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements;

(2) this Indenture, the Notes, the Note Guarantees and the Security Documents;

(3) applicable law, rule, regulation or order;

(4) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Company or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired, and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those instruments, *provided* that the amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings are not, in the good faith judgment of the Company, materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those instruments (as determined in good faith by the Company); *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred;

(5) customary non-assignment provisions in contracts, agreements, leases and licenses entered into in the ordinary course of business;

(6) purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property purchased or leased of the nature described in Section 4.08(a)(3);

(7) with respect to a Restricted Subsidiary, any agreement that has been entered into for the sale or disposition of all or substantially all of the Capital Stock of, or

property and assets of, such Restricted Subsidiary that imposes such encumbrance or restriction pending the closing of such sale or disposition;

(8) Permitted Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not, in the good-faith judgment of the Company, materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being extended, renewed, refunded, refinanced, defeased or discharged;

(9) Liens permitted to be incurred under Section 4.12 that limit the right of the debtor to dispose of the assets subject to such Liens and the security documents evidencing such Liens;

(10) provisions limiting the disposition or distribution of assets, property or ownership interests in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements, which limitation is applicable only to the assets, property or ownership interest that are the subject of such agreements;

(11) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(12) in the case of Section 4.08(a)(3), any encumbrance or restriction:

(A) that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease (including leases governing leasehold interests or farm-in agreements or farm-out agreements relating to leasehold interests in Oil and Gas Properties), license or similar contract, or the assignment or transfer of any such lease (including leases governing leasehold interests or farm-in agreements or farm-out agreements relating to leasehold interests in Oil and Gas Properties), license (including, without limitation, licenses of intellectual property) or other contract;

(B) contained in mortgages, pledges or other security agreements permitted under this Indenture securing Indebtedness of the Company or a Restricted Subsidiary to the extent such encumbrances or restrictions restrict the transfer of the property subject to such mortgages, pledges or other security agreements;

(C) contained in any agreement creating Hedging Obligations permitted from time to time under this Indenture; or

(D) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Company or any Restricted Subsidiary;

(13) any customary encumbrances or restrictions imposed pursuant to any agreement of the type described in the definition of "Permitted Business Investments;" and

(14) agreements governing any Permitted First Lien Credit Facility permitted under this Indenture.]

Section 4.09 *Incurrence of Indebtedness and Issuance of Preferred Stock*

(a) The Company and the NGR Guarantor will not, and will not permit any of the Restricted Subsidiaries of the Company to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "*incur*") any Indebtedness (including Acquired Debt), and the Company will not issue any Disqualified Equity Interests and the Company and the NGR Guarantor will not permit any of the Restricted Subsidiaries to issue any Disqualified Equity Interests or shares of preferred stock unless the Fixed Charge Coverage Ratio for the Company and the Company's Restricted Subsidiaries on a consolidated basis for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Equity Interests or such preferred stock is issued, as the case may be, would have been at least [_] to 1.0, determined on a *pro forma* basis (including a *pro forma* application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the Disqualified Equity Interests or the preferred stock had been issued, as the case may be, at the beginning of such four-quarter period; [*provided* that the aggregate amount of Indebtedness, Disqualified Stock and preferred stock incurred by Restricted Subsidiaries of the Company that are not Guarantors pursuant to this Section 4.09(a) shall not exceed $[_] million at any one time outstanding.]

(b) [The provisions of Section 4.09(a) will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "*Permitted Debt*"):

(1) the incurrence by the Company and any Guarantor of Indebtedness and letters of credit under Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (1) (with letters of credit under Credit Facilities being deemed to have a principal amount equal to the maximum potential liability of the Company and its Restricted Subsidiaries thereunder) not to exceed the greater of (a) $[30.0 million] and (b) [____]% of Adjusted Consolidated Net Tangible Assets;

(2) the incurrence by the Company and its Restricted Subsidiaries of Existing Indebtedness (other than the Indebtedness described in clauses (1) and (3) of this Section 4.09(b));

(3) the incurrence by the Company and the Guarantors of Indebtedness represented by the Notes and the related Note Guarantees to be issued on the Issue Date;

(4) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of

the purchase price or cost of design, construction, installation or improvement of property, plant or equipment used in the business of the Company or any of its Restricted Subsidiaries, in an aggregate principal amount, and all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (4), not to exceed the greater of (a) $[_] million and (b) [_]% of the Company's Adjusted Consolidated Net Tangible Assets as of the date of such incurrence;

(5) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge any Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be incurred under Section 4.09(a) or clauses (2), (3), (16) or this clause (5) of this Section 4.09(b);

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

(A) if the Company or any Guarantor is the holder of such Indebtedness and the borrower is not the Company or a Guarantor, such Indebtedness (i) must be evidenced by a promissory note which note shall be pledged to the Collateral Agent in favor of the Holders and (ii) must be expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the Notes (including Note Obligations), in the case of the Company, or the Note Guarantee, in the case of a Guarantor; and

(B) (i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (ii) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary of the Company will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);

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

(A) [any subsequent issuance or transfer of Equity Interests that results in any such preferred stock being held by a Person other than the Company or a Restricted Subsidiary of the Company; and]

(B) any sale or other transfer of any such preferred stock to a Person that is not either the Company or a Restricted Subsidiary of the Company,

will be deemed, in each case, to constitute an issuance of such preferred stock by such Restricted Subsidiary that was not permitted by this clause (7);

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

(9) the guarantee by the Company or any of the Guarantors of Indebtedness of the Company or a Restricted Subsidiary of the Company that was permitted to be incurred by another provision of this Section 4.09; *provided* that if the Indebtedness being guaranteed is subordinated to or *pari passu* with the Notes or any Note Guarantee, then the guarantee shall be subordinated or *pari passu*, as applicable, to the same extent as the Indebtedness guaranteed;

(10) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness in respect of workers' compensation claims, self-insurance obligations and bankers' acceptances in the ordinary course of business;

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

(12) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness in respect of bid, plugging and abandonment, performance, surety and similar bonds and completion guarantees provided by the Company and any of its Restricted Subsidiaries in the ordinary course of business, including guarantees and obligations of the Company and any of its Restricted Subsidiaries with respect to letters of credit supporting such obligations (in each case other than with respect to guarantees and obligations for money borrowed);

(13) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness consisting of (A) the financing of insurance premiums, (B) take-or-pay obligations contained in supply arrangements or (C) deferred compensation or equity based compensation to current or former officers, directors, consultants, advisors or employees thereof, in each case in the ordinary course of business;

(14) the incurrence by the Company or any of its Restricted Subsidiaries of obligations relating to net gas balancing positions arising in the ordinary course of business, consistent with past practice and customary in the Oil and Gas Business;

(15) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness arising from agreements of the Company or any of its Restricted Subsidiaries providing for indemnification, earn-outs, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or Capital Stock of a Subsidiary, *provided* that the maximum aggregate liability in respect of all such Indebtedness shall at no time exceed the gross proceeds actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(16) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Acquired Indebtedness; and

(17) the incurrence by the Company or any of its Restricted Subsidiaries of [unsecured] Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, and all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (17), not to exceed the greater of (i) $[_____]million and (ii) [ ]% of Adjusted Consolidated Net Tangible Assets as of the date of such incurrence.

The Company and the NGR Guarantor shall not incur, and shall not permit any other Guarantor to incur, any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of the Company or the Guarantors unless such Indebtedness is also contractually subordinated in right of payment to the Notes and the applicable Note Guarantee on substantially identical terms; *provided, however,* that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Company or the Guarantors solely by virtue of being unsecured or by virtue of being secured on a first or junior Lien basis.]

(c) For purposes of determining compliance with this Section 4.09, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (17) above, or is entitled to be incurred pursuant to Section 4.09(a), the Company will be permitted to classify all or a portion of such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 4.09. The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of preferred stock as Indebtedness due to a change in accounting principles, and the payment of dividends or similar distributions on Disqualified Equity Interests or preferred stock in the form of additional shares of the same class of Disqualified Equity Interests or preferred stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Equity Interests or preferred stock for purposes of this Section 4.09; *provided*, in each such case, that the amount of any such accrual, accretion or payment is included in Fixed Charges of the Company as accrued. Notwithstanding any other provision of this Section 4.09, the maximum amount of Indebtedness that the Company or any Restricted Subsidiary may incur pursuant to this Section 4.09 shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

(d) The amount of any Indebtedness outstanding as of any date will be:

(1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;

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

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

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

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

Section 4.10 *Asset Sales*

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

(1) the Company receives, (or the Restricted Subsidiary receives, as the case may be) consideration at the time of the Asset Sale at least equal to the Fair Market Value (measured as of the date of the definitive agreement with respect to such Asset Sale) of the assets or Equity Interests issued or sold or otherwise disposed of; and

(2) at least [75]% of the consideration received in the Asset Sale by the Company or such Restricted Subsidiary when taken together with consideration received in all other Asset Sales after the Issue Date is in the form of cash or Cash Equivalents. [*provided, however*, to the extent that any disposition in such Asset Sale was of Collateral, the non-cash consideration received is pledged as Collateral in accordance with the Security Documents substantially simultaneously with such sale, in accordance with the requirements set forth in this Indenture.] For purposes of this Section 4.10(a)(2), each of the following will be deemed to be cash:

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

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

(C) the assumption by the transferee of liabilities of the Company (other than liabilities of the Company that are by their terms subordinated to the Notes) or liabilities of any Subsidiary Guarantor that made such Asset Sale (other than liabilities of a Subsidiary Guarantor that are by their terms subordinated to such Subsidiary Guarantor's Note Guarantee), in each case as a result of which the Company and its remaining Restricted Subsidiaries are no longer liable for such liabilities; and

(D) any stock or assets of the kind referred to in clauses (2), (3) or (4) of Section 4.10(b).

(b) Within [180] days after the receipt of any Net Proceeds from an Asset Sale, the Company (or the applicable Restricted Subsidiary, as the case may be) will apply such Net Proceeds:

(1) to permanently repay, repurchase, redeem or otherwise retire (A) Indebtedness and other Obligations under a Credit Facility to the extent constituting [Priority Lien Obligations] and to the extent such Credit Facility is a revolving facility, to correspondingly permanently reduce commitments with respect thereto or (B) to the extent required by the documents governing such Indebtedness and such Indebtedness is secured by the asset subject to such Asset Sale, Indebtedness permitted to be incurred under Section 4.09(b)(4) and to correspondingly permanently reduce commitments with respect thereto; *provided* that such Indebtedness was incurred for the purpose of financing all or any part of the purchase price or cost of design, construction, installation or improvement of such asset;

(2) to acquire all or substantially all of the assets of, or any Capital Stock of, another Person primarily engaged in the Oil and Gas Business, if, after giving effect to any such acquisition of Capital Stock, such Person is or becomes a Restricted Subsidiary of the Company; *provided* that with respect to any acquisition or series of acquisitions involving aggregate consideration in excess of $[50.0 million], the Company delivers to the Trustee an opinion as to the fairness to the Company or such Restricted Subsidiary of such acquisition or series of acquisitions from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing;

(3) to make a capital expenditure in respect of the Company's or any Restricted Subsidiary's Oil and Gas Business; or

(4) to acquire other assets that are not classified as current assets under GAAP and that are used or useful in an Oil and Gas Business,

provided that, with respect to clauses (2) through (4) of this Section 4.10(b), the assets (including Voting Stock) acquired with the Net Proceeds from any disposition of Collateral are pledged as Collateral in accordance with the Security Documents concurrently with such acquisition in accordance with the requirements of this Indenture. The requirements of clauses (2) through (4) shall be deemed to be satisfied if a bona fide binding agreement committing to make the acquisition or expenditure referred to therein is entered into by the Company or any of its Restricted Subsidiaries with a Person other than an Affiliate of the Company within the [180-day] period specified above and such Net Proceeds are subsequently applied in accordance with such contracts within [120] days following the date such agreement is entered into.

(c) Pending the final application of any Net Proceeds, the Company may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by this Indenture.

(d) Any Net Proceeds from Asset Sales that are not applied or invested as provided in Section 4.10(b) will constitute "*Excess Proceeds.*" If the aggregate amount of Excess Proceeds is less than $[5.0 million], the Company may use such Excess Proceeds for any purpose not

otherwise prohibited by this Indenture. If the aggregate amount of Excess Proceeds exceeds $[5.0 million], the Company will, within [30] days thereof, make one or more offers to the Holders (and, at the option of the Company, the holders of Other Pari Passu Obligations) to purchase Notes (and Other Pari Passu Obligations) pursuant to and subject to the conditions contained in this Indenture (each, an "*Asset Sale Offer*"), that are $[1,000] or an integral multiple of $[1] in excess thereof that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof, plus accrued and unpaid interest [(including any Interest Make-Whole Premium), if any, to, but not including, the date fixed for the closing of such Asset Sale Offer, in accordance with the procedures set forth in Section 3.09. The Company will commence an Asset Sale Offer with respect to Excess Proceeds within [30] days after the date that Excess Proceeds exceeds $[5.0 million] by mailing (or transmitting otherwise in accordance with the procedures of DTC), the notice required pursuant to the terms of Section 3.09, with a copy to the Trustee. To the extent that the aggregate amount of Notes and such Other Pari Passu Obligations tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Company may use any remaining Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes or the Other Pari Passu Obligations surrendered by such holders thereof exceeds the amount of Excess Proceeds, the Notes and such Other Pari Passu Obligations will be purchased on a *pro rata* basis based on the accreted value or principal amount of the Notes or such Other Pari Passu Obligations tendered. Upon completion of any such Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

(e) The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with Section 3.09, or this Section 4.10, [Section 4.10,] the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached their obligations under Section 3.09, or this Section 4.10 [Section 4.10] by virtue of such compliance.

Section 4.11 [*Transactions with Affiliates*[3]

(a) The Company and the NGR Guarantor shall not, and shall not permit any of the Restricted Subsidiaries of the Company to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of related transactions, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company involving aggregate consideration paid to or by the Company or any of its Restricted Subsidiaries in excess of $[1.0] million (each, an "*Affiliate Transaction*"), unless:

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

[3] NTD: To be revised to reflect ownership structure.

(2) the Company delivers to the Trustee:

(A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $[5.0 million], a resolution of the Board of Directors of the Company set forth in an Officers' Certificate certifying that such Affiliate Transaction complies with this Section 4.11 and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors of the Company or if there is only one disinterested member, the sole disinterested member; and

(B) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $[25.0 million], an opinion as to the fairness to the Company or such Restricted Subsidiary of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing.

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

(1) any employment or severance agreement, employee benefit plan, or other employee or director compensation agreement, arrangement or plan, officer or director indemnification agreement or any similar arrangement entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business and payments pursuant thereto;

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

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

(4) payment of reasonable fees and reasonable out-of-pocket expenses paid to, and indemnity and insurance provided on behalf of, officers, directors, employees or consultants of the Company or any of its Restricted Subsidiaries;

(5) any issuance of Equity Interests (other than Disqualified Equity Interests) of the Company to Affiliates of the Company or the receipt of a capital contribution from an Affiliate of the Company;

(6) Restricted Payments that do not violate Section 4.07 and Permitted Investments;

(7) transactions effected pursuant to agreements in effect on the Issue Date and any amendment, modification or replacement of such agreement (so long as such amendment or replacement is not less favorable to the Company, any Restricted Subsidiary or the Holders, taken as a whole, than the original agreement as in effect on the Issue Date);

(8) payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business consistent with industry practice; and

(9) a Parent Holding Company Formation Transaction or transactions permitted by, and complying with, the provisions of Section 5.01 solely for the purpose of reincorporating the Company in another jurisdiction, changing the organizational form of the Company or both.]

Section 4.12 *Liens*

The Company and the NGR Guarantor shall not, and shall not permit any of the Restricted Subsidiaries of the Company to, directly or indirectly, create, incur, assume or suffer to exist any Lien securing Indebtedness of any kind on any asset now owned or hereafter acquired, except Permitted Liens.

Section 4.13 *Business Activities*

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

Section 4.14 *Corporate Existence*

Subject to Article 5 and Section 12.08 hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect:

(1) its corporate, partnership or other 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 Company 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.

Section 4.15 *Offer to Repurchase Upon Change of Control; Mandatory Conversion of Notes and Clean-Up Redemption Following Certain Changes of Control*

(a) If a Change of Control occurs, each Holder will have the right to require the Company to offer to repurchase all or any part (equal to $[1,000] or an integral multiple of $[1] in excess thereof) of that Holder's Notes pursuant to the offer described below (a "*Change of Control Offer*") in cash on the terms set forth herein. In the Change of Control Offer, the Company will offer a payment (a "*Change of Control Payment*") in cash equal to 100% of the

aggregate outstanding Notes plus accrued and unpaid interest (including any Interest Make-Whole Premium), if any, on the Notes repurchased to, but not including, the date of purchase, subject to the rights of Holders on the relevant record date to receive interest due on the relevant interest payment date. Within 30 days following any Change of Control, the Company will deliver such Change of Control Offer by first-class mail, with a copy to the Trustee, to each Holder to the address of such Holder appearing in the security register (or otherwise in accordance with the procedures of DTC), with the following information:

(1) a Change of Control Offer is being made pursuant to this Section 4.15 and that all Notes properly tendered pursuant to such Change of Control Offer will be accepted for payment;

(2) the purchase price and the purchase date, which will be no earlier than 30 days nor later than 60 days from the date such notice is mailed (the "*Change of Control Payment Date*");

(3) any Note not properly tendered will remain outstanding and continue to accrue interest;

(4) unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on, but not including, the Change of Control Payment Date;

(5) Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender the Notes, with the form entitled "*Option of Holder to Elect Purchase*" attached to the Notes completed, to the Paying Agent specified in the notice at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) Holders will be entitled to withdraw their tendered Notes and their election to require the Company to purchase such Notes; *provided* that the Paying Agent receives, not later than the close of business on the last day of the offer period, an electronic mail, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes tendered for purchase, and a statement that such Holder is withdrawing its tendered Notes and its election to have such Notes purchased;

(7) if such notice is mailed prior to the occurrence of a Change of Control, stating the Change of Control Offer is conditional on the occurrence of such Change of Control; and

(8) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to $[1,000] or an integral multiple of $[1] in excess thereof.

(b) While the Notes are in global form and the Company makes an offer to purchase all or any portion of the Notes pursuant to the Change of Control Offer, a Holder may exercise

its option to elect for the purchase of the Notes through the facilities of DTC, subject to its rules and regulations.

(c) The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with this Section 4.15, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached their obligations under this Section 4.15 by virtue of such compliance.

(d) On the Change of Control Payment Date, the Company will, to the extent lawful:

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

(2) deposit with the Paying Agent no later than 10:00 a.m. New York City time an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and

(3) deliver or cause to be delivered to the Trustee for cancellation the Notes properly tendered and accepted, together with an Officers' Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Company.

(e) The Paying Agent will promptly transmit to each Holder (or, if all the Notes are then in global form, make such payment through the facilities of the DTC, subject to its rules and regulations) properly tendered and so accepted the Change of Control Payment for such Notes, and the Trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered by each such Holder, if any; *provided* that each such new Note will be in a principal amount of $[1,000] or an integral multiple of $[1] in excess thereof. Any Note so accepted for payment will cease to accrue interest on and after the Change of Control Payment Date. The Company shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(f) The provisions described above that require the Company to make a Change of Control Offer following a Change of Control will be applicable whether or not any other provisions of this Indenture are applicable. Except as described in this Section 4.15 with respect to a Change of Control, this Indenture does not contain provisions that permit the Holders to require that the Company repurchase or redeem the Notes in the event of a takeover, recapitalization or similar transaction.

(g) [The Company shall not be required to make a Change of Control Offer following a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.15 applicable to a Change of Control Offer made by the Company and purchases all Notes validly tendered and

not withdrawn under such Change of Control Offer, unless and until there is a default in payment of the applicable redemption price. Notwithstanding anything to the contrary herein, a Change of Control Offer may be made in advance of a Change of Control and conditioned upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of the making of the Change of Control Offer.]

(h) [The provisions in this Section 4.15 relative to the Company's obligation to make a Change of Control Offer may be waived or modified with the written consent of the Holders of a majority in principal amount of the Notes.]

(i) In the event that [75]% or more of the aggregate principal amount of the outstanding Notes are elected to be converted pursuant to Article 10 after a Change of Control Offer has been sent (the "*Conversion Threshold*"), the Company shall have the right, in accordance with the terms of this Section 4.15(i), to elect to cause all Notes that have not been so elected for conversion to be converted pursuant to Article 10. The Company may elect to cause Notes to be converted pursuant to this Section 4.15(i) by sending a notice of conversion (the "*Clean-Up Conversion Notice*") to each Holder whose Notes are to be converted at its registered address (with a copy to the Trustee). A Mandatory Conversion Notice may be sent by the Company at any time after the Conversion Threshold is met, but not later than sixty (60) days after the occurrence of the Change of Control, and shall state:

(1) that a mandatory conversion of Notes is being made pursuant to this Section 4.15(i);

(2) the date on which the Notes will be deemed converted (which date shall (x) not be earlier than the date on which the Mandatory Conversion Notice is sent, (y) be subject to the occurrence of the Change of Control and (z) be the "Conversion Date" for all purposes of this Indenture); and

(3) the then-current Conversion Rate and Conversion Price.

Any Notes subject to a mandatory conversion pursuant to this Section 4.15(i) shall convert into Membership Interests in accordance with the terms of Section 10.01 as if such Note had been surrendered for conversion in accordance with the terms thereof and, concurrently with such conversion, (A) the Holder of such Note shall be deemed to have executed and delivered to the Company a Joinder Agreement and shall be bound by all of the terms and provisions of the Stockholder Agreement as a "Stockholder" thereunder, and (B) such Note shall be deemed cancelled and satisfied in full.

For purposes of determining whether the Conversion Threshold has been met, any Notes which have been elected to be converted pursuant to Article 10 shall not be deemed to be outstanding.

(j) In the event that [75]% or more of the aggregate principal amount of the outstanding Notes are tendered to the Company in connection with a Change of Control Offer after a Change of Control Offer has been sent (the "*Clean-Up Redemption Threshold*"), the Company shall have the right, in accordance with the terms of this Section 4.15(j), to elect to

redeem all Notes that have not been so tendered. The Company may redeem such remaining outstanding Notes pursuant to this Section 4.15(j) by sending a notice of redemption (the "*Clean-Up Redemption Notice*") to each Holder whose Notes are to be redeemed at its registered address (with a copy to the Trustee). A Clean-Up Redemption Notice may be sent by the Company at any time after the Clean-Up Redemption Threshold is met, but not later than sixty (60) days after the occurrence of the Change of Control, and shall state:

(1) that a redemption of Notes is being made pursuant to this Section 4.15(j); and

(2) the date on which the Notes will be deemed redeemed (which date shall (x) not be earlier than the date on which the Clean-Up Redemption Notice is sent, (y) be subject to the occurrence of the Change of Control and (z) be the "Redemption Date" for all purposes of this Indenture).

Any redemption pursuant to this Section 4.15(j) shall be carried out in accordance with the provisions of Section 3.01 through Section 3.06 hereof. [For purposes of determining whether the Clean-Up Redemption Threshold has been met, any Notes which have been elected to be converted pursuant to Article 10 shall not be deemed to be outstanding.]

Section 4.16 *Additional Note Guarantees*

If the Company or any of its Restricted Subsidiaries acquires or creates another Domestic Subsidiary after the Issue Date that becomes a Restricted Subsidiary, then the Company will (1) cause that newly acquired or created Domestic Subsidiary to execute a supplemental indenture, substantially in the form of **Exhibit F** hereto, pursuant to which it will become a Guarantor, (2) cause the newly acquired or created Domestic Subsidiary to execute and deliver to the Trustee and the Collateral Agent amendments to the Security Documents or additional Security Documents, and take such other action as may be necessary to grant to the Collateral Agent, for the benefit of the Holders, a perfected Lien in the assets (other than Excluded Assets) of such Domestic Subsidiary and to have such assets included as Collateral, including the filing of Uniform Commercial Code financing statements in such jurisdiction or such other actions as may be required by the Security Documents, (3) cause that newly acquired or created Domestic Subsidiary to take such actions necessary, or as the Collateral Agent reasonably determines to be necessary or advisable, to grant to the Collateral Agent for the benefit of the Holders a perfected Lien in the assets (other than Excluded Assets) of such new Domestic Subsidiary, including the filing of Uniform Commercial Code financing statements in such jurisdiction as may be required by the Security Documents or by law or as may be reasonably requested by the Collateral Agent, (4) cause that newly acquired or created Domestic Subsidiary to take such further action and execute and deliver such other documents reasonably requested by the Trustee or the Collateral Agent to effectuate the foregoing, and (5) deliver an Officers' Certificate and an Opinion of Counsel satisfactory to the Trustee and Collateral Agent, which shall cover the enforceability, satisfaction of all conditions precedent, compliance with this Indenture and the Security Documents and the grant and perfection of security interests, in each case with respect to the foregoing clauses (1) through (5), within 30 days of the date on which the Domestic Subsidiary was acquired or created as contemplated by this Indenture and the Security Documents.

Section 4.17 *Designation of Restricted and Unrestricted Subsidiaries*

The Board of Directors of the Company may designate any Restricted Subsidiary (including any newly acquired or newly formed Subsidiary or Person that becomes a Subsidiary through merger or consolidation or Investment therein) to be an Unrestricted Subsidiary if that designation would not cause a Default and the Subsidiary meets the definition of "Unrestricted Subsidiary." If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under Section 4.07 or under one or more clauses of the definition of Permitted Investments, as determined by the Company. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. The Board of Directors of the Company may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if that redesignation would not cause a Default.

Any designation of a Subsidiary of the Company as an Unrestricted Subsidiary will be evidenced to the Trustee by filing with the Trustee a certified copy of a resolution of the Board of Directors giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.07. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.09, the Company will be in default of such covenant. The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary of the Company; *provided* that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary, and such designation will only be permitted if (1) such Indebtedness is permitted under Section 4.09, either as Permitted Debt or pursuant to the Fixed Charge Coverage Ratio in accordance with Section 4.09(a) calculated on a *pro forma* basis as if such designation had occurred at the beginning of the four-quarter reference period; and (2) no Default or Event of Default would be in existence following such designation.

Section 4.18 *Impairment of Security Interest*

[Subject to the Intercreditor Agreement,] None of the Company, the Guarantors or any of the Restricted Subsidiaries of the Company shall take or omit to take any action which would adversely affect or impair in any material respect the Liens in favor of the Collateral Agent with respect to the Collateral, except as otherwise permitted or required by the Security Documents or this Indenture. None of the Company, the Guarantors or any of the Restricted Subsidiaries of the Company shall enter into any agreement that requires the proceeds received from any sale of Collateral to be applied to repay, redeem, defease or otherwise acquire or retire any Indebtedness of any Person, other than the [Priority Lien Obligations] and the Notes, unless such agreement permits the Company, the Guarantors or Restricted Subsidiary to first repay, or offer to repay, [Priority Lien Obligations] and the Notes.

Section 4.19 *Post-Closing*

[Certain security interests in the Collateral may not be in place on the Issue Date or may not be perfected on the Issue Date. Subject to the time periods otherwise allowed as described in this Indenture, the Company and the Guarantors will use their respective commercially reasonable efforts to perfect on the Issue Date the security interests in the Collateral for the benefit of the Holders and the [Priority Lien Obligations] that are created on the Issue Date but, to the extent any such security interest or liens are not perfected by such date, the Company and the Guarantors will agree to do or cause to be done all acts and things that may be required, including using commercially reasonable efforts to obtain any required consents from third parties, to have all security interests in the Collateral duly created and enforceable and perfected, in each case solely to the extent required by the Security Documents, promptly following the Issue Date, but in any event no later than the date 90 days thereafter.]

Section 4.20 *Further Assurances*

[The Company shall, and shall cause each Guarantor to, at its sole cost and expense, execute and deliver all agreements and instruments as the Collateral Agent or the Trustee shall reasonably request to more fully or accurately describe the property intended to be Collateral or the obligations intended to be secured by the Security Documents. In addition, the Company and the Guarantors shall execute any and all further documents, financing statements, agreements and instruments, and take all further action that may be required under applicable law, or that the Collateral Agent may reasonably request, in order to grant, preserve, protect and perfect the validity and priority of the security interests created or intended to be created by the Security Documents in the Collateral. The Company shall deliver or cause to be delivered to the Collateral Agent all such instruments and documents as the Collateral Agent shall reasonably request to evidence compliance with this Section 4.20.]

Section 4.21 *Real Estate Mortgages and Filings*

[With respect to any real property, other than Excluded Real Property, and or any Oil and Gas Properties (other than Excluded Assets), owned by the Company or a Domestic Subsidiary (other than Unrestricted Subsidiaries) on the Issue Date (individually and collectively, the "*Premises*") and with respect to any such Premises to be acquired by the Company or a Domestic Subsidiary (other than Unrestricted Subsidiaries) after the Issue Date:

(1) The Company shall deliver to the Collateral Agent, as mortgagee, fully executed counterparts of Mortgages, duly executed by the Company or the applicable Domestic Subsidiary, together with evidence of the completion (or satisfactory arrangements for the completion) of all recordings and filings of such Mortgage as may be necessary to create a valid, perfected Lien, subject to Permitted Liens, against the Premises (which shall include (a) not less than [__]% of the Company's Oil and Gas Properties, other than Excluded Assets, and (b) all pipeline rights-of-way and any other easements material to the business of the Company, other than Excluded Assets);

(2) The Company shall (i) with respect to fee owned real property subject to a Mortgage delivered pursuant to the immediately preceding paragraph, other than Oil and

Gas Properties, deliver to the Collateral Agent mortgagee's title insurance policies in favor of the Collateral Agent, as mortgagee for the ratable benefit of the Collateral Agent, the Trustee and the Holders in an amount equal to [__]% of the Fair Market Value of the Premises purported to be covered by the related Mortgage, insuring that title to such property is marketable and that the interests created by the Mortgage constitute valid Liens thereon free and clear of all Liens, defects and encumbrances other than Permitted Liens together with customary endorsements, coinsurance and reinsurance typical for the applicable jurisdiction and accompanied by evidence of the payment in full of all premiums thereon and (ii) with respect to Oil and Gas Properties subject to a Mortgage delivered pursuant to the immediately preceding paragraph, deliver or cause to be delivered to the Collateral Agent title opinions, reliance letters, and other title information which, as determined in good faith by the Company (such determination to be deemed certified by the Company to the Collateral Agent, upon which the Collateral Agent may exclusively rely) are consistent with usual and customary standards for the geographic regions in which the Oil and Gas Properties are located, taking into account the size, scope and number of leases and wells of the Company and its Domestic Subsidiaries and addressing Oil and Gas Properties representing not less than [__]% of the present value of the proved producing reserves of such properties;

(3) The Company shall deliver to the Collateral Agent, to the extent provided to any [Priority Lien Collateral Agent], with respect to each of the covered Premises, the most recent survey of such Premises prepared on behalf of the Company and certified in favor of the Trustee and the Collateral Agent (or a new survey with respect to any covered Premises for which a survey has not previously been prepared on behalf of the Company), together (with respect to existing surveys) with either (i) an updated survey certification in favor of the Trustee and the Collateral Agent from the applicable surveyor stating that, based on a visual inspection of the property and the knowledge of the surveyor, there has been no change in the facts depicted in the survey or (ii) with respect to real property other than Oil and Gas Properties, an affidavit from the Company and the Guarantors stating that there has been no change sufficient for the title insurance company to remove all standard survey exceptions and issue the customary endorsements;

(4) The Company shall deliver or cause to be delivered to the Collateral Agent, to the extent made available to any [Priority Lien Collateral Agent], with respect to each of the covered Premises, all abstracts of title, title reports or other title information conducted on behalf of the Company with respect to the Premises and any reserve reports relating to Hydrocarbon Interests attributable to or included in the Collateral; and

(5) The Company shall deliver an opinion(s) of approved counsel of the Company confirming that the Mortgages and Security Documents create a Lien, subject only to Permitted Liens, on all Collateral purported to be covered thereby, which shall be from local counsel or special regulatory counsel in each state where a Premises subject to a Mortgage is located covering the enforceability of the relevant Mortgages, and any other matters that are covered by any similar opinion delivered to the [Priority Lien Collateral Agent] that are not specific to the First Lien Obligations,

in each case, using commercially reasonable efforts to comply with the foregoing by the Issue Date but, in any event, no later than [90] days thereafter or, in the case of Premises acquired after the Issue Date, [90] days after such acquisition. In addition, the Company shall have a continuing obligation for so long as any of the Notes remain outstanding to deliver to the Collateral Agent (without duplication) title opinions in favor of the Collateral Agent, as mortgagee for the ratable benefit of the Collateral Agent, the Trustee and the Holders, for each of the Oil and Gas Properties (i) for which the Company obtains such a title opinion, (ii) on which a well is drilled or (iii) which first begins to produce Hydrocarbons at economic rates, in each case after the Issue Date. Such title opinions shall be delivered within [90] days of the occurrence of any of the events described in the immediately preceding sentence and, as determined by the Company in good faith and deemed certified to the Collateral Agent, shall be consistent with usual and customary standards for the geographic regions in which such Oil and Gas Properties are located, taking into account the size, scope and number of leases and wells of the Company and its Domestic Subsidiaries.]

Section 4.22 [*Leasehold Mortgages and Filings; Landlord Waivers*

The Company and each of its Domestic Subsidiaries (other than any Unrestricted Subsidiary) shall use commercially reasonable efforts to deliver Mortgages with respect to the Company's leasehold interests in any premises not considered Oil and Gas Properties that are material to the business taken as a whole (the "*Leased Premises*") and are occupied by the Company or such Domestic Subsidiary (other than any Unrestricted Subsidiary) pursuant to leases which may be mortgaged by their terms or the terms of the landlord consents (collectively, the "*Leases*," and individually, a "*Lease*"), in each case using commercially reasonable efforts to comply with the foregoing by the Issue Date but, in any event, no later than [90] days thereafter or, in the case of leasehold interests in Leased Premises acquired after the Issue Date, [90] days after such acquisition.

With respect to any leasehold Mortgage delivered pursuant to the immediately preceding paragraph, the Company or the applicable Subsidiary shall provide to the Collateral Agent, as mortgagee for the ratable benefit of the Collateral Agent, the Trustee and the Holders, all of the items described in clauses (2), (3) and (5) of Section 4.21 and in addition shall use their respective commercially reasonable efforts to obtain an agreement executed by the lessor under the Lease, whereby the lessor consents to the Mortgage and waives or subordinates its landlord Lien (whether granted by the instrument creating the leasehold estate or by applicable law), if any, and which shall be entered into by the Collateral Agent.

The Company and each of its Domestic Subsidiaries that is a lessee of, or becomes a lessee of, real property material to the business other than Oil and Gas Properties, is, and will be, required to use commercially reasonable efforts to deliver to the Collateral Agent a landlord waiver (to the extent not previously obtained), in the form reasonably acceptable to the Collateral Agent executed by the lessor of such real property; *provided* that if such lease is in existence on the Issue Date, the Company or its Domestic Subsidiary that is the lessee thereunder shall have [90] days from the Issue Date to satisfy such requirement or, if the Company or any of its Domestic Subsidiaries becomes such a lessee after the Issue Date, it shall have [90] days from the date of the creation of such lease to satisfy such requirement, in each case subject to its reasonable satisfaction of the form thereof.]

Section 4.23 [Reserved.]

Section 4.24 *PDPR Value Report*

[Not less than [90] days after the end of each fiscal quarter, the Company shall cause to be prepared and delivered to the Trustee together with an Officers' Certificate instructing the Trustee to deliver to the Holders (at the Company's expense) a PDPR Value Report. The Company is permitted to prepare and deliver to the Trustee together with an Officers' Certificate instructing the Trustee to deliver to the Holders (at the Company's expense) a PDPR Value Report at any time and as frequently as it desires.]

Section 4.25 [*Changes in Covenants when Notes Rated Investment Grade*

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

(1) the Notes are rated Baa3 or better by Moody's and BBB- or better by S&P (or, if either of but not both such entities ceases to rate the Notes for reasons outside of the control of the Company, the equivalent investment grade credit rating from any other "nationally recognized statistical rating organization" within the meaning of Rule 15c3-l(c)(2)(vi)(F) under the Exchange Act selected by the Company as a replacement agency); and

(2) no Default or Event of Default shall have occurred and be continuing,

then, beginning on that day and continuing at all times thereafter and subject to the provisions of Section 4.25(b), Sections 4.07 through 4.11, 4.16, 4.24 and 5.01(a)(4) hereof (collectively, the "*Suspended Covenants*") will be suspended. The Company shall promptly notify the Trustee of the effective date as of which Suspended Covenants have been suspended pursuant to this Section 4.25.

(b) During any period that the Suspended Covenants have been suspended, the Company may not designate any Unrestricted Subsidiaries pursuant to Section 4.17 unless they would have been able, under the terms of this Indenture, to designate such Subsidiaries as Unrestricted Subsidiaries if the Suspended Covenants were not suspended. Notwithstanding that the Suspended Covenants may be reinstated, the failure to comply with the Suspended Covenants during the Suspension Period (including any action taken or omitted to be taken with respect thereto) or after the Suspension Period based solely on events that occurred during the Suspension Period will not give rise to a Default or Event of Default under this Indenture.

(c) Notwithstanding subparagraphs (a) or (b) of this Section 4.25, if the rating assigned by either such rating agency should subsequently decline to below Baa3 or BBB-, respectively, the Suspended Covenants will be reinstituted as of and from the date of such rating decline (any such date, a "*Reversion Date*"). The period of time between the suspension of covenants as set forth in Section 4.25(a) above and the Reversion Date is referred to as the "*Suspension Period.*" All Indebtedness incurred (including Acquired Debt) and Disqualified Stock or preferred stock issued during the Suspension Period will be deemed to have been incurred or issued in reliance on the exception provided by clause (2) of the definition of "*Permitted Debt.*" Calculations under the reinstated Section 4.07 will be made as if Section 4.07

had been in effect prior to and during the period that Section 4.07 was suspended in accordance with paragraphs (a) and (b) of this Section 4.25, *provided* that any Restricted Payment made during the Suspension Period shall in no event reduce the amount of Restricted Payments permitted by Section 4.07(a) below zero; *provided*, *further*, for the sake of clarity, that no Default or Event of Default will be deemed to have occurred solely by reason of a Restricted Payment made while Section 4.07 was suspended. For purposes of determining compliance with Section 4.10, the Excess Proceeds from all Asset Sales not applied in accordance with Section 4.10 will be deemed to be reset to zero after the Reversion Date. In addition, during a Suspension Period, any future obligations to grant further Note Guarantees shall be released. Any such further obligations to grant Note Guarantees shall be reinstated upon the Reversion Date. The Company shall promptly notify the Trustee of the occurrence of any Reversion Date.

(d) In addition, without causing a Default or Event of Default, the Company and the Restricted Subsidiaries may honor any contractual commitments following a Reversion Date; *provided* that such contractual commitments were entered into during the Suspension Period and not in contemplation of a reversion of the Suspended Covenants.]

Section 4.26 *Payments for Consent*

The Company will not, and will not permit any of the Restricted Subsidiaries of the Company to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to be paid and is paid to all Holders.

ARTICLE 5

SUCCESSORS

Section 5.01 *Merger, Consolidation or Sale of Assets*

(a) The Company will not, directly or indirectly: (1) 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 Restricted 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, partnership or limited liability company organized or existing under the laws of the United States, any state of the United States or the District of Columbia and, if such entity is not a corporation, a co-obligor of the Notes is a corporation organized or existing under any such laws;

(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;

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

(4) the Company or the Person formed by or surviving any such consolidation or merger (if other than the Company), or to which such sale, assignment, transfer, conveyance, lease or other disposition has been made would, on the date of such transaction after giving *pro forma* effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, either (A) be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a) or (B) have a Fixed Charge Coverage Ratio that is equal to or greater than the Fixed Charge Coverage Ratio of the Company immediately prior to such transaction without giving *pro forma* effect to such transaction; and

(5) the Trustee has received an Opinion of Counsel and Officers' Certificate to the effect that such transaction complies with the foregoing.

(b) In addition, the Company will not, directly or indirectly, lease all or substantially all of the properties and assets of it and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to any other Person.

(c) This Section 5.01 will not apply to:

(1) a consolidation or merger of the Company with an Affiliate solely for the purpose of reincorporating the Company in another jurisdiction, changing the organizational form of the Company or both (*provided* that, if the Company is not a corporation, at all times there shall be at least one Guarantor of the Notes that is a corporation); or

(2) any consolidation or merger, or any sale, assignment, transfer, conveyance, lease or other disposition of assets between or among the Company and its Restricted Subsidiaries.

Section 5.02 *Successor 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 (if other than the Company) 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 (if other than the Company) 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 or Interest Make-Whole Premium, if any, on, the Notes;

(3) failure by the Company or any of the Restricted Subsidiaries of the Company to comply with the provisions of Section 4.10, 4.15, or 5.01 hereof;

(4) failure by the Company or any of the Restricted Subsidiaries of the Company for [60] days (or, for quarterly financial information or reports, as applicable, with respect to the first two succeeding fiscal quarters immediately following the Issue Date only, [90] days with respect to Section 4.03) 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 other agreements (other than clauses (1), (2) and (3) of this Section 6.01) in this Indenture;

(5) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of the Restricted Subsidiaries of the Company (or the payment of which is guaranteed by the Company or any of the Restricted Subsidiaries of the Company), whether such Indebtedness or guarantee now exists, or is created after the Issue Date, if that default:

(A) is caused by a failure to pay principal of, 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 Stated 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 $[5.0 million] or more;

(6) failure by the Company or any of the Restricted Subsidiaries of the Company to pay final and non-appealable judgments entered by a court or courts of competent jurisdiction aggregating in excess of $[5.0 million], net of amounts covered by (x) insurance for which the insurer thereof has been notified of such claim and has not challenged such coverage or (y) valid third party indemnifications for which the indemnifying party thereof has been notified of such claim and has not challenged such indemnification which judgments are not paid, waived, satisfied, discharged or stayed for a period of 60 days;

(7) except as permitted hereunder, any Note Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Guarantor, or any Person acting on behalf of any Guarantor, denies or disaffirms its obligations under its Note Guarantee;

(8) (A) any Security Document at any time for any reason shall cease to be in full force and effect in all material respects; (B) any Security Document ceases to give the Collateral Agent the Liens, rights, powers and privileges purported to be created thereby with respect to any Collateral having a Fair Market Value in excess of $[5.0 million], superior to and prior to the rights of all third Persons other than the holders of Permitted Liens and subject to no other Liens except as expressly permitted by the applicable Security Document or this Indenture; or (C) the Company, or any of the Guarantors, directly or indirectly, contests in any manner the effectiveness, validity, binding nature or enforceability of any Security Document; and

(9) the Company or any of the Restricted Subsidiaries of the Company that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case or proceeding;

(B) applies for or consents to the entry of an order for relief against it in an involuntary case or proceeding;

(C) applies for or 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; and

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

(A) is for relief against the Company or any of the Restricted Subsidiaries of the Company that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, in an involuntary case or proceeding;

(B) appoints a custodian of the Company or any of the Restricted Subsidiaries of the Company that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary for all or substantially all of the property of the Company or any of the Restricted Subsidiaries of the Company that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary; or

(C) orders the liquidation of the Company or any of the Restricted Subsidiaries of the Company that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary,

and the order or decree remains unstayed and in effect for [60] consecutive days.

Section 6.02 *Acceleration*

(a) In the event of a declaration of acceleration of the Notes because an Event of Default described in clause (5) of Section 6.01 has occurred and is continuing, the declaration of acceleration of the Notes shall be automatically annulled if the default triggering such Event of Default pursuant to clause (5) of Section 6.01 shall be remedied or cured by the Company or a Restricted Subsidiary or waived by the holders of the relevant Indebtedness within [30] days after the declaration of acceleration with respect thereto and if (x) the annulment of the acceleration of the Notes would not conflict with any judgment or decree of a court of competent jurisdiction and (y) all existing Events of Default, except nonpayment of principal, premium, if any, or interest (including any Interest Make-Whole Premium) on the Notes that became due solely because of the acceleration of the Notes, have been cured or waived.

(b) In the case of an Event of Default described in clauses (9) or (10) of Section 6.01 with respect to the Company, the Guarantors or any of the Restricted Subsidiaries of the Company that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary, all Note Obligations (including without limitation any Interest Make-Whole Premium) 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, by written notice to the Company (and to the Trustee if notice is given by the Holders), may declare all Note Obligations (including without limitation any Interest Make-Whole Premium) to be due and payable immediately.

Section 6.03 *Other Remedies*

(a) If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest (including any Interest Make-Whole Premium) on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

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

Section 6.04 *Waiver of Past Defaults*

The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may, on behalf of all the Holders, rescind an acceleration or waive any existing Default or Event of Default and its consequences under this Indenture except a continuing Default or Event of Default in the payment of interest or premium (including any Interest Make-Whole Premium), if any, on, or the principal of, the Notes, if such rescission or waiver would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of interest or premium, if any, on, or the principal of, the Notes, if any, that has become due solely because of the acceleration) have been cured or waived.

Section 6.05 *Control by Majority*

(a) Holders of a majority in aggregate principal amount of the then outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee, except as otherwise provided in this Indenture. 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 or that may involve the Trustee in personal liability.

(b) Subject to this Section 6.05 and Section 6.06, 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 notice of any continuing Default or Event of Default if it determines that withholding notice is in the Holders' interest, except a Default or Event of Default relating to the payment of principal, interest or premium, if any.

Section 6.06 *Limitation on Suits*

Subject to the provisions of this Indenture and the Security Documents relating to the duties of the Trustee and the Collateral Agent, in case an Event of Default occurs and is continuing, neither the Trustee nor the Collateral Agent will be under any obligation to exercise any of the rights or powers under this Indenture and the Security Documents at the request or direction of any Holders unless such Holders have offered to the Trustee or the Collateral Agent, as the case may be, reasonable indemnity or security satisfactory to it against any loss, liability or expense. Except to enforce the right to receive payment of principal, premium, if any, or interest (including any Interest Make-Whole Premium), if any, when due, no Holder may pursue any remedy under this Indenture or the Notes unless:

(1) such Holder has previously given the Trustee notice that an Event of Default is continuing;

(2) Holders of at least 25% in aggregate principal amount of the then outstanding Notes have requested the Trustee to pursue the remedy;

(3) such Holders have offered the Trustee security and/or indemnity reasonably satisfactory to it against any loss, liability or expense;

(4) the Trustee has not complied with such request within [60] days after the receipt of the request and the offer of security or indemnity; and

(5) Holders of a majority in aggregate principal amount of the then outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period,

provided, that no such Holder will have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb, or prejudice the rights of any other Holders (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

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

Notwithstanding any other provision of this Indenture or any Security Document, the right of any Holder to receive payment of principal of, and premium, if any, and interest (including any Interest Make-Whole Premium) on, such Note, to convert the Notes in accordance with Article 10 or to bring suit for the enforcement of any such payment 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, or such right to convert, vote or receive dividends or distributions with respect to Membership Interests, shall be absolute and unconditional and shall not be impaired or affected without the consent of such Holder; *provided* that a Holder shall not have the right to institute any such suit for the enforcement of payment if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, to the knowledge of such Holder, result in the surrender, impairment, waiver or loss of the Lien of this Indenture upon any property subject to such Lien under applicable law.

Section 6.08 *Collection Suit by Trustee*

If an Event of Default specified in clause (1) or (2) of Section 6.01 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 (including any Interest Make-Whole Premium) 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 Holders 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 pursuant to 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 pursuant to 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 or receives any money or property pursuant to this Article 6 or pursuant to any of the Security Documents, it shall pay out the money in the following order:

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

Second: to Holders for amounts due and unpaid on the Notes for principal, premium, if any, and interest (including any Interest Make-Whole Premium), 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 (including any Interest Make-Whole Premium), 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 pursuant to this Section 6.10.

Section 6.11 *Undertaking for Costs*

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit,

and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07 hereof, or a suit by Holders of more than [10]% in aggregate principal amount of the then outstanding Notes.

Section 6.12 *Delivery of Statements to the Trustee*

As provided in Section 4.04, the Company is required to deliver to the Trustee annually a statement regarding compliance with this Indenture. Upon becoming aware of any Default or Event of Default, the Company is required to deliver to the Trustee a statement specifying such Default or Event of Default.

Section 6.13 *Restoration of Rights and Remedies*

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

Section 6.14 *Rights and Remedies Cumulative*

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

Section 6.15 *Delay or Omission Not Waiver*

No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article 6 or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

ARTICLE 7

[TRUSTEE

Section 7.01 *Duties of Trustee*

(a) If an Event of Default has occurred and is continuing, the Trustee shall, with respect to the Notes, 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 man would exercise or use under the circumstances in the conduct of his own affairs.

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

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

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture, and shall be fully protected in acting or refraining from acting upon such certificates or opinions.

However, in the case of any such certificates or opinions which by any provisions of this Indenture are required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

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

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

(d) Whether or not therein expressly so provided, every provision of this Indenture or the Security Documents that in any way relates to the Trustee is subject to the provisions of this Section 7.01. No provision of this Indenture or the Security Documents shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture or any of the Security Documents at the request of any Holder, unless such Holder shall have offered to the Trustee security or indemnity satisfactory to it against any loss, liability or expense related to the exercise of such right or power or amounts due and unpaid to the Trustee hereunder.

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

(f) The Trustee shall not be deemed to have knowledge of any Default or Event of Default unless (i) the Trustee or a Responsible Officer shall have actual knowledge of a Default or an Event of Default, (ii) the Trustee or a Responsible Officer shall have received notice of a Default or an Event of Default in accordance with the provisions of this Indenture or (iii) a Default or an Event of Default occurred or is occurring pursuant to Section 4.01 hereof.

Section 7.02 *Rights of Trustee*

(a) The Trustee may conclusively rely, and shall be protected in acting or refraining from acting, upon any document or paper believed by it to be genuine and to have been signed or presented by the proper Person. Except as provided in Section 7.01(b), the Trustee need not investigate any fact or matter stated in the document or paper.

(b) Before the Trustee acts or refrains from acting, the Trustee may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care. The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture; provided, that the Trustee's conduct does not constitute willful misconduct or negligence.

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

(e) Notwithstanding anything in this Indenture or in any of the Security Documents to the contrary, the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture or any of the Security Documents at the request, order, demand or direction of any of the Holders unless such Holders shall have offered to the Trustee indemnity or security satisfactory to the Trustee against the costs, expenses and liabilities that might be incurred by it in compliance with such request, order, demand or direction and any amounts due and unpaid to the Trustee under this Indenture.

(f) Except with respect to Section 4.01, the Trustee shall have no duty to inquire as to the performance of the Company with respect to the covenants contained in Article 4. In addition, the Trustee shall not be deemed to have knowledge of any Default or Event of Default except (i) any Default or Event of Default occurring pursuant to Sections 4.01, 6.01(1) or 6.01(2) or (ii) any Default or Event of Default of which a Responsible Officer of the Trustee shall have received written notification or obtained actual knowledge.

(g) Delivery of reports, information and documents to the Trustee under Section 6.12 is for informational purposes only and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of their covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

The rights, privileges, protections, immunities and benefits given to the Trustee by the terms of this Indenture, including without limitation its rights to be reimbursed or indemnified, are extended to, and shall be enforceable by, the Trustee in all of its capacities under this Indenture and each of the Security Documents, and to each agent, custodian and other Person employed to act hereunder.

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; provided, however, in the event that the Trustee acquires any conflicting interest, the Trustee must (a) eliminate such conflict within 90 days, (b) if a registration statement with respect to the Notes is effective, apply to the Commission for permission to continue as Trustee or (c) resign as Trustee. 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 shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture, the Notes or the Security Documents, 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 or any of the Security Documents, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any Security Document or 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 an Event of Default occurs and is continuing and if it is actually known to a Responsible Officer of the Trustee, the Trustee shall mail to registered Holders of Notes as the names and addresses of such Holders appear upon the Notes Register a notice of the Default or Event of Default within [90] days after it occurs, unless such Default or Event of Default shall have been cured or waived before the giving of such notice. Except in the case of a Default or Event of Default in payment of principal of, premium, if any, or interest (including any Interest Make-Whole Premium) on any Note, the Trustee may withhold the notice if and so long as the Trustee 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*

Within [60] days after May 15 of each year commencing with the year 2017, and for so long as Notes remain outstanding, the Trustee shall mail to the registered Holders of the Notes a brief report dated as of such reporting date:

(a) that would comply with TIA §313(a) if this Indenture had been qualified under the TIA (but if no event described in TIA §313(a) has occurred within the 12 months preceding the reporting date, no report need be transmitted), and

(b) describing the character and amount of any advances made by it as such since the date of the last report transmitted pursuant to this Section 7.06 (or if no such report has yet been so transmitted, since the Issue Date), for the reimbursement of which it claims or may claim a lien or charge, prior to that of the Notes, on the trust estate or on property or funds held or collected by it as such trustee, and which it has not previously reported pursuant to this Section 7.06, if such advances remaining unpaid at any time aggregate more than 10 per centum of the principal amount of the Notes outstanding at such time, such report to be so transmitted within [90] days after such time.

A copy of each report at the time of its mailing to the Holders of Notes shall be mailed to the Company and filed with each stock exchange on which the Notes are listed, if any. The Company shall promptly notify the Trustee when the Notes are listed on any stock exchange.

Section 7.07 *Compensation and Indemnity*

The Company shall pay to the Trustee from time to time such compensation as shall be agreed in writing between the Company and the Trustee for its acceptance of this Indenture and all services rendered by it in any of its capacities under this Indenture (including as Collateral Agent hereunder and under any of the Security Documents including the Mortgages). The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee in any of its capacities under this Indenture (including as Collateral Agent hereunder and under any of the Security Documents including the Mortgages) promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in any capacity in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company shall indemnify the Trustee in any of its capacities under this Indenture, any of the Security Documents and any other document or transaction entered into in connection herewith or therewith (including as Collateral Agent under any of the Security Documents including the Mortgages) and its agents and any authenticating agent against any and all losses, liabilities or expenses incurred by them arising out of or in connection with the acceptance or administration of its duties under this Indenture or any such other document or transaction, including the costs and expenses of enforcing this Indenture against the Company (including this Section 7.07) and defending themselves against any claim (whether asserted by the Company or any Holder or any other person) or liability in connection with the exercise or performance of any of their powers or duties hereunder or under any such other document or transaction, except to the extent any such loss, liability or expense is determined by a court of competent jurisdiction in a final non-appealable decision to have been caused by gross negligence or willful misconduct

on the part of the Trustee, its officers, directors, agents or employees, or such agent or authenticating agent, as the case may be. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder (except to the extent such failure prejudices the Company). The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel, and the Company shall pay the reasonable fees and expenses of one such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. The indemnification provided in this Section 7.07 shall extend to the officers, directors, agents and employees of the Trustee in any of its capacities.

The obligations of the Company under this Section 7.07 shall constitute Note Obligations and shall survive the satisfaction and discharge of this Indenture, the resignation or removal of the Trustee or the Collateral Agent and any rejection or termination of this Indenture under any Bankruptcy Law.

To secure the Company's payment obligations in this Section 7.07, the Trustee in all of its capacities hereunder and under each of the Security Documents shall have a Lien (which Lien shall be a Permitted Lien) prior to the Notes on all money or property held, received or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture, the resignation or removal of the Trustee and any rejection or termination of this Indenture under any Bankruptcy Law.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(9) or (10) 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.

Section 7.08 *Replacement of Trustee*

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

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 Notes 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:

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

(b) 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;

(c) a Custodian or public officer takes charge of the Trustee or its property; or

(d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. 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.

If a successor Trustee does not deliver a written acceptance of its appointment to the retiring Trustee and to the Company within [30] days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of Notes 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.

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

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders of the Notes. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee; provided, all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 hereof shall 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 shall be the successor Trustee; provided, that such corporation shall be otherwise qualified and eligible under this Article 7, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Notes shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes. In the event that any Notes shall not have been authenticated by such predecessor Trustee, any such successor Trustee may authenticate and deliver such Notes, in either its own name or that of its predecessor Trustee, with the full force and effect which this Indenture provides for the certificate of authentication of the Trustee.

Section 7.10 *Eligibility; Disqualification*

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination

by federal or state authorities and that has a combined capital and surplus (with its affiliates) of at least $[100.0 million] as set forth in its most recent published annual report of condition.

If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 7.10, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. None of the Company or any of its Affiliates shall serve as Trustee hereunder. If at any time the Trustee shall cease to be eligible to serve as Trustee hereunder pursuant to the provisions of this Section 7.10, it shall resign immediately in the manner and with the effect specified in this Article 7.

This Indenture shall always have a Trustee who satisfies the requirements of TIA §310(a)(1), (2) and (5).

Section 7.11 *Preferential Collection of Claims Against Company*

If and when the Trustee shall become a creditor of the Company (or any other obligor under the Notes), the Trustee shall be subject to the requirements of TIA §311(a) regarding the collection of claims against the Company or any Guarantor (or any such other obligor) as if this Indenture had been qualified under the TIA, excluding any creditor relationship listed in TIA §311(b). A Trustee who has resigned or been removed shall still be subject to the requirements of TIA §311(a) to the extent indicated therein.]

ARTICLE 8

LEGAL DEFEASANCE AND COVENANT DEFEASANCE[4]

Section 8.01 *Option to Effect Legal Defeasance and Covenant Defeasance*

The Company may at any time, at the option of the Board of Directors of the Company 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 pursuant to Section 8.01 hereof of the option applicable to this Section 8.02, the Company and each of the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04, be deemed to have been discharged from all of their obligations with respect to all outstanding Notes (including the Note Guarantees) on the date the conditions set forth in this Section 8.02 and Section 8.04 hereof are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Company and the Guarantors will be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes (including the Note Guarantees), which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this

[4] NTD: To be revised to include references to conversion.

Indenture referred to in clauses (1) and (2) of this Section 8.02, and to have satisfied all their other obligations under such Notes, the Note Guarantees and this Indenture (and the Trustee, on demand of and at the expense of the 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(1);

(2) the Company's obligations with respect to the Notes under Sections 2.03, 2.04, 2.05, 2.07, 2.10 and 4.02;

(3) the rights, powers, trusts, duties and immunities of the Trustee and the Collateral Agent, including, without limitation, Sections 7.07, 8.05 and 8.07, and the Company's and the Guarantors' obligations in connection therewith; and

(4) this Article 8.

The Company and the Guarantors may terminate the obligations under this Indenture and the Security Documents (a "*Discharge*") when:

(1) either: (A) all Notes theretofore authenticated and delivered have been delivered to the Trustee for cancellation, or (B) all such Notes not theretofore delivered to the Trustee for cancellation (i) have become due and payable or (ii) will become due and payable within one year or are to be called for redemption within one year under irrevocable arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company, and the Company has irrevocably deposited or caused to be deposited with the Trustee funds in an amount sufficient to pay and discharge the entire indebtedness on the Notes, not theretofore delivered to the Trustee for cancellation, for principal of, premium, if any, and interest to the Stated Maturity or date of redemption;

(2) the Company has paid or caused to be paid all other sums then due and payable under this Indenture by the Company;

(3) the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound;

(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; and

(5) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent under this Indenture relating to the Discharge have been complied with.

Section 8.03 *Covenant Defeasance*

Upon the Company's exercise pursuant to Section 8.01 hereof of the option applicable to this Section 8.03, the Company and each of the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04, be released from each of their obligations under Section 4.03, Sections 4.07 through 4.13, Sections 4.15 through 4.24 and Section 5.01(a)(4) hereof with respect to the outstanding Notes and be released from the Note Guarantees 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 and Note Guarantees, the Company and the Guarantors may omit to comply with and will have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply will not constitute a Default or an Event of Default pursuant to Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes and Guarantees will be unaffected thereby. In addition, upon the Company's exercise pursuant to 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) through 6.01(8) 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 Section 8.02 or 8.03 hereof, respectively:

(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 of cash in U.S. dollars and non-callable Government Securities, in 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, or interest and premium, if any, on, the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the 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 pursuant to Section 8.02 hereof, the Company must deliver to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that:

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

(B) since the Issue Date, there has been a change in the applicable federal income tax law,

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

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

(4) (A) 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 or the grant of any Lien securing such borrowing) and (B) the deposit will not result in a breach or violation of, or constitute a default under, any other material agreement or instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound;

(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, the Notes and the Note Guarantees) 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 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 (a) an Officers' Certificate stating that all conditions precedent set forth in clauses (1) through (6) (as applicable) have been complied with and (b) an Opinion of Counsel stating that all conditions precedent set forth in clauses (2), (3), (4)(B) and (5) have been complied with.

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

(a) Subject to Section 8.06 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.

(b) 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 that by law is for the account of the Holders of the outstanding Notes.

(c) 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 investment bank, appraisal firm or firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered pursuant to 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 the 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 (including any Interest Make-Whole Premium) 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 their 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 make any payment of principal of, premium, if any, or interest on, any Note following the reinstatement of their

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*

(a) Notwithstanding Section 9.02 hereof, without the consent of any Holder, the Company, the Guarantors and the Trustee or the Collateral Agent, as the case may be, may amend or supplement this Indenture, the Note Guarantees, the Notes or any of the Security Documents:

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

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

(3) to provide for the assumption of the Company's or a Guarantor's obligations to Holders of Notes and Note Guarantees in the case of a merger or consolidation or sale of all or substantially all of the Company's or such Guarantor's assets, as applicable;

(4) to make any change that would provide any additional rights or benefits to the Holders or that does not materially adversely affect the legal rights under this Indenture or any Security Document of any such Holder;

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

(6) to provide for the issuance of any Note Guarantees in accordance with the limitations set forth in this Indenture;

(7) to allow any Guarantor or any direct or indirect parent company of the Company to execute a supplemental indenture or a Note Guarantee with respect to the Notes and to release any Guarantor or such parent company from its Note Guarantee in accordance with the terms of this Indenture or any of the Security Documents;

(8) [to make, complete or confirm any grant of Collateral permitted or required by this Indenture or any of the other Security Documents or any release of Collateral that becomes effective as set forth in this Indenture or any of the other Security Documents, as applicable];

(9) if necessary, in connection with any addition or release of Collateral permitted under the terms of this Indenture or the Security Documents;

(10) to evidence or provide for the acceptance of appointment under this Indenture or the Security Documents of a successor trustee or collateral agent;

(11) to comply with the rules of any applicable securities depositary;

(12) to provide for the succession of any parties to the Security Documents (and other amendments that are administrative or ministerial in nature) in connection with an amendment, renewal, extension, substitution, refinancing, restructuring, replacement, supplement or other modification from time to time of the Credit Agreement or any other agreement that is not prohibited by this Indenture;

(13) to make any amendment to the provisions of this Indenture relating to the transfer and legending of the Notes as permitted by this Indenture, including, without limitation, to facilitate the issuance and administration of the Notes; *provided, however*, that (i) compliance with this Indenture as so amended would not result in the Notes being transferred in violation of the Securities Act or any applicable securities laws and (ii) such amendment does not adversely affect the rights of Holders;

(14) to make any amendment to the provisions of Article 10 with respect to the conversion rights of the Holders that do not affect the substance of such provisions.

(b) Upon the request of the Company accompanied by a resolution of the Board of Directors of the Company authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Sections 7.02 and 9.06 hereof, the Trustee will join with the Company and the Guarantors 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.

(c) In addition to the foregoing, Holders, by the acceptance of any Notes, shall be deemed to agree that the Security Documents may be amended without the consent of any Holder to the extent required by the [Intercreditor Agreement or the] Collateral Trust Agreement.

Section 9.02 *With Consent of Holders of Notes*

(a) Except as provided below in this Section 9.02, this Indenture or the Notes or the Note Guarantees or the Security Documents may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), and any existing Default or Event of Default or compliance with any provision of this Indenture or the Notes or the Note Guarantees or the Security Documents may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes).

(b) Upon the request of the Company accompanied by a resolution of the Board of Directors of the Company 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 as aforesaid, and upon receipt by the Trustee of the documents described in Sections 7.02 and 9.06 hereof, the Trustee will join with the Company and the Guarantors 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.

(c) The consent of the Holders is not necessary under this Section 9.02 to approve the particular form of any proposed amendment, supplement, waiver or consent, but it is sufficient if such consent approves the substance of the proposed amendment, supplement, waiver or consent.

(d) After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company will mail to the Holders 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 the Note Documents. However, without the consent of each Holder affected thereby, 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 (other than provisions relating to Section 3.09, 4.10, or 4.15 hereof);

(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 (including any Interest Make-Whole 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 currency 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 to receive payments of principal of, or interest or premium (including any Interest Make-Whole Premium), if any, on, the Notes;

(7) waive a redemption payment with respect to any Note (other than a payment required by Section 4.10, or 4.15 hereof);

(8) release any Guarantor from any of its obligations under its Note Guarantee or this Indenture, except in accordance with the terms of this Indenture;

(9) [make any change in the ranking or priority of the Notes that would be adverse to the Holders;]

(10) [eliminate the right of Holders to convert the Notes into Equity Interests]; or

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

(e) [In addition, any amendment to, or waiver of, the provisions of this Indenture or any Security Document that has the effect of releasing all or substantially all of the Collateral from the Liens securing the Notes or subordinating Liens securing the Notes (except as permitted by the terms of this Indenture and the Security Documents) will require the consent of the Holders of at least [75]% in aggregate principal amount of the Notes then outstanding.]

(f) [In addition, any amendment or supplement under this Section 9.02 that adversely affects the conversion rights provided in Article 10 will require the consent of the Holders of at least [66]% in aggregate principal amount of the Notes then outstanding.]

Section 9.03 *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 such Note and every subsequent Holder of such Note or portion of such 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 such 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 9.04 *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 9.05 *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. 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 14.02 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 and that such supplemental indenture is a legal, valid and binding obligation of the Company (and the Guarantors, if applicable) enforceable in accordance with its terms.

Section 9.06 *Compliance with Trust Indenture Act*

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

ARTICLE 10

CONVERSION[5]

Section 10.01 *Voluntary Conversion Privilege*

Subject to the provisions of this Indenture, a Holder of a Note shall have the right, at such Holder's option, at any time prior to the close of business on the Business Day immediately preceding [_____], 2021, to voluntarily convert such Note (together with any accrued and unpaid interest thereon, the Interest Make-Whole Premium with respect thereto, if any, and any paid in kind interest), but not including, the Conversion Date, into Membership Interests at any time.

(a) [5] NTD: Article 10 and related Indenture provisions are subject to revision The Company will furnish to the Collateral Agent and the Trustee on or within one month of May 15 in each year beginning with the May 15 following the date of this Indenture, an Opinion of Counsel either:

(1) (A) stating that, in the opinion of such counsel, action has been taken with respect to the recording, registering, filing, re-recording, re-registering and re-filing of all supplemental indentures, mortgages, financing statements, mortgage reinscriptions, continuation statements or other instruments of further assurance as is necessary to maintain the Lien of the Security Documents and reciting with respect to the security interests in the Collateral the details of such action or referring to prior Opinions of Counsel in which such details are given, and (B) stating that, in the opinion of such counsel, based on relevant laws as in effect on the date of such Opinion of Counsel, all mortgages, mortgage reinscriptions, financing statements and continuation statements have been filed that are necessary as of such date and during the succeeding 12 months to fully preserve and protect, to the extent such protection and preservation are possible by filing, the rights of the Holders and the Collateral Agent and the Trustee hereunder and under the Security Documents with respect to the security interests in the Collateral; or

(2) stating that, in the opinion of such counsel, no such action is necessary to maintain such Lien and assignment.

The Company will otherwise comply with the provisions of TIA §314(b)..

The number of Membership Interests issuable upon conversion of a Note shall be determined by dividing the sum of (x) principal amount of the Note or portion thereof surrendered for conversion (including all principal (including all interest that has been previously paid in kind by increasing the principal amount of such Note)), *plus* the amount of any accrued and unpaid interest thereon to, but not including, the Conversion Date, (z) plus any Interest Make-Whole Premium with respect to such Note by the Conversion Price in effect on the Conversion Date. In the event that a conversion of a Note results in fractional Membership Interests, the Company may, at its option, issue such fractional units or pay cash in lieu of issuing such fractional units (such cash payment to be equal to the product of (x) such fraction of a share of Membership Interests and (y) the Closing Sale Price of a share of Membership Interests on the applicable Conversion Date).

A Note in respect of which a Holder has exercised the option of such Holder to require the Company to repurchase such Note pursuant to a Change of Control Offer may be converted only if such Holder withdraws such Note from such Change of Control Offer in accordance with the terms of such Change of Control Offer and complies in respect of such Note with the conversion procedures specified in Section 10.02.

Upon conversion of any Note, (i) a Holder shall not receive any additional cash or PIK Interest Payment for accrued and unpaid interest, if any and (ii) no adjustment to the Conversion Price or the Conversion Rate for dividends for such Note shall be made to account for accrued and unpaid interest.

Section 10.02 *Conversion Procedure*

To convert a Note, a Holder must satisfy the requirements of the Note and (i) complete and manually sign the conversion notice on the back of the Note and deliver such notice to the Conversion Agent, (ii) surrender the Note to the Conversion Agent, (iii) furnish appropriate endorsements and transfer documents if required by the Registrar or the Conversion Agent, (iv) complete and manually sign, or, if such Holder requests that Membership Interests be issued in a name other than such Holder's name, cause such other Person to complete and manually sign, a Joinder Agreement and deliver such Joinder Agreement to the Company, and (v) pay any transfer or other tax, if required by Section 10.04; *provided*, *however*, if the Note is held in book-entry form such Holder must surrender the Note to the Conversion Agent, and complete and deliver to the Depositary appropriate instructions pursuant to the Depositary's book-entry conversion programs, if applicable. The date on which the Holder satisfies all of the foregoing requirements is the "Conversion Date". As soon as practicable, but in no event more than [three (3)] Business Days after the Conversion Date, the Company shall deliver to the Holder a book-entry notation of the number of whole Membership Interests issuable upon the conversion.

The Person in whose name the Note is registered that is duly converted as provided herein shall be deemed to be a holder of record of the Membership Interests receivable upon conversion on the Conversion Date.

In the event any Notes are converted, the Conversion Rate and the Conversion Price shall be calculated by the Company and communicated to the Holders, the Trustee and Conversion Agent in the form of an Officer's Certificate.

If a Holder converts more than one Note at the same time, the number of Membership Interests issuable upon the conversion shall be based on the aggregate principal amount of, and accrued and unpaid interest on, all Notes converted by such Holder.

Upon surrender of a Note that is converted in part, the Company shall execute, and the Trustee shall, upon receipt of an Authentication Order, authenticate and deliver to the Holder, a new Note equal in principal amount to the unconverted portion of the principal amount of the Note surrendered.

Section 10.03 *Adjustments Below Par Value*

Before taking any action which would cause an adjustment decreasing the Conversion Price so that the Membership Interests issuable upon conversion of the Notes would be issued for less than the par value of such Membership Interests, the Company will take all limited liability company action which may be necessary in order that the Company may validly and legally issue fully paid and non-assessable Membership Interests at such adjusted Conversion Price.

Section 10.04 *Taxes on Conversion*

Upon conversion of a Note, the Company shall pay any documentary, stamp or similar issue or transfer tax due on the issue of Membership Interests upon such conversion. However, the Holder shall pay any such tax which is due because the Holder requests the Membership Interests to be issued in a name other than the Holder's name. The Company may refuse to deliver the certificates representing the Membership Interests being issued in a name other than the Holder's name until the Company receives a sum sufficient to pay any tax which will be due because the Membership Interests are to be issued in a name other than the Holder's name. Nothing herein shall preclude any tax withholding required by law or regulations.

Section 10.05 *Company to Provide Membership Interests*

The Company shall from time to time as may be necessary, reserve, out of its authorized but unissued Membership Interests a sufficient number of Membership Interests to permit the conversion of all outstanding Notes and accrued and unpaid interest thereon for Membership Interests.

The Company covenants that all Membership Interests delivered upon conversion of the Notes shall be newly issued Membership Interests, shall be duly authorized, validly issued, fully paid and non-assessable and shall be free from preemptive rights and free of any lien or adverse claim.

The Company will endeavor promptly to comply with all federal and state securities laws regulating the offer and delivery of Membership Interests upon conversion of Notes, if any, and will list or cause to be approved for listing or included for quotation, as the case may be, such Membership Interests on each national securities exchange or in the over-the-counter market or such other market on which the Membership Interests are then listed or quoted, if any.

Section 10.06 *Adjustment of Conversion Rate*

Subject to Section 10.07, the Conversion Rate shall be adjusted from time to time by the Company if any of the following events occurs:

(a) If the Company, at any time or from time to time while any of the Notes are outstanding, issues Membership Interests as a dividend or distribution on Membership Interests, or if the Company effects a share split or share combination involving only Membership Interests (other than a dividend, distribution, share split or share combination to which Section 10.12 applies), then the Conversion Rate will be adjusted based on the following formula:

$$CR' = \frac{CR_0 \times OS'}{OS_0}$$

where

CR_0 = the Conversion Rate in effect immediately prior to the opening of business on (x) the day after the Record Date of such dividend or distribution or (y) the effective date of such share split or share combination, as applicable;

CR' = the Conversion Rate in effect immediately after the opening of business on (x) the day after such Record Date or (y) the effective date of such share split or share combination, as applicable;

OS_0 = the number of Membership Interests outstanding immediately prior to (x) the opening of business on the day after such Record Date or (y) the time at which such share split or share combination becomes effective on such effective date, as applicable; and

OS' = the number of Membership Interests outstanding immediately after giving effect to such dividend, distribution, share split or combination, as applicable.

Such adjustment shall become effective immediately after the opening of business on the day following (x) the Record Date for such dividend or distribution, or (y) the effective date of such share split or share combination, as applicable. If any dividend or distribution of the type described in this Section 10.06(a) is declared but not so paid or made, the Conversion Rate shall again be adjusted to the Conversion Rate which would then be in effect if such dividend or distribution had not been declared.

(b) If the Company, at any time or from time to time while any of the Notes are outstanding, issues to all holders of Membership Interests any rights, options or warrants entitling them for a period of not more than 60 calendar days to subscribe for or purchase Membership Interests at a price per share less than the Closing Sale Price per Membership Interest on the Trading Day immediately prior to the date of announcement of such issuance, the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{OS^1 + X}{OS^1 + Y}$$

where

CR_0 = the Conversion Rate in effect immediately prior to the open of business on the day after the Record Date for such issuance;

CR' = the Conversion Rate in effect immediately after the open of business on the day after the Record Date for such issuance;

OS^1 = the number of Membership Interests outstanding immediately prior to the open of business on the day after the Record Date for such issuance;

X = the total number of Membership Interests issuable pursuant to such rights, options and warrants (the "Underlying Shares"); and

Y = the number of Membership Interests equal to (i) the aggregate exercise price payable to exercise such rights, options or warrants divided by (ii) the Closing Sale Price per Membership Interest on the Trading Day immediately prior to the date of announcement for such issuance.

Any adjustment pursuant to this Section 10.06(b) shall become effective immediately after the open of business on the day following the Record Date for such issuance.

To the extent such rights, options or warrants are not fully exercised prior to their expiration or termination, the Conversion Rate shall be readjusted to the Conversion Rate which would then be in effect had the adjustments made upon the issuance of such rights, options or warrants been made on the basis of the delivery of only the number of Membership Interests actually delivered. In the event that such rights, options or warrants are not so issued, the Conversion Rate shall again be adjusted to be the Conversion Rate which would then be in effect if the date fixed for the determination of stockholders entitled to receive such rights, options or warrants had not been fixed. In determining whether any rights, options or warrants entitle the holders to subscribe for or purchase Membership Interests at less than the Closing Sale Price per Membership Interest on the Trading Day immediately prior to the date of announcement for an issuance, and in determining the aggregate offering price of such Membership Interests, there shall be taken into account any consideration received for such rights, options or warrants and the value of such consideration, if other than cash, as shall be determined in good faith by the Board of Directors.

For the purposes of this Section 10.06(b), rights, options or warrants distributed by the Company to all holders of Membership Interests entitling them to subscribe for or purchase units of the Company's Capital Stock (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events (a "*Trigger Event*"): (i) are deemed to be transferred with such Membership Interests; (ii) are not exercisable; and (iii) are also issued in respect of future issuances of Membership Interests, shall be deemed not to have been distributed for purposes of this Section 10.06(b) and Section 10.6(e) (and no adjustment to the Conversion Rate under this Section 10.06(b) or Section 10.6(e) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options and warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 10.06(b).

(c) If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for Membership Interests, to the extent that the cash and fair market value (as determined by the Board of Directors) of any other consideration included in the payment per Membership Interest exceeds the Closing Sale Price per Membership Interest on the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{AC + (SP' \times OS')}{OS_o \times SP'}$$

CR_0 = the Conversion Rate in effect at the close of business on the date the tender or exchange offer expires;

CR' = the Conversion Rate in effect immediately prior to the opening of business on the Trading Day next succeeding the date the tender or exchange offer expires;

AC = the aggregate value of all cash and fair market value (as determined by the Board of Directors) of any other consideration paid or payable for Membership Interests purchased in such tender or exchange offer;

OS_0 = the number of Membership Interests outstanding immediately prior to close of business on the date such tender or exchange offer expires (prior to giving effect to the purchase or exchange of all Membership Interests accepted for purchase or exchange in such tender or exchange offer);

OS' = the number of Membership Interests outstanding immediately after the close of business on the date such tender or exchange offer expires (after giving effect to the purchase or exchange of shares of Membership Interests accepted for purchase or exchange in such tender or exchange offer); and

SP' = the Closing Sale Price per Membership Interest on the Trading Day next succeeding the date such tender or exchange offer expires.

The adjustment to the Conversion Rate under this Section 10.06(c) shall become effective immediately prior to the opening of business on the Trading Day next succeeding the date such tender or exchange offer expires.

If the Company is obligated to purchase shares pursuant to any such tender or exchange offer, but the Company is permanently prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such tender or exchange had not been made.

(d) If any cash dividend or distribution is made to all or substantially all holders of the Membership Interests, the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{SP_0}{}$$

$$\frac{}{SP_0 - C}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the open of business on the Record Date for such dividend or distribution;

CR' = the Conversion Rate in effect immediately after the open of business on the Record Date for such dividend or distribution;

SP_0 = the Closing Sale Price of the Membership Interests on the Trading Day immediately preceding the Record Date for such dividend or distribution; and

C = the amount in cash per Membership Interest the Company distributes to all or substantially all holders of the Membership Interests.

Any increase pursuant to this Section 10.06(d) shall become effective immediately after the open of business on the Record Date for such dividend or distribution. If such dividend or distribution is not so paid, the Conversion Rate shall be decreased, effective as of the date the Board of Directors determines not to make or pay such dividend or distribution, to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared. Notwithstanding the foregoing, if "C" (as defined above) is equal to or greater than "SP_0" (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, for each $[1,000] principal amount of Notes it holds, at the same time and upon the same terms as holders of the Membership Interests, the amount of cash that such Holder would have received if such Holder owned a number of Membership Interests equal to the Conversion Rate immediately prior to the open of business on the Record Date for such cash dividend or distribution.

(e) If the Company distributes shares of its Capital Stock, evidences of its indebtedness, other assets or property of the Company or rights, options or warrants to acquire its Capital Stock or other securities, to all or substantially all holders of the Membership Interests, excluding (i) dividends, distributions or issuances of rights, options or warrants as to which an adjustment was effected pursuant to Section 10.06(a) or Section 10.06(b), (ii) dividends or distributions paid exclusively in cash as to which an adjustment was effected pursuant to Section 10.06(d), (iii) Spin-Offs as to which the provisions set forth below in this Section 10.06(e) shall apply and (iv) a distribution upon a reclassification, change, consolidation, combination, merger, share exchange, sale or conveyance as to which Section 10.12 applies (any of such shares of Capital Stock, evidences of indebtedness, other assets or property or rights, options or warrants to acquire Capital Stock or other securities, the "*Distributed Property*"), then the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the open of business on the day after the Record Date for such distribution;

CR' = the Conversion Rate in effect immediately after the open of business on the day after the Record Date for such distribution;

SP_0 = the Closing Sale Price of the Membership Interests on the Trading Day immediately preceding the Record Date for such distribution; and

FMV = the fair market value (as determined by the Board of Directors) of the Distributed Property with respect to each outstanding Membership Interest on the Record Date for such distribution.

Any increase made under the portion of this Section 10.06(e) above shall become effective immediately after the open of business on the day after the Record Date for such distribution. If such distribution is not so paid or made, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect if such distribution had not been declared. Notwithstanding the foregoing, if "FMV" (as defined above) is equal to or greater than "SP_0" (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, in respect of each $[1] principal amount of Notes it holds, at the same time and upon the same terms as holders of the Membership Interests receive the Distributed Property, the amount and kind of Distributed Property such Holder would have received if such Holder owned a number of Membership Interests equal to the Conversion Rate in effect immediately prior to the open of business on the Record Date for such distribution.

With respect to an adjustment pursuant to this Section 10.06(e) where there has been a payment of a dividend or other distribution on the Membership Interests of Equity Interests of any class or series, or similar equity interest, of or relating to any Subsidiaries or other business units of the Company, that are, or, when issued, will be, listed or admitted for trading on a U.S. national securities exchange (a "*Spin-Off*"), the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the end of the open of business on the day after the Record Date for such Spin-Off;

CR' = the Conversion Rate in effect immediately after the open of business on the day after the Record Date for such Spin-Off;

FMV^0 = the average of the Closing Sale Prices of the Capital Stock or similar equity interest distributed to holders of the Membership Interests applicable to one Membership Interest (determined by reference to the definition of Closing Sale Price as set forth in Section 1.01 as if references therein to Membership Interests were to such Capital Stock or similar equity interest) over the first 10 consecutive Trading Day period after, and including, the effective date of the Spin-Off (the "Valuation Period"); and

MP_0 = the average of Closing Sale Prices of the Membership Interests over the Valuation Period.

The increase to the Conversion Rate under the preceding paragraph be determined in the last Trading Day of the Valuation Period, with effect immediately after the open of business on the day after the Record Date for such Spin-Off; provided, that if the relevant Conversion Date occurs during the Valuation Period, solely as to such Note, the reference to "10" in the preceding paragraph shall be deemed replaced with such lesser number of Trading Days as have elapsed between the effective date for such Spin-Off and such Conversion Date in determining the Conversion Rate. If the distribution constituting such Spin-Off is not paid or made, the Conversion Rate shall be decreased to be the Conversion Rate that would then be in effect if such distribution had not been declared.

(f) All calculations under this Article 10 shall be made by the Company in good faith.

(g) For purposes of this Section 10.06, the number of Membership Interests at any time outstanding shall not include shares held in the treasury of the Company so long as the Company does not pay any dividend or make any distribution on Membership Interests held in the treasury of the Company, but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of Membership Interests.

(h) Notwithstanding the foregoing, if the application of the foregoing formulas would result in a decrease in the Conversion Rate (other than as a result of a reverse stock split or a stock combination), no adjustment to the Conversion Rate (or the Conversion Price) shall be made.

(i) In any case in which Sections 10.06(a), 10.06(b), 10.06(d) or 10.06(e) shall require that an increase in the Conversion Rate be made effective prior to the occurrence of a specified event and any Note is converted after the time at which the adjustment became effective but prior to the occurrence of such specified event, the Company may elect to defer until the occurrence of such specified event (A) the issuance to the Holder of such Note (or other Person entitled thereto) of, and the registration of such Holder (or other Person) as the record holder of, the Membership Interests over and above the Membership Interests issuable upon such conversion on the basis of the number of Membership Interests obtainable upon conversion of such Note immediately prior to such adjustment and (B) the corresponding increase in the Conversion Rate; provided, however, that the Company shall deliver to such Holder or other person a due bill or other appropriate instrument that meet any applicable requirements of the principal national securities exchange or other market on which the Membership Interests are then traded and evidences the right of such Holder or other Person to receive, and to become the record holder of, such additional Membership Interests, upon the occurrence of such specified event requiring such adjustment (without payment of any amount in respect of such additional shares).

Section 10.07 *No Adjustment*

(a) No adjustment to the Conversion Rate (or the Conversion Price) will be required unless the adjustment would require an increase or decrease of at least [1]% of the Conversion Rate; *provided, however*, if the adjustment is not made because the adjustment does not change the Conversion Rate by at least [1]%, then the adjustment that is not made will be carried forward and taken into account in any future adjustment; provided, further, however, that such adjustment will be made upon any conversion of the Notes with respect to the Notes being converted. All calculations under this Article 10 will be made to the nearest cent or to the nearest 1/1,000th of a Membership Interest, as the case may be.

(b) No adjustment to the Conversion Rate shall be made pursuant to Section 10.06 if the Holders of the Notes participate in the transaction (solely as a result of holding Notes and in no other capacity) that would otherwise give rise to an adjustment pursuant to Section 10.06 without having to convert their Notes.

(c) Notwithstanding anything to the contrary in this Article 10, no adjustment to the Conversion Rate (or the Conversion Price) shall be made:

(1) upon the issuance of any Membership Interests pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in Membership Interests under any plan;

(2) upon the issuance of any Membership Interests or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any of its Subsidiaries;

(3) upon the issuance of any Membership Interests pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in clause (2) above outstanding as of the Issue Date;

(4) for a change in the par value of the Membership Interests or a change to no par value of the Membership Interests; or

(5) for accrued and unpaid interest.

Section 10.08 *Equivalent Adjustments*

In the event that, as a result of an adjustment made pursuant to Section 10.12 below, the Holder of any Note thereafter surrendered for conversion shall become entitled to receive any substituted shares of Capital Stock of the Company other than Membership Interests, thereafter the Conversion Rate (and the Conversion Price) for such other shares so receivable upon conversion of any Notes shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to Membership Interests contained in this Article 10.

Section 10.09 *Adjustment for Tax Purposes*

The Company shall be entitled to make such increases in the Conversion Rate (and resulting reductions in the Conversion Price), in addition to any adjustments made pursuant to Section 10.06, as the Board of Directors considers to be advisable in order that any stock dividends, subdivision of shares, distribution of rights to purchase stock or securities, or a distribution of securities convertible into or exchangeable for Membership Interests or other Capital Stock hereafter made by the Company to its stockholders shall not be taxable or such tax shall be diminished.

Section 10.10 *Notice of Adjustment*

Whenever the Conversion Rate (or the Conversion Price) is adjusted, the Company shall promptly file with the Trustee and any Conversion Agent an Officer's Certificate setting forth the Conversion Rate and the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee and the Conversion Agent shall have received such Officer's Certificate at the Corporate Trust Office of the Trustee, neither the Trustee nor the Conversion Agent shall be deemed to have knowledge of any adjustment of the Conversion Rate and the Conversion Price and may assume without inquiry that the last Conversion Rate and Conversion Price of which it has knowledge are still in effect. Promptly after delivery of such Officer's Certificate, the Company shall prepare a notice of such adjustment of the Conversion Rate and the Conversion Price setting forth the adjusted Conversion Rate and the adjusted Conversion Price and the date on which each adjustment becomes effective and shall send such notice of such adjustment of the Conversion Rate and the Conversion Price to each Holder at such Holder's last address appearing on the list of Holders, within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

Section 10.11 *Notice of Certain Transactions*

In case:

(a) the Company shall declare a dividend (or any other distribution) on its Membership Interests; or

(b) the Company shall authorize the granting to the holders of its Membership Interests of rights, warrants or options to subscribe for or purchase any share of any class or any other rights, warrants or options; or

(c) of any reclassification of the Membership Interests (other than a subdivision or combination of its outstanding Membership Interests, or a change in par value, or from par value to no par value, or from no par value to par value), or of any consolidation, merger, or share exchange to which the Company is a party and for which approval of any stockholders of the Company is required, or of the sale or transfer of all or substantially all of the assets of the Company; or

(d) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company;

then the Company shall cause to be filed with the Trustee and the Conversion Agent and to be sent to each Holder, as promptly as possible but in any event at least [ten (10)] days prior to the applicable date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution or granting of rights, warrants or options, or, if a record is not to be taken, the date as of which the holders of Membership Interests of record to be entitled to such dividend, distribution or grant of rights, warrants or options are to be determined, or (y) the date on which such reclassification, consolidation, merger, share exchange, sale, transfer, dissolution, liquidation or winding-up is expected to become effective or occur, and, if applicable, the date as of which it is expected that holders of Membership Interests of record shall be entitled to exchange their Membership Interests for securities or other property deliverable upon such reclassification, consolidation, merger, share exchange, sale, transfer, dissolution, liquidation or winding-up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such dividend, distribution, grant, reclassification, consolidation, merger, sale, share exchange, transfer, dissolution, liquidation or winding-up.

Section 10.12 *Effect of Reclassification, Consolidation, Merger, Share Exchange or Sale on Conversion Privilege*

If any of the following shall occur: (i) any reclassification or change of outstanding Membership Interests (other than as a result of a subdivision or combination involving only Membership Interests); (ii) any consolidation, combination, merger or share exchange to which the Company is a party other than a merger in which the Company is the continuing corporation and which does not result in any reclassification of, or change (other than as a result of a subdivision or combination involving only Membership Interests) of or in outstanding Membership Interests; or (iii) any sale or conveyance of all or substantially all of the assets of the Company, then the Company, or such successor or purchasing corporation, as the case may be, shall, as a condition precedent to such reclassification, change, combination, consolidation, merger, share exchange, sale or conveyance, execute and deliver to the Trustee a supplemental indenture providing that, on such terms and subject to such conditions as shall be as nearly equivalent as may be practicable to the provisions set forth in this Indenture: the Holder of each Note then outstanding shall have the right to convert such Note into, in lieu of the Membership Interests issuable upon such conversion prior to such reclassification, change, consolidation, combination, merger, share exchange, sale or conveyance, only the kind and amount of shares of Capital Stock and other securities and property (including cash) receivable upon such reclassification, change, consolidation, combination, merger, share exchange, sale or conveyance by a holder of the number of Membership Interests deliverable upon conversion of such Note immediately prior to such reclassification, change, consolidation, combination, merger, share exchange, sale or conveyance, assuming:

(a) such holder of Membership Interests failed to exercise his rights of election, if any, as to the kind or amount of the substituted stock or other securities and property (including cash) receivable upon such transaction (provided that if the kind or amount of the substituted stock or other securities and property (including cash) receivable upon such transaction is not the same for each Membership Interest held immediately prior to such transaction by other than a Constituent Person or an Affiliate thereof and in respect of which such rights of election shall not have been exercised ("*Non-Electing Membership Interest*"), then, for the purposes of this Section 10.12, the kind and amount of the substituted stock or other securities and property (including

cash) receivable upon such transaction by each Non-Electing Membership Interest shall be deemed to be the kind and amount so receivable per share by a plurality of the Non-Electing Membership Interest); and

(b) the rights and obligations of the Company (or such successor or purchasing corporation) and the Holders in respect of the substituted stock or other securities and property (including cash) shall be as nearly equivalent as may be practicable to the rights and obligations of the Company and Holders in respect of Membership Interests hereunder as set forth in Section 10.01 hereof and elsewhere herein.

Such supplemental indenture shall provide for adjustments of the Conversion Rate which shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Rate provided for in this Article 10. If, in the case of any such reclassification, change, consolidation, combination, merger, share exchange, sale or conveyance, the stock or other securities and property (including cash) receivable thereupon by a holder of Membership Interests includes shares of Capital Stock or other securities and property of a corporation other than the successor or purchasing corporation, as the case may be, in such reclassification, change, consolidation, combination, merger, share exchange, sale or conveyance, then such supplemental indenture shall also be executed by such other corporation and shall contain such additional provisions to protect the interests of the Holders of the Notes as the Board of Directors shall reasonably consider necessary by reason of the foregoing.

The provisions of this Section 10.12 shall similarly apply to successive reclassifications, changes, combinations, consolidations, mergers, share exchanges, sales or conveyances.

In the event the Company shall execute a supplemental indenture pursuant to this Section 10.12, the Company shall promptly file with the Trustee an Officer's Certificate briefly stating the reasons therefor, the kind or amount of shares of stock or securities or property (including cash) receivable by Holders upon the conversion of their Notes after any such reclassification, change, consolidation, combination, merger, share exchange, sale or conveyance, any adjustment to be made with respect thereto and that all conditions precedent have been complied with.

Section 10.13 *Trustee's Disclaimer*

The Trustee and any Conversion Agent shall not at any time be under any duty to or have any responsibility to any Holder to determine or make any calculations in this Article 10 nor shall it or they have any duty to or responsibility to any Holder to determine when an adjustment under this Article 10 should be made, how it should be made or what such adjustment should be made or to confirm the accuracy of any such adjustment, but may accept as conclusive evidence of the correctness of any such adjustment, and shall be protected in relying upon, the Officer's Certificate with respect thereto which the Company is obligated to file with the Trustee pursuant to Section 10.10 or upon request therefor. The Trustee and any Conversion Agent shall not be accountable for and make no representation as to the validity or value (or the kind or amount) of any securities or assets or cash, that may at any time be issued upon conversion of Notes; and the Trustee and any Conversion Agent shall not be responsible for the Company's failure to comply with any provisions of this Article 10. Neither the Trustee nor the Conversion Agent shall be responsible for any failure of the Company to make or calculate any cash payment or to issue,

transfer or deliver any Membership Interests or share certificates or other securities or property or cash upon surrender of any Note for the purpose of conversion. The Company will make all calculations in good faith and, absent manifest error, its calculations will be final and binding on the Holders. The Trustee and/or Conversion Agent will forward such calculations to any Holder upon the request of such Holder. Each Conversion Agent (other than the Company or an Affiliate of the Company) shall have the same protection under this Section 10.13 as the Trustee.

The Trustee and any Conversion Agent shall not be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture executed pursuant to Section 10.12, but may accept as conclusive evidence of the correctness thereof, and shall be protected in relying upon, the Officer's Certificate with respect thereto which the Company is obligated to file with the Trustee pursuant to Section 10.12; provided, that the Trustee or Conversion Agent's conduct does not constitute willful misconduct or gross negligence.

The rights, privileges, protections, immunities and benefits given to the Trustee under this Indenture, including, without limitation, its right to be compensated, reimbursed, and indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, including its capacity as Conversion Agent.

Section 10.14 *Voluntary Increase of the Conversion Rate*

The Company from time to time may increase the Conversion Rate (and thereby reduce the Conversion Price) by any amount for a period of at least [twenty (20)] days and the Board of Directors shall have made a determination that such increase would be in the best interests of the Company, which determination shall be conclusive. Whenever the Conversion Rate is increased (and the Conversion Price reduced) pursuant to this Section 10.14, a notice of the increase in the Conversion Rate and resulting decrease in the Conversion Price must be disclosed in accordance with Section 10.10 and must be sent to Holders at least [fifteen (15)] days prior to the date the increased Conversion Rate and decreased Conversion Price take effect, which notice shall state the increased Conversion Rate, the decreased Conversion Price and the period during which such Conversion Rate and Conversion Price will be in effect.

Section 10.15 *Simultaneous Adjustments*

If more than one event requiring adjustment pursuant to this Article 10 shall occur before completing the determination of the Conversion Rate and the Conversion Price for the first event requiring such adjustment, then the Board of Directors of the Company (whose determination shall be conclusive) shall make such adjustments to the Conversion Rate (and the calculation thereof) after giving effect to all such events as shall preserve for Holders the Conversion Rate and Conversion Price protection provided in this Article 10.

ARTICLE 11

COLLATERAL AND SECURITY

Section 11.01 *Grant of Security Interest*

The due and punctual payment of the principal of, and interest or premium (including any Interest Make-Whole Premium), if any, on the Notes when and as the same shall be due and payable, whether on an interest payment date, at maturity, by acceleration, repurchase, redemption or otherwise, and interest on the overdue principal of and interest or premium (including any Interest Make-Whole Premium)(to the extent permitted by law), if any, on the Notes (including, but not limited to, all interest accrued or accruing (or which would, absent commencement of an insolvency or liquidation proceeding (and the effect of provisions such as Section 502(b)(2) of the Bankruptcy Law), accrue) after commencement of an insolvency or liquidation proceeding, whether or not the claim for such interest is allowed as a claim in such insolvency or liquidation proceeding), and performance of all other obligations of the Company and the Guarantors to the Holders or the Trustee under this Indenture and the Notes, according to the terms hereunder or thereunder, shall be secured by the Collateral, subject to the [Intercreditor Agreement and the] Collateral Trust Agreement. Each Holder, by its acceptance of Notes, consents and agrees to the terms of the [Intercreditor Agreement and the] Collateral Trust Agreement and the other Security Documents (including, without limitation, the provisions providing for foreclosure and release of Collateral) as the same may be in effect or may be amended, waived, supplemented or modified from time to time in accordance with its terms and authorizes and directs the Collateral Agent to enter into the [Intercreditor Agreement and the] Collateral Trust Agreement and the other Security Documents and to perform its obligations and exercise its rights thereunder in accordance therewith. The Company will deliver to the Trustee copies of all documents delivered to the Collateral Agent pursuant to the Security Documents. The Trustee and the Collateral Agent are hereby authorized to enter into the Security Documents, including the [Intercreditor Agreement and the] Collateral Trust Agreement.

Section 11.02 [*Release of Collateral*

(a) Subject to subsections (b), (c) and (d) of this Section 11.02, Collateral will be released from the Lien and security interest created by the Security Documents in accordance with the provisions of the Security Documents and under the following circumstances:

(1) if any Subsidiary that is a Guarantor is released from its Note Guarantee pursuant to the terms of this Indenture, that Subsidiary's assets will also be released from the Liens securing the Notes;

(2) pursuant to Section 9.02 hereof, with consent of Holders of the requisite percentage of the outstanding Notes;

(3) if required in accordance with the terms of the [Intercreditor Agreement and the] Collateral Trust Agreement;

(4) if such Collateral becomes Excluded Assets;

(5) if the Company exercise its Legal Defeasance option or Covenant Defeasance option pursuant to Sections 8.01, 8.02 and 8.03 hereof;

(6) upon satisfaction and discharge of this Indenture or payment in full of all Note Obligations that are then due and payable pursuant to Section 13.01 hereof.]

(b) In addition, upon the request of the Company pursuant to an Officers' Certificate certifying that all conditions precedent hereunder have been met and stating whether or not such release is in connection with a sale or disposition of assets and (at the sole cost and expense of the Company) the Collateral Agent will release Collateral that is sold, conveyed or disposed of in compliance with the provisions of this Indenture; *provided* that if such sale, conveyance or disposition constitutes an Asset Sale, such Asset Sale complies with the requirements of Section 4.10 hereof.

(c) Notwithstanding anything to the contrary contained herein, at any time the Trustee or Collateral Agent is requested to acknowledge or execute a release of Collateral, the Trustee and/or the Collateral Agent shall be entitled to receive an Officers' Certificate and an Opinion of Counsel that all conditions precedent in the Note Documents to such release have been complied with. The Trustee may, to the extent permitted by Sections 7.01 and 7.02 hereof, accept as conclusive evidence of compliance with the foregoing provisions the appropriate statements contained in such documents. Upon receipt of such documents the Collateral Agent shall execute, deliver or acknowledge any instruments of termination, satisfaction or release reasonably requested of it to evidence the release of any Collateral permitted to be released pursuant to this Indenture or the Security Documents.

Section 11.03 *Recording and Opinions*

(a) [The Company will furnish to the Collateral Agent and the Trustee on or within one month of May 15 in each year beginning with the May 15 following the date of this Indenture, an Opinion of Counsel:

(1) (A) stating that, in the opinion of such counsel, action has been taken with respect to the recording, registering, filing, re-recording, re-registering and re-filing of all supplemental indentures, mortgages, financing statements, mortgage reinscriptions, continuation statements or other instruments of further assurance as is necessary to maintain the Lien of the Security Documents and reciting with respect to the security interests in the Collateral the details of such action or referring to prior Opinions of Counsel in which such details are given, and (B) stating that, in the opinion of such counsel, based on relevant laws as in effect on the date of such Opinion of Counsel, all mortgages, mortgage reinscriptions, financing statements and continuation statements have been filed that are necessary as of such date and during the succeeding 12 months to fully preserve and protect, to the extent such protection and preservation are possible by filing, the rights of the Holders and the Collateral Agent and the Trustee hereunder and under the Security Documents with respect to the security interests in the Collateral; or

(2) stating that, in the opinion of such counsel, no such action is necessary to maintain such Lien and assignment.

(b) The Company will otherwise comply with the provisions of TIA §314(b).]

Section 11.04 *Collateral Coverage Certificate*

[The Company will furnish to the Collateral Agent and the Trustee on or within one month of May 15 in each year beginning with the May 15 following the date of this Indenture, an Officer's Certificate certifying that, as of the date of such certificate, the Collateral includes Oil and Gas Properties that include not less than [90%] of the present value of proved producing reserves attributable to the Company's Oil and Gas Properties other than the Excluded Assets.]

Section 11.05 *Authorization of Actions by the Trustee Under the Security Documents*

Subject to the provisions of Sections 7.01 and 7.02 hereof, the Trustee may, in its sole discretion and without the consent of Holders, direct, on behalf of the Holders, the Collateral Agent to, take all actions it deems necessary or appropriate in order to:

(1) enforce any of the terms of the Security Documents; and

(2) collect and receive any and all amounts payable in respect of the Obligations of the Company hereunder.

The Trustee will have power to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Collateral by any acts that may be unlawful or in violation of the Security Documents or this Indenture, and such suits and proceedings as the Trustee may deem expedient to preserve or protect its interests and the interests of Holders in the Collateral (including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest hereunder or be prejudicial to the interests of Holders or of the Trustee).

Section 11.06 *Authorization of Receipt of Funds by the Trustee Under the Security Documents*

The Trustee is authorized to receive any funds for the benefit of Holders distributed under the Security Documents, and to make further distributions of such funds to the Holders according to the provisions of this Indenture [and the Security Documents].

Section 11.07 *Termination of Security Interest*

Upon the payment in full of all Note Obligations of the Company, or upon Legal Defeasance, the Trustee will, at the request of the Company, deliver a certificate to the Collateral Agent stating that such Note Obligations have been paid in full, and instruct the Collateral Agent to release the Liens pursuant to this Indenture.

Section 11.08 *Trustee's Duties with Respect to Collateral*

(a) Beyond the exercise of reasonable care in the custody thereof, the Trustee shall have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto and the Trustee shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security

interest in the Collateral. The Trustee shall be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property and shall not be liable or responsible for any loss or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Trustee in good faith.

(b) The Trustee shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes gross negligence, bad faith or willful misconduct on the part of the Trustee, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of the Company to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral. The Trustee shall have no duty to ascertain or inquire as to the performance or observance of any of the terms of this Indenture or the Security Documents.

ARTICLE 12

GUARANTEES

Section 12.01 *Guarantee*

(a) The Guarantors, jointly and severally, on a senior secured basis, irrevocably, absolutely and unconditionally guarantee to each Holder and the Trustee the prompt and complete payment and performance when due, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company thereunder, no matter how the same shall become due, of all Guaranteed Obligations.

(b) If the Company shall for any reason fail to pay any Guaranteed Obligation, as and when such Guaranteed Obligation shall become due and payable, whether at its Stated Maturity, as a result of the exercise of any power to accelerate, or otherwise, the Guarantors will, upon demand by the Trustee, pay such Guaranteed Obligation in full to the Trustee for the benefit of the Holders and the Trustee to which such Guaranteed Obligation is owed. If the Company shall for any reason fail to perform promptly any Guaranteed Obligation that is not for the payment of money, the Guarantors will, upon demand by the Trustee, cause such Guaranteed Obligation to be performed or, if specified by the Trustee, provide sufficient funds, in such amount and manner as the Trustee shall in good faith determine, for the prompt, full and faithful performance of such Guaranteed Obligation by the Trustee or such other Person as the Trustee shall designate. Without limiting the generality of the foregoing, the Guarantors will pay all amounts that constitute part of the Guaranteed Obligations that would be owing but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding.

Section 12.02 *Execution and Delivery of Guarantee*

(a) To evidence its Note Guarantee set forth in Section 12.01 hereof, each Guarantor hereby agrees that a notation of such Note Guarantee substantially in the form attached as **Exhibit E** hereto will be endorsed by an Officer of such Guarantor, by manual or facsimile signature, on each Note authenticated and delivered by the Trustee and that this Indenture will be executed on behalf of such Guarantor by one of its Officers.

(b) Each Guarantor hereby agrees that its Note Guarantee set forth in Section 12.01 hereof will remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Note Guarantee.

(c) If an Officer whose signature is on this 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.

(d) 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 Indenture on behalf of the Guarantors.

(e) In the event that the Company or any of its Restricted Subsidiaries creates or acquires any Domestic Subsidiary after the date of this Indenture, if required by Section 4.16 hereof, the Company will cause such Domestic Subsidiary to comply to the extent applicable with the provisions of Section 4.16 hereof, in accordance with this Article 12.

Section 12.03 *Limitation of Liability of Certain Guarantors*

(a) Notwithstanding any other provision of this Article 12, each Guarantor confirms that it is the intention of each such Guarantor that the Note Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of any 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 Guarantors hereby irrevocably agree that the obligations of such Guarantor 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 Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 12, result in the obligations of such Guarantor under its Note Guarantee not constituting a fraudulent transfer or conveyance.

(b) Notwithstanding any other provision of this Article 12, with respect to any Guarantor party hereto and the liability of such Guarantor for all obligations under this Article 12 and any Note Document to which it is a party, liability shall be limited to the maximum liability that can be incurred by such Guarantor without rendering this Note Guarantee subject to avoidance under Section 548 of the Bankruptcy Law or any comparable provisions of any applicable state or federal law.

Section 12.04 *Unconditional Guaranty*

(a) Each Guarantor will pay the Guaranteed Obligations strictly in accordance with the terms of the Note Documents to the extent permitted by law regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any such term.

(b) This is a guarantee of payment and not of collection. The obligations of each Guarantor under or in respect of this Article 12 and each Note Document to which such Guarantor is a party are independent of the Guaranteed Obligations or any other obligation of the Company or any other Guarantor under or in respect of the Note Documents, and a separate action or actions may be brought and prosecuted against such Guarantor to enforce this Note Guarantee, irrespective of whether any action is brought against the Company or any other Guarantor or whether the Company or any other Guarantor is joined in any such action or actions.

(c) The obligations of each Guarantor under this Article 12 and each Note Document to which such Guarantor is a party shall not, to the maximum extent permitted by law, be affected by:

(1) any voluntary or involuntary liquidation, dissolution, sale of all or substantially all assets, marshalling of assets or liabilities, receivership, conservatorship, assignment for the benefit of creditors, insolvency, bankruptcy, reorganization, arrangement, or composition of the Company or any other Guarantor;

(2) any other proceeding involving the Company or any other Guarantor or any asset of the Company or any other Guarantor under any law for the protection of debtors; or

(3) any discharge, impairment, modification, release, or limitation of the liability of, or stay of actions or lien enforcement proceeding against, the Company or any other Guarantor, any property of the Company or any other Guarantor, or the estate in bankruptcy of the Company or any other Guarantor in the course of or resulting from any such proceeding.

Section 12.05 [Reserved.]

Section 12.06 *Waivers*

The liability of each Guarantor under this Article 12 and each Note Document to which such Guarantor is a party shall be irrevocable, absolute and unconditional irrespective of, and each Guarantor irrevocably waives, for purposes of this Article 12 and each Note Document to which such Guarantor is a party, any defense that it may now have or hereafter acquire relating to any or all of the following (and each Guarantor acknowledges that it will receive substantial direct and indirect benefits from the financing arrangements contemplated by the Note Documents and that the waivers set forth below and otherwise in this Article 12 are knowingly made in contemplation of such benefits), in each case to the maximum extent permitted by law:

(1) Any lack of validity or enforceability of any Note Document, any agreement or instrument relating thereto, any defense arising by reason of any disability

or other defense of any other Person or the cessation from any cause whatsoever of the liability of any other Person.

(2) Any change in the time, manner or place of payment of, or in any other term of, any Guaranteed Obligation or any other Obligation of the Company or any Guarantor in respect of the Note Documents, or any other amendment or waiver of or any consent to departure from any Note Document, including any increase in the Guaranteed Obligations resulting from the extension of additional credit to the Company or any Guarantor or any of its Subsidiaries or otherwise.

(3) Any taking, exchange, release or non-perfection of any collateral security, or any taking, release or amendment or waiver of, or consent to departure from any other guarantee of any Guaranteed Obligation.

(4) Any manner of application of collateral security, or proceeds thereof, to any Guaranteed Obligation, or any manner of sale or other disposition of any collateral security securing any Guaranteed Obligation or any other obligation of the Company or any Guarantor under the Note Documents or any other asset of the Company or any Guarantor or any of its Subsidiaries, and any other obligation to marshal assets.

(5) Any change or restructuring of the corporate structure or termination of the existence of the Company or any Guarantor or any of its Subsidiaries.

(6) Any failure of any other Person to execute or deliver any notation of guarantee, any supplement hereto or any other guarantee or agreement.

(7) Any release or reduction of the liability of any Guarantor or other guarantor or surety with respect to the Guaranteed Obligations or any other compromise or settlement of the Guaranteed Obligations.

(8) Promptness, diligence, notice of acceptance, presentment, demand for performance, notice of non-performance, default, acceleration, protest or dishonor and, to the extent permitted by law, any other notice with respect to any Guaranteed Obligation and this Article 12, including notice of acceptance of this Article 12, as amended.

(9) Any right to revoke the provisions of this Article 12.

(10) Any right of set-off or counterclaim against or in respect of the Guaranteed Obligations of any Guarantor hereunder.

(11) Any neglect, failure or refusal to take any action:

(A) for the collection or enforcement of any Guaranteed Obligation,

(B) to realize on any collateral security,

(C) to enforce any Note Document,

(D) to file or enforce a claim in any proceeding described in Section 12.04(c),

(E) in connection with the administration of any Note Document or

(F) otherwise concerning the Guaranteed Obligations or the Note Documents, or any delay in taking any such action.

(12) The fact that any Guarantor may have incurred directly any Guaranteed Obligation or is otherwise primarily liable therefor.

(13) Any statute of limitations applicable to the Guaranteed Obligations.

Section 12.07 *Continuing Guaranty; Reinstatement*

(a) The Note Guarantee set forth in this Article 12 is a continuing guaranty and shall remain in full force and effect until the indefeasible payment in full in cash of the Guaranteed Obligations and all other amounts payable hereunder, unless released in accordance with this Article 12.

Section 12.08 Guarantors May Consolidate, etc., on Certain Terms

(a) Except as otherwise provided in Section 12.09 hereof, a Guarantor may not sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person, other than the Company or another Guarantor, unless:

(1) immediately after giving effect to that transaction, no Default or Event of Default shall have occurred and be continuing; and

(2) either:

(A) such Guarantor is the surviving Person or the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger assumes all the obligations of that Guarantor under this Indenture and its Note Guarantee pursuant to a supplemental indenture and [the Intercreditor Agreement and] the Collateral Trust Agreement and the other Security Documents, each satisfactory to the Trustee; or

(B) such transaction complies with Section 4.10(a) hereof.

(b) In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Note Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor Person will succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may cause to be signed any or all of the Note Guarantees to be endorsed upon

all of the Notes issuable hereunder which theretofore shall not have been signed by the Guarantor and delivered to the Trustee. All the Note Guarantees so issued will in all respects have the same legal rank and benefit under this Indenture as the Note Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Note Guarantees had been issued at the date of the execution hereof.

(c) Except as set forth in Articles 4 and 5 hereof, and notwithstanding clauses (a)(2)(A) and (a)(2)(B) above, nothing contained in this Indenture or in any of the Notes will prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or will prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

(d) In the event of any such transaction described in this Section 12.08, such Guarantor shall deliver to the Trustee an Officers' Certificate and Opinion of Counsel stating that such transaction is in compliance with this Indenture.

Section 12.09 *Releases*

The Note Guarantee of a Guarantor will be released:

(1) in connection with any sale or other disposition of all or substantially all of the assets of that Guarantor (including by way of merger or consolidation) to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary of the Company, if the sale or other disposition does not violate Section 4.10 hereof;

(2) in connection with any sale, transfer or other disposition of all of the Capital Stock of that Guarantor to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary of the Company, if the sale, transfer or other disposition does not violate Section 4.10 hereof and such Guarantor no longer qualifies as a Subsidiary of the Company as a result of such disposition;

(3) if the Company designates any Restricted Subsidiary that is a Guarantor to be an Unrestricted Subsidiary in accordance with Section 4.17 hereof;

(4) upon Legal Defeasance or Covenant Defeasance in accordance with Article 8 hereof or satisfaction and discharge of this Indenture in accordance with Article 12;

(5) upon the liquidation or dissolution of such Guarantor, provided no Default or Event of Default occurs as a result thereof, or has occurred and is continuing;

(6) upon such Guarantor consolidating with, merging into or transferring all of its assets to the Company or another Guarantor, and as a result of, or in connection with, such transaction such Guarantor dissolving or otherwise ceasing to exist; or

(7) as provided in [the Intercreditor Agreement or] the Collateral Trust Agreement.

Any Guarantor not released from its obligations under its Note Guarantee as provided in this Section 12.09 will remain liable for the full amount of principal of and interest and premium (including any Interest Make-Whole Premium), if any, on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 12.

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 Indenture, including without limitation Section 4.10 hereof, the Trustee will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Note Guarantee.

ARTICLE 13

SATISFACTION AND DISCHARGE

Section 13.01 [*Satisfaction and Discharge*[6]

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 and delivered, except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has been deposited in trust and thereafter repaid to the Company or discharged from such trust as provided in this Indenture, 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 delivering such notice of redemption in accordance with the procedures of DTC) or otherwise or will become due and payable within one year and the Company has or any Guarantor 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 of cash in U.S. dollars and non-callable Government Securities, in 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) (A) no Default or Event of Default has occurred and is continuing on the date of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and (B) the deposit will not result in a breach or violation of, or constitute a default under, any other material agreement or instrument to

[6] NTD: This section to be revised further.

which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound;

(3) the Company has or any Guarantor 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 to the Trustee (a) an Officers' Certificate stating that all conditions precedent set forth in clauses (1) through (4) have been satisfied and (b) an Opinion of Counsel stating that all conditions set forth in clauses (2)(B) and (4) have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money has been deposited with the Trustee pursuant to Section 13.01(1)(b), the provisions of Sections 8.05(a), 8.06 and 13.02 hereof will survive. In addition, nothing in this Section 13.01 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 13.02 *Application of Trust Money*

Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 13.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal, premium, if any, or 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 13.01 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 and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 13.01 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 14

MISCELLANEOUS

Section 14.01 *Notices*

Any notice or communication by the Company, any Guarantor 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 or the Guarantors:

New Gulf Resources, LLC
Spirit Bank Event Center, 2nd Floor
10441 S. Regal Boulevard, Suite 210
Tulsa, Oklahoma 74133
Attention: Madeline Taylor
Facsimile No.:
E-mail: mtaylor@newgulfresources.com

With a copy to:

Baker Botts L.L.P.
2001 Ross Avenue
Suite 600
Dallas, Texas 75201
Attention: David Emmons
Facsimile No.: (214) 661-4414
E-mail: David.Emmons@bakerbotts.com
Attention: Andrew Thomison
Facsimile No.: (713) xxx-xxxx
E-mail: Andrew.Thomison@bakerbotts.com

If to the Trustee:

[_____
_____
_____]
Facsimile No.: (___) ___-____
Attention: [_____]

The Company, the Guarantors 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.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods (including pdf files). If the party elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The party providing electronic instructions agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk or interception and misuse by third parties.

Section 14.02 *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 14.03 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 14.03 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 14.03 *Statements Required in Certificate or Opinion*

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (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 14.04 *Rules by Trustee and Agents*

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

Section 14.05 *No Personal Liability of Directors, Officers, Employees and Stockholders*

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

Section 14.06 *Governing Law*

THIS INDENTURE, THE NOTES, THE NOTE GUARANTEES AND THE SECURITY DOCUMENTS WILL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY AND THE GUARANTORS HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY NEW YORK STATE COURT OR FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN IN NEW YORK CITY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES, THE NOTE GUARANTEES AND THE SECURITY DOCUMENTS.

Section 14.07 *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 any of its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 14.08 *Successors*

All agreements of the Company in this Indenture and the Notes will bind their respective successors, except as provided in Section 5.02. All agreements of the Trustee in this Indenture will bind its successors. All agreements of each Guarantor in this Indenture will bind its successors, except as otherwise provided in Section 12.08 hereof.

Section 14.09 *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 14.10 *Counterpart Originals*

The parties hereto 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. The exchange of copies of this Indenture and of signature pages by facsimile or pdf transmission will constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes.

Section 14.11 *Table of Contents, Headings, etc.*

The table of contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions hereof.

Section 14.12 *Waiver of Jury Trial*

EACH OF THE COMPANY, THE GUARANTORS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES, THE NOTE GUARANTEES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 14.13 *U.S.A. Patriot Act*

The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

Section 14.14 C*ommunication by Holders with Other Holders*

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 14.15 *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.

[Signature pages follow]

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

NEW GULF RESOURCES, LLC

By: _____
Name:
Title:

NGR FINANCE CORP.

By: _____
Name:
Title:

NGR HOLDING COMPANY LLC

By: _____
Name:
Title:

NGR TEXAS, LLC

By: _____
Name:
Title:

[_____], as Trustee and Collateral Agent

By: _____
Name: [_____]
Title: [_____]

Exhibit I

PROMISSORY NOTE

U.S. $[Allowed ENXP Secured Claim] **Dated: _____, 2016**

This promissory note (this "Note") is FOR VALUE RECEIVED, whereby the undersigned, New Gulf Resources, LLC, a Delaware limited liability company (the "Borrower"), HEREBY PROMISES TO PAY to the order of Energy & Exploration Partners, LLC (the "Lender"), in the manner set forth below and at One Hundred Throckmorton Street, Suite 1700, Ft. Worth, TX 76102 or such other place as the holder hereof may by notice to the Borrower designate, on the fifth anniversary of the date hereof (the "Maturity Date") the principal sum of U.S. $[•], together with interest thereon calculated from the date hereof as set out below (the unpaid amount of any accrued interest at any time being the "Interest Amount" and the sum of the Principal Amount and the Interest Amount at any time being the "Total Amount"). Any portion of the Total Amount not paid by the Maturity Date will be due and payable on that date.

SECTION 1. Defined Terms.

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

(b) "Business Day" means a day on which banks are not required or authorized to close in the State of Texas.

(c) "Collateral" means any interest the Borrower owns in Oil and Gas Leases and Oil and Gas Interests in the Contract Area (each as defined in the JOA) and all personal property and fixtures on or used in connection therewith as described in Section VII(B) of each JOA.

(d) "JOA" means, collectively (i) that certain Operating Agreement, by and between Borrower and Lender, dated April 19, 2012 and (ii) that certain Operating Agreement, by and between Borrower and Lender, dated June 1, 2012, each as amended, restated, amended and restated or otherwise supplemented as of the date hereof.

(e) "Liens" means the liens upon the Collateral granted by Borrower to Lender pursuant to the terms of the JOA.

(f) "Prime" means, as of the date hereof, the per annum rate last published quoted by The Wall Street Journal as the "prime rate" or the "base rate" in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate last published by the Federal Reserve Board of Governors of the Federal Reserve System in Federal Reserve Statistical Release H.15 (519) (entitled "Selected Interest Rates") as the "Bank prime loan" rate or any successor publication of the Federal Reserve System reporting the "Bank prime loan" rate or its equivalent.

SECTION 2. Payments and Computations.

(a) Interest. The Borrower promises to pay interest on the unpaid principal amount hereof from the date hereof until such principal amount is paid in full at the rate of Prime plus 2% per annum, compounded annually. Interest shall be payable on each Payment Date until the Maturity Date; provided, however, that interest on any overdue amount shall be payable on demand. Computations of interest shall be made on the basis of a year of 360 days for the actual number of days elapsed (including the first day but excluding the last day) occurring in the period for which such interest is payable.

(b) Principal. The Principal of this Note shall be due and payable in equal installments of [$•] each, beginning on the first Business Day of the month following the date hereof and on the first Business Day of each succeeding month thereafter for a term of sixty (60) months (each such date, the "Payment Date"). On the Maturity Date, the entire principal balance of this Note then unpaid and all accrued interest then unpaid shall be due and payable.

(c) Prepayment. Borrower may, at its option, prepay at any time and from time to time all or any portion of the Principal Amount, without premium or penalty. Any prepayment of the Principal Amount will be accompanied by a payment of all unpaid accrued interest thereon through the date of such prepayment.

(d) Time and Manner of Payment. All payments made by the Borrower under this Note shall be made no later than 12:00 noon (Central time) on the Payment Date when due in freely transferable lawful money of the United States of America to the account of the Lender designated by the Lender to the Borrower in writing from time to time, without setoff or counterclaim. Whenever any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest; provided, however, that if such extension would cause such payment to be made in the next following calendar month, such payment shall be made on the next preceding Business Day.

(e) Security. This Note is secured by the Liens granted by Borrower to Lender pursuant to the terms of the JOA and the security interest granted in connection therewith in the Collateral.

SECTION 3. Events of Default.

If any of the following events ("Events of Default") shall occur and be continuing:

(a) The Borrower shall fail to make any payment of principal of this Note when due, and such failure continues for five (5) Business Days;

(b) The Borrower shall fail to make any payment of interest on this Note when due, and such failure continues for thirty (30) days;

(c) the Borrower, pursuant to or within the meaning of any 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; or (D) makes a general assignment for the benefit of its creditors; or

(d) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (A) is for relief against the Borrower in an involuntary case; (B) appoints a custodian of the Borrower for all or substantially all of the property of the Borrower; or (C) orders the liquidation of the Borrower; and, in the case of each of clauses (A)-(C), such order or decree remains unstayed and in effect for 60 consecutive days.

then, by written notice to the Borrower, the Lender may declare this Note, all interest thereon, and all other amounts payable under this Note to be forthwith due and payable, whereupon this Note, all such interest, and all other such amounts shall become and be forthwith due and payable, and the Lender shall have the right to exercise all rights and remedies with respect to the Collateral as set forth in and subject to each JOA; provided, however, that in the event of an Event of Default arising under clauses (c) and (d), all such amounts shall automatically become and be due and payable, without presentment, demand, protest or any notice of any kind.

SECTION 4. Amendments.

No amendment or waiver of any provision of this Note shall in any event be effective unless the same shall be in writing and signed by the Lender and the Borrower.

SECTION 5. No Recourse Against Others.

No past, present or future director, officer, employee, incorporator or stockholder or member or other owner of capital stock or membership interests of the Borrower, as such, will have any liability for any obligations of the Borrower under this Note or for any claim based on, in respect of, or by reason of, such obligations or their creation, nor shall the Lender have any recourse to the Borrower other than with respect to the Collateral. The Lender, by accepting this Note, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Note.

SECTION 6. Notices.

All notices and other communications provided for hereunder shall be in writing, and addressed, if to the Borrower, at its address at:

New Gulf Resources, LLC
10441 S Regal Blvd #210
Tulsa, OK 74133

and if to the Lender, at its address at:

Energy & Exploration Partners, LLC
One Hundred Throckmorton Street, Suite 1700

Ft. Worth, TX 76102

or, as to each party, at such other address as shall be designated by such party in a written notice to the other party. All such notices and communications shall be effective (i) if delivered by hand, including any overnight courier service, upon personal delivery and (ii) if delivered by mail, three (3) Business Days after being deposited in the mail.

SECTION 7. Governing Law.

This Note shall be governed by and construed and enforced in accordance with the laws of the State of [Texas] (without giving effect to choice of law principles).

SECTION 8. Consent to Jurisdiction; Waiver of Immunities.

(a) The Borrower and the Lender each hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any [Texas] state court or federal court of the United States of America sitting in the Southern District of [Texas], and any appellate court from any thereof, over any action, suit or proceeding arising out of or related to this Note or for recognition or enforcement of any judgment, and the Borrower and the Lender each hereby irrevocably and unconditionally agrees that all claims in respect of any such action may be heard and determined in such [Texas] state court or, to the extent permitted by applicable law, in such federal court. The Borrower and the Lender each irrevocably consents to the service of any and all process in any such action, suit or proceeding by the mailing of copies of such process to the Borrower at its address as set forth herein. The Borrower and the Lender each agrees that a final judgment in any such action shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable law.

(b) The Borrower and the Lender each irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit or action arising out of or relating to this Note in any Texas state or federal court. The Borrower and the Lender each hereby irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action in any such court.

(c) Nothing in this Section 8 shall affect the right of the Borrower or the Lender to serve legal process in any other manner permitted by applicable law or affect the right of the Borrower or Lender to bring any action against the other party or its property in the courts of any other jurisdiction.

SECTION 9. Waiver of Jury.

Each of the Borrower and the Lender hereby irrevocably waives all right to trial by jury in any action or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Note or the actions of the parties hereto in the negotiation, administration, performance or enforcement hereof.

SECTION 10. NO ORAL AGREEMENTS.

THIS NOTE, INCLUDING ALL DOCUMENTS REFERENCED HEREIN, IS A WRITTEN LOAN AGREEMENT REPRESENTING THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[Signature Page Follows]

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed as of the date first above written.

BORROWER:

_____

New Gulf Resources, LLC

SCHEDULE A

SCHEDULE OF PRINCIPAL AMOUNT OF PROMISSORY NOTE

New Gulf Resources, LLC

Promissory Note dated _____, 2016

The initial principal amount of this Promissory Note is _____ DOLLARS ($_____). The following payments (or deemed payments) of principal of this Promissory Note have been made:

Date of principal payment	Amount of decrease in principal amount of this Promissory Note	Principal amount of this Promissory Note following such principal payment	Signature of authorized signatory of Lender

Exhibit J

Draft March 17, 2016

New Gulf Resources Management Incentive Plan

Dated _____, 2016

Section 1. Purpose. The purpose of the New Gulf Resources Management Incentive Plan is to provide an incentive for management, employees and prospective employees, and members of the board of managers of the Company and/or its subsidiaries by aligning the interests of such individuals with the success of the Company and to incentivize those parties to remain in the service of the Company and/or its subsidiaries by providing for the grant of awards tied to the proprietary interests of the Company.

Section 2. Definitions. Capitalized terms used in this Plan and not defined in this Plan shall have the meanings given thereto in the LLC Agreement. When used in this Plan, unless the context otherwise requires, the following terms shall have the meanings set forth next to such terms:

(a) "Award" shall mean an award under this Plan as described in Section 5 hereof.

(b) "Award Agreement" shall mean a written, including in electronic form, agreement entered into between the Company and the Grantee in connection with an Award or notice to a Grantee of an Award.

(c) "Board" shall mean the Board of Directors of the Company.

(d) "Cause" shall have the meaning assigned to such term in the employment agreement between the Company (or, if applicable, the Management Company) and the Grantee or, if a Grantee does not have an employment agreement that defines cause, "Cause" shall mean, with respect to any Grantee, that one or more of the following has occurred: (i) the Grantee is convicted of a felony or pleads guilty or nolo contendere to a felony (whether or not with respect to the Company or any of its affiliates or subsidiaries or the Management Company); (ii) a failure, other than due to disability, of the Grantee to substantially perform his responsibilities and duties to the Company or any of its subsidiaries or, if applicable, the Management Company, after ten (10) days written notice given by the Company or its subsidiaries or, if applicable, the Management Company, which notice shall identify the failure in sufficient detail and grant the Grantee an opportunity to cure such failure within such ten (10) day period; (iii) the failure, other than due to disability, of the Grantee to carry out or comply with any lawful and reasonable directive of the Board (or any committee of the Board), any Subsidiary Governing Body, or, in the case of an employee other than the Chief Executive Officer of the Company, the Chief Executive Officer of the Company or any of its subsidiaries, which is not remedied within ten (10) days after the Grantee's receipt of written notice from any of the foregoing specifying such failure; (iv) the Grantee engages in illegal conduct, any act of dishonesty, breach of fiduciary duty (if any) or other misconduct, in each case in this clause (iv), against the Company, or any of its affiliates or subsidiaries or the Management Company; (v) a material violation or willful breach by the Grantee of any of the policies or procedures of the Company, or any of its subsidiaries or the Management Company, including, without any limitation, any employee manual, handbook or code of conduct of the Company or any of its subsidiaries, as applicable, which, to the extent curable, is not remedied within ten (10) days after the Grantee's receipt of

written notice given by the Company or any of its subsidiaries or the Management Company identifying the conduct in sufficient detail and granting the Grantee an opportunity to cure such conduct within such ten (10) day period; (vi) the Grantee fails to meet any material obligation Grantee may have under any agreement entered into with the Company or any of its subsidiaries or the Management Company, including, but not limited to, the LLC Agreement and any agreement entered into in connection with the Grantee's employment or engagement with the Company or any of its subsidiaries or the Management Company which, to the extent curable, is not remedied within ten (10) days after the Grantee's receipt of written notice given by the Company or any of its subsidiaries or the Management Company identifying the conduct in sufficient detail and granting the Grantee an opportunity to cure such conduct within such ten (10) day period; (vii) the Grantee's habitual abuse of narcotics or alcohol; or (viii) the Grantee's breach of any non-compete, non-solicit, confidentiality or other restrictive covenant to which the Grantee may be subject, pursuant to an employment agreement or otherwise.

(e) "Change in Control" shall mean [TBD]. Notwithstanding the foregoing, for any Award that is subject to Section 409A and where a Change in Control is either a payment event or changes the time or form of payment, in no event shall a transaction be considered a "Change in Control" unless such transaction would also be a "change in control" (whether by change in ownership, effective control or change in the ownership of a substantial portion of the assets) under Section 409A.

(f) "Code" shall mean the Internal Revenue Code of 1974, as amended.

(g) "Committee" shall mean the Committee hereinafter described in Section 3 hereof.

(h) "Company" shall mean New Gulf Resources, LLC, a Delaware limited liability company.

(i) "Effective Date" shall mean the effective date of the Plan, _____, 2016.

(j) "Equity Appreciation Right" shall mean a conditional right to receive the excess of the Fair Market Value of a Membership Interest on the date the Equity Appreciation Right is exercised over the exercise price of the Equity Appreciation Right in accordance with Section 11 hereof.

(k) "Executive Team" shall mean the Company's or, if applicable, the Management Company's (i) Chairman and Chief Executive Officer; (ii) SVP & Chief Financial Officer; (iii) SVP Geology & Geophysics; (iv) SVP Drilling & Completions; (v) SVP Production Operations Engineering; (vi) VP Strategic Planning & Development and (vii) Senior Attorney.

(l) "Fair Market Value"[1] shall mean, with respect to any Award (including, without limitation, any Membership Interests), the fair market value of such Award, as determined in the sole discretion of the Committee, subject to Section 16 hereof, as applicable.

(m) "Grantee" shall mean a person who receives an Award.

[1] Dispute procedures for purposes of valuation may be added to the Plan.

(n) "Incentive Membership Interest" shall mean an equity interest in the Company that is intended to qualify as a "profits interest" (within the meaning of Rev. Prov. 93-27, 1993-27 C.B. 343) granted in accordance with Section 9 hereof.

(o) "Initial Award" shall mean that automatic grant of awards pursuant to Section 6 hereof.

(p) "LLC Agreement" shall mean the Limited Liability Company Agreement of New Gulf Resources, LLC, dated as of _____, 2016, as such agreement may be amended, supplemented, amended and restated or otherwise modified from time to time, together with all schedules, exhibits and annexes thereto.

(q) "Management Company" shall mean NGR Management Company, LLC, a Delaware limited liability company.

(r) "Option" shall mean a conditional right, granted under Section 10 hereof, to purchase Membership Interests at a specified price at or during specified time periods.

(s) "Phantom Membership Interest" shall mean a right to receive Membership Interests or the Fair Market Value of Membership Interests granted in accordance with Section 7 hereof.

(t) "Plan" shall mean this New Gulf Resources Management Incentive Plan, as set forth in this document and as such Plan may be amended, supplemented, amended and restated or otherwise modified from time to time.

(u) "Restricted Membership Interest" shall mean the grant of a Membership Interest in accordance with Section 8 hereof.

(v) "Section 409A" shall mean Section 409A of the Code and the rules and regulations thereunder.

(w) "Subsidiary Governing Body" shall mean the board of directors, board of managers or other governing body of any subsidiary or the Management Company.

Section 3. Administration.

(a) The Plan shall be administered by the Board or, if the Board shall so determine, by a committee consisting of one or more Board members, selected by the Board (the "Committee"). Any member of the Committee may resign by giving written notice thereof to the Board, and any member of the Committee may be removed at any time, with or without cause, by the Board. Any vacancy on the Committee shall be filled by the Board, in its sole discretion. During any period in which the Plan is administered by the Board, all references in the Plan or in any Award Agreement to the Committee shall be deemed to refer to the Board.

(b) The Committee shall have complete authority to interpret and administer this Plan and each Award Agreement, including, without limitation, the power (i) to exercise all of the powers granted to it under the Plan, (ii) to construe, interpret and implement the Plan and any

Award Agreement, (iii) to prescribe, amend and rescind rules and regulations relating to the Plan, including rules governing its own operations, (iv) to make all determinations necessary or advisable in administering the Plan, (v) to correct any defect, supply any omission and reconcile any inconsistency in the Plan, (vi) to amend the Plan to reflect changes in applicable law, (vii) to delegate such powers and authority to such person as it deems appropriate, (viii) to determine whether, to what extent and under what circumstances Awards may be settled or exercised in cash, Membership Interests, other Awards, other property, net settlement, or any combination thereof, or canceled, forfeited or suspended, and the method or methods by which Awards may be settled, exercised, canceled, forfeited or suspended, (ix) to waive any conditions under any Awards and (x) to make any other determination and take any other action consistent with the Plan that the Committee deems necessary or advisable for the administration of the Plan, whether or not expressly set forth herein. The determination of the Committee on all matters relating to the Plan or any Award Agreement shall be final, binding and conclusive.

(c) The Committee shall not be liable for any action or determination made in good faith with respect to the Plan or any Award issued hereunder.

Section 4. Eligibility for Awards. In addition to the Initial Awards pursuant to Section 6, Awards under the Plan shall be made to such members of the Board and any Subsidiary Governing Body and such employees and prospective employees, officers and prospective officers of the Company and/or its subsidiaries and/or the Management Company, as the Committee selects in its sole discretion, in consultation with the Chief Executive Officer of the Company, and in accordance with Section 5(b), below.

Section 5. Awards Under the Plan.

(a) Subject to adjustment as provided in Section 17, the total number of Membership Interests available for delivery or issuance in connection with Awards under the Plan shall be _____.[2] If any Membership Interest issued under the Plan is forfeited, repurchased or reacquired by the Company pursuant to the Plan or applicable Award Agreement, or if any Membership Interest has expired, terminated or been cancelled for any reason whatsoever, then such Membership Interest shall again be available to be issued hereunder pursuant to the terms and conditions of the Plan.

(b) Awards may be made under the Plan in the form of Options, Incentive Membership Interests, Restricted Membership Interests, Phantom Membership Interests, Equity Appreciation Rights, warrants or other securities which may be convertible, exercisable or exchangeable for or into Membership Interests or cash, as the Committee determines is in the interest of the Company. Incentive Membership Interests and Restricted Membership Interests may only be granted to the Executive Team. Nothing herein contained shall be construed to prohibit the issuance of Awards at different times to the same person.

[2] As provided in the Plan of Reorganization, the New Equity Interests of the Company available for the MIP "will be equal to 9% in the aggregate of the New Equity Interests of the Company (on a fully diluted basis and not subject to dilution as of any Dilution Events) as of the Effective Date."

(c) Each Award granted under the Plan shall be evidenced by an Award Agreement which shall contain such provisions (such as vesting, and manner and method of conversion, exchange or exercise (to the extent applicable)) as the Committee in its discretion deems necessary or desirable, consistent with the terms of this Plan and the LLC Agreement. The duration of any Award that is convertible, exchangeable or exercisable for or into Membership Interests shall have a duration that is fixed by the Committee, in its sole discretion, but in no event shall such Award remain in effect for a period of more than ten (10) years from the date of grant.

(d) Any Award of Membership Interests, or, in the event an Award is converted, exercised or exchanged for or into Membership Interests, such conversion, exercise or exchange, shall be conditioned on (i) the Grantee executing a Joinder Agreement and becoming a Member under and bound by the terms of the LLC Agreement and (ii) the Grantee's compliance with all other terms and conditions set forth in the LLC Agreement to be admitted as a Member.

Section 6. Initial Award. Within thirty days following the Effective Date, the individuals listed on Schedule A, shall automatically be granted an Initial Award consistent with the terms set forth in Article V.C. of the *Debtors' First Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code*, filed by the Company on February 5, 2016. The Initial Awards shall be "full value" awards in the form of Phantom Membership Interests.

Section 7. Phantom Membership Interests.

(a) The Committee shall have the authority to grant an Award of Phantom Membership Interests, in such amounts and subject to such terms and conditions as the Committee may determine in its discretion, not inconsistent with the terms of the Plan.

(b) Each Phantom Membership Interest granted under the Plan shall represent a right to receive, on the applicable delivery date determined by the Committee and specified in the Award Agreement, as determined in the discretion of the Committee, one Membership Interest or cash in an amount equal to the Fair Market Value of one Membership Interest on such delivery date.

(c) Phantom Membership Interests granted hereunder shall be subject to such restrictions and risk of forfeiture as the Committee may determine at the time the Award is granted, which such conditions may be based on continuing employment or service, achievement of pre-established performance objectives, a combination of such conditions or such other conditions as the Committee shall consider appropriate.

(d) The Grantee shall have no rights as a member of the Company with respect to any Phantom Membership Interests, unless and until such Phantom Membership Interests are settled in Membership Interests, subject to and in accordance with Section 5(d) hereof.

Section 8. Restricted Membership Interests

(a) The Committee shall have the authority to grant an Award of Restricted Membership Interests, in such amounts and subject to such terms and conditions as the Committee may determine in its discretion, not inconsistent with the terms of the Plan.

(b) Except as otherwise set forth in the applicable Award Agreement, the Grantee of a Restricted Membership Interest shall generally have the rights and privileges of a holder of Membership Interests. At the discretion of the Committee and provided in an Award Agreement, dividends and distributions on Membership Interests, if any, with respect to Restricted Membership Interests may be either currently paid to the Grantee or withheld by the Company for the Grantee's account. Each Grantee of an Restricted Membership Interest shall be a Member of the Company, subject to and bound by all of the terms and conditions of the LLC Agreement, subject to and in accordance with Section 5(d) hereof.

(c) Restricted Membership Interests granted hereunder shall be subject to such restrictions and risk of forfeiture as the Committee may determine at the time the Award is granted, which such conditions may be based on continuing employment or service, achievement of pre-established performance objectives, a combination of such conditions or such other conditions as the Committee shall consider appropriate.

Section 9. Incentive Membership Interests

(a) The Committee shall have the authority to grant an Award of Incentive Membership Interests, in such amounts and subject to such terms and conditions as the Committee may determine in its discretion, not inconsistent with the terms of the Plan.

(b) Each Incentive Membership Interest granted under the Plan is intended to be a profits interests in the Company.

(c) Except as otherwise set forth in the applicable Award Agreement, the Grantee of an Incentive Membership Interest shall generally have the rights and privileges of a holder of Membership Interests. At the discretion of the Committee and provided in an Award Agreement, dividends and distributions on Incentive Membership Interests, if any, with respect to Incentive Membership Interests may be either currently paid to the Grantee or withheld by the Company for the Grantee's account. Each Grantee of an Incentive Membership Interest shall be a Member of the Company, subject to and bound by all of the terms and conditions of the LLC Agreement, subject to and in accordance with Section 5(d) hereof.

(d) Incentive Membership Interests granted hereunder shall contain such terms and conditions as the Committee shall deem appropriate. The vesting of any such Incentive Membership Interests shall be as provided in the applicable Award Agreement and may relate to performance of the Company, service of the Grantee, a combination of the foregoing or such other terms and conditions as deemed appropriate by the Committee.

Section 10. Options

(a) The Committee shall have the authority to grant an Award of Options, in such amounts and subject to such terms and conditions as the Committee may determine in its discretion, not inconsistent with the terms of the Plan.

(b) The price per Membership Interest of the Membership Interests to be purchased pursuant to the exercise of any Option shall be fixed by the Committee at the time of grant; provided, however, that the exercise price per unit of the Membership Interests to be purchased

pursuant to the exercise of an Option shall, in accordance with Section 409A, not be less than the Fair Market Value of a Membership Interest on the date on which the Option is granted if it is intended for such Option to be exempt from Section 409A.

(c) Options granted hereunder shall contain such terms and conditions as the Committee shall deem appropriate. The vesting of any such Option shall be as provided in the applicable Award Agreement and may relate to performance of the Company, service of the Grantee, a combination of the foregoing or such other terms and conditions as deemed appropriate by the Committee.

(d) An Option, after the grant thereof, shall be exercisable by the Grantee (or such other person entitled to exercise the Option or such portion of the Option) at such rate and times as may be fixed at the time of grant by the Committee.

(i) An Option shall be exercised, in whole or in part, by the delivery of a written exercise notice, in a form reasonably satisfactory to the Committee, duly signed by the Grantee (or such other person entitled to exercise the Option or such portion of the Option) to such effect, together with the Award Agreement and the full purchase price of the Membership Interests purchased pursuant to the exercise of the Option, to the Committee or an officer of the Company appointed by the Committee for the purpose of receiving the same. The payment of the full purchase price shall be made as follows: (A) in cash; (B) by cashier's check payable to the order of the Company; (C) if the Committee, in its discretion, so permits, by delivery to the Company of Membership Interests which shall be valued at their Fair Market Value on the date of exercise of the Option (provided, however, that a holder may not use any Membership Interests to pay the purchase price unless the holder has beneficially owned such Membership Interests for at least six months); or (D) by such other methods as the Committee may, in its discretion, permit from time to time. In the event that the Option shall be exercised pursuant to Section 15 by any person other than the Grantee, appropriate proof of the right of such person to exercise the Option must be delivered together with the written exercise notice.

(ii) Within a reasonable time after the exercise of an Option and the payment of the full purchase price of the Membership Interests purchased upon the exercise of the Option, the Company shall cause to be delivered to the person entitled thereto a Joinder Agreement for the Membership Interests purchased pursuant to the exercise of the Option.

(iii) Notwithstanding any other provision of the Plan or of any Option, no Option granted pursuant to the Plan may be exercised at any time when the Option or the granting or exercise thereof violates any law or governmental order or regulation.

(iv) The Grantee shall have no rights as a member of the Company with respect to the Membership Interest subject to such Option unless and until such Grantee shall have exercised such Option, paid the exercise price and become a holder of record of the purchased Membership Interests, subject to and in accordance with Section 5(d) hereof.

Section 11. Equity Appreciation Rights

(a) The Committee shall have the authority to grant an Award of Equity Appreciation Rights, in such amounts and subject to such terms and conditions as the Committee may determine in its discretion, not inconsistent with the terms of the Plan.

(b) An Equity Appreciation Right is a right to receive payment in Membership Interests and/or cash equal to the excess of the Fair Market Value of a Membership Interest on the date the Equity Appreciation Right is exercised over the exercise price of the Equity Appreciation Right, multiplied by the number of Membership Interests with respect to which the Equity Appreciation Right is exercised.

(c) The exercise price of an Equity Appreciation Right shall be fixed by the Committee at the time of grant provided, however, that the exercise price of each Equity Appreciation Right shall, in accordance with Section 409A, not be less than the Fair Market Value of a Membership Interest on the date on which the Equity Appreciation Right is granted if it is intended for such Equity Appreciation Right to be exempt from Section 409A.

(d) Equity Appreciation Rights granted hereunder shall contain such terms and conditions as the Committee shall deem appropriate. The vesting of any such Equity Appreciation Rights shall be as provided in the applicable Award Agreement and may relate to performance of the Company, service of the Grantee, a combination of the foregoing or such other terms and conditions as deemed appropriate by the Committee.

(e) An Equity Appreciation Right, after the grant thereof, shall be exercisable by the Grantee (or such other person entitled to exercise the Equity Appreciation Right or such portion of the Equity Appreciation Right) at such rate and times as may be fixed at the time of grant by the Committee.

(i) An Equity Appreciation Right shall be exercised, in whole or in part, by the delivery of a written exercise notice, in a form reasonably satisfactory to the Committee, duly signed by the Grantee (or such other person entitled to exercise the Equity Appreciation Right or such portion of the Equity Appreciation) to such effect, together with the Award Agreement, to the Committee or an officer of the Company appointed by the Committee for the purpose of receiving the same. In the event that the Equity Appreciation Right shall be exercised pursuant to Section 15 by any person other than the Grantee, appropriate proof of the right of such person to exercise the Equity Appreciation Right must be delivered together with the written exercise notice.

(ii) If the Equity Appreciation Rights are being settled in Membership Interests, within a reasonable time after the exercise of the Equity Appreciation Right, the Company shall cause to be delivered to the person entitled thereto, a Joinder Agreement for the Membership Interests to be received pursuant to the exercise of the Equity Appreciation Right.

(iii) Notwithstanding any other provision of the Plan or of any Equity Appreciation Rights, no Equity Appreciation Rights granted pursuant to the Plan may be exercised at any time when the Equity Appreciation Rights or the granting or exercise thereof violates any law or governmental order or regulation.

(iv) The Grantee shall have no rights as a member of the Company with respect to any Membership Interests, unless and until such Grantee shall have exercised his or her Equity Appreciation Right, and then only if and to the extent such Equity Appreciation Rights are settled in Membership Interests and the Grantee become a holder of record of Membership Interests acquired pursuant to the exercise of the Equity Appreciation Right, subject to and in accordance with Section 5(d) hereof.

Section 12. Other Awards. The Committee is authorized to grant such other Awards that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based on, or related to, Membership Interests, as deemed by the Committee to be consistent with the purposes of the Plan.

Section 13. Change in Control.

(a) Except as provided in an Award Agreement, upon the occurrence of a Change in Control which occurs while the Grantee is still employed by, or, for a member of the Board, in service with, the Company or any of its subsidiaries or the Management Company, all of the Grantee's unvested Awards shall immediately become vested and/or exercisable, convertible or exchangeable, as applicable.

(b) In addition, in the event of a Change in Control, with respect to any Award that is convertible, exchangeable or exercisable for or into Membership Interests, the Committee shall, in its sole discretion, either (i) provide for the assumption of such Awards theretofore granted, or the substitution for such Awards of new awards of the successor company or a parent or subsidiary thereof, with appropriate adjustments as to the number and kinds of equity and related exercise or purchase prices, consistent with Section 17 hereof; (ii) provide written notice to any holder of such Award that the Award shall be terminated to the extent that it is not converted, exchanged or exercised prior to a date certain specified in such notice (which date shall be no sooner than the consummation of the Change in Control) or (iii) provide that the Grantee of any such Award, to the extent then vested, shall be entitled to receive from the Company an amount equal to the excess of (A) the Fair Market Value of the Membership Interests subject to the vested portion of the Award not theretofore converted, exchanged or exercised, over (B) the aggregate purchase price which would be payable for such Membership Interests upon the conversion, exchange or exercise of such Award. Any actions under this Section 13 shall, to the extent applicable, be in accordance with the regulations promulgated under Section 409A so as not to cause a modification or deemed new grant of the Award.

Section 14. Section 83(b) of the Code. As a requirement for receiving an Award of, or to acquire, Membership Interests under the Plan, each Grantee shall, if, and only if, required by the Committee, agree to make a timely election pursuant to Section 83(b) of the Code to include in the Grantee's gross income or alternative minimum taxable income, as the case may be, for the taxable year in which the Award is granted (or, if applicable, exercised, converted or exchanged), the amount of any compensation taxable to the Grantee in connection with the Grantee's receipt of such Award. If the Committee requires the Grantee to make such an election, the Grantee shall notify the Committee of such election within ten (10) days of filing notice of the election with the Internal Revenue Service, in addition to any filings and notifications required pursuant to the regulations issued under Section 83(b) of the Code.

Section 15. Restrictions on Transfer. Except as otherwise provided in an Award Agreement,

(a) Notwithstanding anything in the LLC Agreement to the contrary, no Awards of Membership Interests may be Transferred until vested; *provided, however,* that the Grantee may Transfer such unvested Awards to any one or more of the Grantee's family members if the requirements set forth in the LLC Agreement relating to such Transfer are complied with and provided the Award remains subject to this Plan and any Award Agreement (including any repurchase rights in favor of the Company). As a condition to such Transfer, the Transferee shall execute and deliver to the Company (i) a Joinder Agreement, (ii) a written undertaking, in form and substance satisfactory to the Committee, that such Transferee shall Transfer any Awards (vested or unvested) back to the Grantee if such Transferee ceases to be a family member of such Grantee and (iii) a written agreement acknowledging that such Transferred Award is subject to vesting, may never become vested and is subject to the terms and conditions of the Plan, the Award Agreement and the LLC Agreement. Any proposed Transfer of vested Awards of Membership Interests shall be in accordance with the LLC Agreement and the Award Agreement.

(b) Awards that are convertible, exercisable or exchangeable for or into Membership Interests may not be Transferred at any time prior to such conversion, exercise or exchange.

Section 16. Section 409A of the Code. It is the intention of the parties that all Awards under this Plan and any Award Agreement, either be exempt from or comply with Section 409A so as to avoid taxation under Section 409A and the regulations and rules thereunder. Any ambiguity in this Plan and any Award Agreement shall be interpreted to comply with the foregoing. To the extent applicable, (i) each amount or benefit payable pursuant to this Plan and any Award Agreement shall be deemed a separate payment for purposes of Section 409A and (ii) in the event the equity of the Company is publicly traded on an established securities market or otherwise and the Grantee is a "specified employee" (as determined under the Company's administrative procedure for such determinations, in accordance with Section 409A) at the time of the Grantee's termination of employment, any payments under this Plan or any Award Agreement that are payable upon termination of employment and deemed to be deferred compensation subject to Section 409A shall not be paid or begin payment until the earlier of the Grantee's death and the first day following the six (6) month anniversary of the Grantee's date of termination of employment. For any Awards that are nonqualified deferred compensation subject to Section 409A, any iteration of the word "termination" (e.g., "terminated") with respect to a Grantee's employment or service, shall mean a separation from service within the meaning of Section 409A and the regulations thereunder. Notwithstanding the foregoing, neither the Company, any Member nor any of their respective subsidiaries shall be liable to, and each Grantee shall be solely liable and responsible for, any taxes (or interest or penalties) that may be imposed on such Grantee under Section 409A of with respect to such Grantee's receipt of any Award and payment thereunder.

Section 17. Adjustment. [If, prior to the complete conversion, exchange or exercise of any Award that is convertible, exchangeable or exercisable for or into Membership Interests, the Membership Interests of the Company shall be split up, converted, exchanged, reclassified, or in any way substituted for or in the event of any extraordinary dividend or extraordinary distribution (of cash, Membership Interests, securities or other property), then the Award, to the

extent it has not been converted, exchanged or exercised, shall be adjusted as the Committee deems appropriate to prevent the enlargement or dilution of rights of the Grantee provided under any Award Agreement, *provided, however*, that any such adjustment shall, to the extent applicable, be in accordance with the regulations promulgated under Section 409A so as not to cause a modification or deemed new grant of the Award. For avoidance of doubt, in no event shall any distributions for taxes or any regularly scheduled distribution or dividend paid pursuant to a distribution or dividend policy established by the Board constitute extraordinary dividends or extraordinary distributions.][3]

Section 18. Amendment, Suspension or Termination of the Plan. The Board may from time to time suspend, discontinue, terminate, revise or amend (i) the Plan in any respect whatsoever and (ii) any Award Agreement, to the extent provided in such Award Agreement; provided, however, that in no event shall any such action adversely affect the rights of any Grantee in any material respect (without regard to any effect resulting from the individual circumstances of such Grantee) with respect to any previously granted Award without such Grantee's consent, except to the extent such action is required by, or is necessary to comply with, law.

Section 19. Income Tax Withholding. If the Company determines it is required to withhold any amounts by reason of any federal, state or local tax rules or regulations in respect of any Award, the Company shall be entitled to deduct and withhold such amounts from any cash payments to be made to the holder of such Award. In any event, the holder shall make available to the Company, promptly when requested by the Company, sufficient funds to meet the requirements of such withholding; and the Company shall be entitled to take and authorize such steps as it may deem advisable in order to have such funds made available to the Company out of any funds or property (including Membership Interests that would otherwise be issuable to the holder pursuant to the Award) due or to become due to the holder of such Award. In addition, such taxes may be paid by the withholding of cash or Membership Interests which would be paid or delivered pursuant to such grant or exercise of the Award. Notwithstanding the foregoing or anything else in the Plan to the contrary, in no event may Membership Interests with a Fair Market Value in excess of the legally required withholding amount based on the minimum statutory withholding rates for federal and state tax purposes that are applicable to such supplemental taxable income be withheld for the payment of tax obligations (in whole or part).

Section 20. General Provisions.

(a) No Right to Employment. Nothing contained in this Plan, any Award Agreement or the LLC Agreement shall confer upon any Grantee the right to continue in the employ of, or association with, the Company its subsidiaries or its affiliates, or affect any rights which the Company, its subsidiaries or its affiliates may have to terminate such employment or association for any reason at any time.

[3] Protection will be added to the MIP to ensure that the New Equity Interests of the Company available for Awards under the MIP and subject to outstanding Awards will not be diluted in the event New Equity Interests of the Company are issued pursuant to awards under Equity Agreements or upon conversion of New First Lien Notes, and this provision will not be subject to amendment except in accordance with the terms hereof..

(b) Non-Uniform Determinations. The Committee's determinations of Awards under the Plan need not be uniform and may be made by it selectively among persons who receive or are eligible to receive Awards (whether or not such persons are similarly situated). Without limiting the generality of the foregoing, the Committee shall be entitled, among other things, to make non-uniform and selective determinations, and to enter into non-uniform and selective Award Agreements, as to the person to receive Awards under the Plan, and the terms and provisions of any Awards granted under the Plan.

(c) Freedom of Action. Nothing contained in the Plan or any Award Agreement shall be construed to prevent the Company, its subsidiaries, its affiliates or any of the holders of Membership Interests from taking any corporate action, including, but not limited to, any recapitalization, reorganization, merger, consolidation, dissolution or sale, which is deemed by the Company, its subsidiaries, its affiliates or such holders to be appropriate or in its or their best interest, whether or not such action would have an adverse effect on the Plan or any Awards thereunder.

(d) Section Headings; Construction. The section headings contained herein are for the purpose of convenience only and are not intended to define or limit the contents of the sections. All words used in this Plan shall be construed to be of such gender or number, as the circumstances require. Unless otherwise expressly provided, the word "including" does not limit the preceding words or terms.

(e) Governing Law. This Plan, any Award Agreement hereunder and any conflicts arising hereunder or related hereto shall be governed by, and construed under, the laws of the State of Delaware, all rights and remedies being governed by said laws, regardless of the laws that might otherwise govern under applicable principles, to the fullest extent permitted by law, of conflicts of laws.

(f) Confidentiality. By acceptance of an Award, each Grantee agrees to maintain in confidence and not disclose the terms of this Plan, any Award granted hereunder or any Award Agreement (except to the extent required by law or to Grantee's immediate family and his or her professional advisors).

(g) Severability; Entire Agreement. In the event any provision of this Plan or any Award Agreement shall be held illegal, invalid or unenforceable for any reason, the illegality, invalidity or unenforceability shall not affect the remaining provisions of this Plan or such Award Agreement and such illegal, invalid or unenforceable provision shall be deemed modified as if the illegal, invalid or unenforceable provisions had not been included. The Plan, any Award Agreement and the LLC Agreement contain the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, promises, covenants, arrangements, communications, representations and warranties between them, whether written or oral, with respect to the subject matter hereof and thereof.

(h) Survival of Terms; Conflicts. The provisions of this Plan shall survive the termination of this Plan to the extent consistent with, or necessary to carry out, the purposes thereof. To the extent of any conflict between the Plan, any Award Agreement and the LLC Agreement, the LLC Agreement shall control; *provided, however,* that the Plan may impose

greater restrictions or grant lesser rights than the LLC Agreement; and *provided, further*, that any Award Agreement may impose greater restrictions or grant lesser rights than either the LLC Agreement or the Plan. Subject to the second proviso in the immediately preceding sentence, in the event of any conflict between the Plan and any Award Agreement, the Plan shall control.

(i) No Third Party Beneficiaries. Except as expressly provided herein or therein, none of the Plan, any Award Agreement or the LLC Agreement shall confer on any person other than the Company and the Grantee any rights or remedies thereunder.

(j) Successors and Assigns. The terms of this Plan shall be binding upon and inure to the benefit of the Company, its subsidiaries and their successors and assigns.

(k) Notices. All notices, requests, waivers and other communications under the Plan or any Award Agreement shall be in writing and shall be deemed to be effectively given, sent, provided, delivered or received (i) when personally delivered to the party to be notified, (ii) when sent by confirmed facsimile or by electronic mail ("e-mail") to the party to be notified, (iii) three (3) Business Days after deposit in the United States mail, postage prepaid, by certified or registered mail with return receipt requested, addressed to the party to be notified or (iv) one (1) Business Day after deposit with a national overnight delivery service, postage prepaid, addressed to the party to be notified with next-Business Day delivery guaranteed, in each case sent or addressed to the Company at its principal office and to the Grantee at the Grantee's mailing address, facsimile number or e-mail address as carried in the record books of the Company or at such other mailing address, facsimile number or e-mail address as the Grantee may from time to time designate in writing to the Company.

Exhibit K

Managers/Directors and Officers of the Reorganized Debtors[1]

A. Board of Managers/Directors of the Reorganized Debtors

On the Effective Date, the initial Board of Managers of Reorganized NGR Holding and Reorganized New Gulf will consist of the following individuals:

James Brown
Salvatore Giannetti III
Ralph Hill
Craig M. Kelleher
Markus Specks
[Designee of Varde Partners, Inc.]
[Designee of Varde Partners, Inc.]

On the Effective Date, the initial Board of Directors of NGR Finance Corp. will consist of the executive officers of Reorganized NGR Holding as of the Effective Date.

B. Officers of the Reorganized Debtors

As of the Effective Date, the officers of the Reorganized Debtors will consist of the following individuals, to the extent they continue to serve as officers immediately prior to the Effective Date, and such officers will serve in the same capacity and receive the same base salary that such officers received as of immediately prior to the Petition Date, and will have such other benefits and upon such other terms and conditions of employment as shall be reflected in amended and restated employment contracts (to the extent applicable) that are acceptable to such employee and the New Board.

Name	Position
Ralph Hill	Chief Executive Officer
Danni Morris	Senior Vice President and Chief Financial Officer
Mike Brown	Senior Vice President, Geology and Geophysics
Craig Young	Senior Vice President, Drilling and Completions
Wink Kopczynski	Senior Vice President, Productions Operations Engineering
Erik Feighner	Vice President, Strategic Planning and Development

C. Compensation and Benefit Programs

In accordance with Article IX.G. of the Plan, except as otherwise set forth in this Exhibit K, all Existing Benefit Programs shall be deemed assumed, amended, modified, supplemented or terminated as of the Effective Date, in each case, as determined by the Debtors and the Requisite Supporting Noteholders. Notwithstanding anything to the contrary contained

[1] Capitalized terms shall have the meanings given to them in the Debtors' First Amended Joint Chapter 11 Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 268].

herein, pursuant to section 1129(a)(13) of the Bankruptcy Code, on and after the Effective Date, all retiree benefits (as such term is defined in section 1114 of the Bankruptcy Code), if any, shall continue to be paid in accordance with applicable law.

Exhibit L

SCHEDULE OF RETAINED CAUSES OF ACTION

Section IV.J of the First Amended Joint Chapter 11 Plan of Reorganization of New Gulf Resources, LLC and its Debtor Affiliates, as reformed (the "Plan") provides that unless any Cause of Action[1] is expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or by a Final Order (including, without limitation, any Causes of Action against the Released Parties, which are released pursuant to Article VII of the Plan), in accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtors shall retain and may enforce all rights to commence and pursue any and all Causes of Action, whether arising before or after the Petition Date, including any actions specifically enumerated in the Plan Supplement, and the Reorganized Debtors' rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. **No Person may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action against them as an indication that the Debtors or the Reorganized Debtors, as applicable, will not pursue such Cause of Action against them. The Debtors or Reorganized Debtors, as applicable, instead expressly reserve all rights to prosecute any and all Causes of Action against any Person, in accordance with the Plan, including without limitation, all Causes of Action against Energy and Exploration Partners, Inc. ("ENXP").** Unless a Cause of Action is expressly waived, relinquished, released or compromised in the Plan or an order of the Bankruptcy Court, the Reorganized Debtors expressly reserve such Cause of Action for later adjudication and, accordingly, no doctrine of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise), laches or other preclusion doctrine shall apply to such Cause of Action as a consequence of the Confirmation, the Plan, the vesting of such Cause of Action in the Reorganized Debtors, any order of the Bankruptcy Court in these Chapter 11 Cases.

In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action that a Debtor may hold against any Entity will vest in the Reorganized Debtors. The Reorganized Debtors, through their authorized agents or representatives, will retain and may exclusively enforce any and all such Causes of Action. The Reorganized Debtors will have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action, or to decline to do any of the foregoing, without the consent or approval of any third party or any further notice to, or action, order, or approval of, the Bankruptcy Court.

Notwithstanding, and without limiting the generality of, section IV.J of the Plan, the following Exhibit L(i) through Exhibit L(vii) include specific types of Causes of Action expressly preserved by the Debtors and the Reorganized Debtors, including (a) claims related to accounts receivable and accounts payable; (b) claims related to insurance policies; (c) claims related to deposits, adequate assurance postings, and other collateral postings; (d) claims, defenses, cross-claims, and counter-claims related to litigation and possible litigation; (e) claims related to contracts and leases; and (f) claims related to vendor obligations, which are attached hereto as Exhibit L(i), Exhibit L(ii), Exhibit L(iii), Exhibit L(iv), Exhibit L(v), Exhibit L(vi), and Exhibit L(vii), respectively. Each such exhibit is subject to the terms of the Plan and the information provided in this Exhibit L. The exhibits that follow this cover page are not a

[1] Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Plan.

definitive list of all retained causes of action. For the avoidance of doubt, to the extent any Causes of Action are not explicitly included on the attached exhibits, the Reorganized Debtors shall retain such Causes of Action that are not specifically waived or relinquished by the Plan.

EXHIBIT L(i)

Claims Related to Accounts Receivable and Accounts Payable

Unless otherwise released by the Plan, the Debtors expressly reserve all Causes of Action against or related to all Entities that owe or that may in the future owe money to the Debtors or Reorganized Debtors. Furthermore, the Debtors expressly reserve all Causes of Action against or related to all Entities who assert or may assert that the Debtors or Reorganized Debtors owe money to them. There is no schedule to this Exhibit L(i).

EXHIBIT L(ii)

Claims Related to Insurance Policies

The following schedule includes insurance contracts and policies to which one or more Debtors are a party. Unless otherwise released by the Plan, the Debtors expressly reserve all Causes of Action based in whole or in part upon any and all insurance contracts, insurance policies, occurrence policies, and occurrence contracts to which any Debtor or Reorganized Debtor is a party or pursuant to which any Debtor or Reorganized Debtor has any rights whatsoever, regardless of whether such contract or policy is included on Exhibit L(ii), including Causes of Action against insurance carriers, reinsurance carriers, insurance brokers, underwriters, occurrence carriers, or surety bond issuers relating to coverage, indemnity, contribution, reimbursement, or any other matters.

Insurance Policies and Contracts

Type of Coverage	Carrier	Policy Number	Policy Period
Crime Policy	National Union Fire Insurance Company of Pittsburgh, Pa.	013975242	06-24-15 to 07-31-16
Excess Liability Policy	Scottsdale Insurance Company	XNS000173	07-31-15 to 07-31-16
Cost of Control Policy	Burke-Daniels Co., Inc., a division of J.H. Blades & Co., Inc.	JHBE1551274080	07-31-15 to 07-31-16
General Liability Policy	ACE American Insurance Company	G27024488 002	07-31-15 to 07-31-16
Property Policy	Essex Insurance Company	1CW2704	07-31-15 to 07-31-16
Umbrella Policy	ACE American Insurance Company	G26802829 002	07-31-15 to 07-31-16
Workers' Compensation Policy	American Interstate Insurance Company of Texas	AVWCTX2421952015	07-31-15 to 07-31-16
Automobile Policy	Philadelphia Indemnity Insurance Company	PHPK1372533	07-31-15 to 07-31-16
Executive Risk Policy	Federal Insurance Company	8223-8467	07-31-15 to 07-31-16
Excess DO Policy	National Union Fire Insurance Company of Pittsburgh, Pa.	01-593-23-91	07-31-15 to 07-31-16

EXHIBIT L(iii)

Claims Related to Deposits, Adequate Assurance Postings, and Other Collateral Postings

Unless otherwise released by the Plan, the Debtors expressly reserve all Causes of Action based in whole or in part upon any and all postings of a security deposit, adequate assurance payment, or any other type of deposit or collateral, regardless of whether such posting of security deposit, adequate assurance payment, or other type of deposit or collateral is included on Exhibit L(iii). There is no schedule to this Exhibit L(iii).

EXHIBIT L(iv)

Claims, Defenses, Cross-Claims, and
Counter-Claims Related to Litigation and Possible Litigation

The following Exhibit L(iv) includes Entities that are party to or that the Debtors believe may become party to litigation, arbitration, or any other type of adversarial proceeding or dispute resolution proceeding, whether formal or informal, judicial or non-judicial. Unless otherwise released by the Plan or an Order of the Bankruptcy Court, the Debtors expressly reserve all claims, defenses, cross claims, and counterclaims against or related to all Entities that are party to or that may in the future become party to litigation, arbitration, or any other type of adversarial proceeding or dispute resolution proceeding, whether formal or informal, judicial or non-judicial, regardless of whether such Entity is included on the schedule accompanying this Exhibit L(iv).

EXHIBIT L(iv)

Claims, Defenses, Cross-Claims, and
Counter-Claims Related to Litigation and Possible Litigation

1. ***Energy and Exploration Partners, LLC v. New Gulf Resources, LLC,* Case 4:14-cv-03375 in the United States District Court for the Southern District of Texas - Houston Division.** This proceeding involves the interpretation of a provision in a Joint Operating Agreement between Energy and Exploration Partners, LLC ("ENXP") and the Company. ENXP seeks the opportunity to purchase and participate in a proportionate share of the ownership and operation of certain midstream assets, subject to and condition upon negotiation and definitive documentation.

2. The following three cases relate to the Company's attempt to collect in the aggregate approximately $2.4 million in unpaid drilling costs owed to the Company by ENXP. ENXP proposed 3 wells under a joint operating agreement with the Company, and the Company subsequently drilled the wells. ENXP has refused to pay the drilling costs for such wells and has taken the position that the wells differ from those originally proposed by ENXP.

- **Cause No. 15-27397, *New Gulf Resources, LLC v. Energy & Exploration Partners, LLC*, 278th District Court, Walker County, Texas;**

- **Cause No. 33330, *New Gulf Resources, LLC v. Energy & Exploration Partners, LLC*, 12th District Court, Grimes County, Texas; and**

- **Cause No. 15-13986-012-06, *New Gulf Resources, LLC v. Energy & Exploration Partners, LLC*, 12th District Court, Madison County, Texas**.

3. ***New Gulf Resources, LLC. v. Hugh A. Bankhead, Et Al.*, Cause No. O-15-494 in the 87th District Court, Leon County, Texas**. Due to title issues related to royalty owners of certain wells operated by the Company, monies had been held in suspense by the Company until a determination of ownership was made. Upon receiving a demand for payment of such royalties, the Company elected to file this interpleader action, constructively filing the suspense monies in the court's registry, and allowing all potential claimants to determine their interest in the royalties held in suspense.

EXHIBIT L(v)

Claims Related to Contracts and Leases

Unless otherwise released by the Plan, the Debtors expressly reserve the Causes of Action, based in whole or in part upon any and all contracts and leases to which any Debtor or Reorganized Debtor is a party or pursuant to which any Debtor or Reorganized Debtor has any rights whatsoever. The claims and Causes of Actions reserved include, without limitation, Causes of Action against vendors, suppliers of goods or services, or any other parties: (a) for overpayments, back charges, duplicate payments, improper holdbacks, deposits, warranties, guarantees, indemnities, recoupment, or setoff; (b) for wrongful or improper termination, suspension of services or supply of goods, or failure to meet other contractual or regulatory obligations; (c) for failure to fully perform or to condition performance on additional requirements under contracts with any one or more of the Debtors before the assumption or rejection, if applicable, of such contracts; (d) for payments, deposits, holdbacks, reserves, or other amounts owed by any creditor, utility, supplier, vendor, insurer, surety, factor, lender, bondholder, lessor, or other party; (e) for any liens, including mechanic's, artisan's, materialmen's, possessory, or statutory liens held by any one or more of the Debtors; (f) counterclaims and defenses related to any contractual obligations; (g) any turnover actions arising under section 542 or 543 of the Bankruptcy Code; (h) for unfair competition, interference with contract or potential business advantage, breach of contract, infringement of intellectual property, or any business tort claims; and (i) any accumulated service credits, both those that may apply to future vendor invoices and those from which the Debtors may be entitled to receive a refund. There is no schedule to this Exhibit L(v).

EXHIBIT L(vi)

Claims Related to Vendor Obligations

Unless otherwise released by the Plan, the Debtors expressly reserve all Causes of Action against or related to all vendors that owe or may in the future owe money or other obligations to the Debtors or the Reorganized Debtors, whether for unpaid invoices; unreturned, missing, or damaged inventory; indemnification; warranties; or any other matter whatsoever. In order to protect the privacy of the Debtors' vendors, there is no schedule to this Exhibit L(vi).

EXHIBIT L(vii)

Avoidance Actions

Unless otherwise released by the Plan, the Debtors expressly reserve all Causes of Action to avoid preferential transfers as specified in section 547 of the Bankruptcy Code or transfers or obligations that were actually fraudulent or constructively fraudulent under section 548 of the Bankruptcy Code or to avoid any transfers or obligations avoidable under applicable non-bankruptcy law by virtue of section 544 of the Bankruptcy Code. There is no schedule to this Exhibit L(vii).