

**TRUST INDENTURE**

**DATED AS OF THE 30<sup>TH</sup> DAY OF DECEMBER, 2020**

**SOURCE ENERGY SERVICES CANADA LP**

**AND**

**SOURCE ENERGY SERVICES CANADA HOLDINGS LTD.**

**AND**

**COMPUTERSHARE TRUST COMPANY OF CANADA, AS TRUSTEE AND AS COLLATERAL  
AGENT**

**PROVIDING FOR THE ISSUE OF**

**10.5% SENIOR SECURED FIRST LIEN NOTES DUE 2025**

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**ADDENDA**

- APPENDIX A - FORM OF NOTE
- APPENDIX B - FORM OF CERTIFICATE OF TRANSFER
- APPENDIX C - FORM OF NOTE GUARANTEE
- APPENDIX D – POST-CLOSING UNDERTAKING

**THIS INDENTURE** made as of the 30<sup>th</sup> day of December, 2020,

**SOURCE ENERGY SERVICES CANADA LP**, a limited partnership subsisting under the laws of the Province of Alberta (hereinafter called the "**LP Issuer**")

-and-

**SOURCE ENERGY SERVICES CANADA HOLDINGS LTD.**, a corporation subsisting under the laws of the Province of Alberta (hereinafter called the "**Corporate Issuer**" and together with the LP Issuer, the "**Issuers**")

-and-

**COMPUTERSHARE TRUST COMPANY OF CANADA**, a trust company subsisting under the laws of Canada and registered to carry on business in the Province of Alberta (hereinafter called the "**Trustee**" or the "**Collateral Agent**", as the context requires).

**WITNESSETH THAT:**

**WHEREAS**, *inter alios*, the Issuers are parties to an application in connection with an arrangement pursuant to a plan of arrangement under Section 192 of the *Canada Business Corporations Act* (the "**Plan**");

**AND WHEREAS**, pursuant to the Plan, the Issuers have agreed to a recapitalization of the Issuers' existing senior secured first lien notes due 2021 (the "**Existing Notes**") with a combination of debt and equity, including the Notes issued pursuant to his Indenture;

**AND WHEREAS**, at a meeting of holders (the "**Existing Holders**") of the Existing Notes held on November 25, 2020 pursuant to an interim order of the Court of Queen's Bench of Alberta dated October 26, 2020, the Plan was approved by 100% of the votes cast by Existing Noteholders at such meeting, representing approximately 98% of the aggregate principal amount of the Existing Notes;

**AND WHEREAS**, following the Meeting, the Plan was approved and is being implemented pursuant to a final order of the Court of Queen's Bench of Alberta dated November 27, 2020.

**AND WHEREAS**, in accordance with the Plan, the Issuers propose to create and issue 10.5% senior secured first lien notes due March 15, 2025 from time to time in the manner and subject to the terms and conditions set forth in this Indenture;

**AND WHEREAS** the foregoing recitals are made as representations and statements of fact by the Issuers and not by the Trustee or the Collateral Agent;

**NOW THEREFORE** it is hereby covenanted, agreed and declared as set forth herein.

**ARTICLE 1**  
**INTERPRETATION**

**1.1 Definitions**

In this Indenture (including the recitals hereto) and in the Notes, unless there is something in the subject matter or context inconsistent therewith, the expressions following shall have the following meanings:

"**144A U.S. Legend**" has the meaning given to that term in Section 2.18(b).

"**1933 Act**" means the United States Securities Act of 1933, as amended.

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

"**Acquired Indebtedness**" has the meaning given to such term in Section 5.11(c)(iii).

"**Additional Amounts**" has the meaning given to that term in Section 2.6(a).

"**Additional Liquidity Facility**" means a liquidity financing facility provided pursuant to the Senior Credit Facility Agreement or pursuant to any other Credit Facility.

"**Additional Liquidity Facility Obligations**" means the Indebtedness and other obligations under the Additional Liquidity Facility in an amount not to exceed at any time the maximum amount permitted in respect thereof pursuant to Section 5.11(b)(iii) and which are secured by a Lien on the Collateral permitted by clause (b) of the definition of "Permitted Liens."

"**Additional Notes**" means any Notes (other than the Notes issued on the Issue Date and any Notes issued in exchange or in replacement (in whole or in part) for such initial Notes) issued under this Indenture in accordance with Section 2.2 and includes, for certainty, any PIK Notes.

"**Affiliate**" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control", as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms "controlling", "controlled by" and "under common control with" have correlative meanings.

"**Affiliate Transaction**" has the meaning given to that term in Section 5.13(a).

"**After-Acquired Collateral**" means all Property of the Issuers and the Guarantors acquired or owned after the Issue Date which, when acquired or otherwise owned, constitutes Collateral.

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

"**Asset Sale**" means any of the foregoing:

- (a) the sale, lease, conveyance or other disposition of any assets or rights (including the sale by a member of the Restricted Group of Equity Interests in any Restricted Subsidiaries, but excluding the sale of directors' qualifying shares or shares required to be owned by other Persons pursuant to applicable law); and



(b) the issuance of Equity Interests by any of the Restricted Subsidiaries,

provided however, that notwithstanding the preceding, the following items will be deemed not to be an Asset Sale:

- (i) any single transaction or series of related transactions that involves assets having a Fair Market Value of less than \$1.0 million provided that the aggregate value of all sales, leases, conveyances and other disposition of any assets or rights sales pursuant to this clause (i) in any fiscal quarter do not exceed \$1.0 million;
- (ii) a sale, lease, conveyance or other disposition of assets between or among the members of the Restricted Group;
- (iii) an issuance or sale of Equity Interests by a member of the Restricted Group to another member of the Restricted Group;
- (iv) any disposition of worn-out, obsolete, retired or otherwise unsuitable assets or equipment or facilities or of assets or equipment no longer used or useful (including intellectual property), in each case, in the ordinary course of business;
- (v) the sale or lease of equipment, inventory, accounts receivable or other assets in the ordinary course of business (including transfers of assets, revenues or liabilities between or among members of the Restricted Group in the ordinary course of business for the Fair Market Value thereof);
- (vi) the sale or other disposition of cash or Cash Equivalents;
- (vii) any sale, assignment, transfer, conveyance, lease or other disposition of all or substantially all of the Property of the members of the Restricted Group taken as a whole, in one or more related transactions, to another Person, pursuant to Section 10.1;
- (viii) any Restricted Payment that is permitted by Section 5.10 and any Permitted Investment (but excluding, for certainty, any sale or other disposition of a Permitted Investment unless such sale or other disposition would constitute a Permitted Investment or a Restricted Payment permitted by Section 5.10);
- (ix) the creation or perfection of a Lien (but not the sale or other disposition of any asset subject to such Lien);
- (x) the surrender or waiver of contract rights or the settlement, release or surrender of contract, tort or other claims of any kind;
- (xi) dispositions of receivables owing to a member of the Restricted Group in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings of the account debtor and exclusive of factoring or similar arrangements;
- (xii) the licensing or sublicensing of intellectual property or other general intangibles and licenses, leases or subleases of other property in the ordinary course of

business and which do not materially interfere with the business of the members of the Restricted Group;

- (xiii) any sale of assets received by a member of the Restricted Group upon foreclosure of a Lien;
- (xiv) any sale, issuance or other disposition of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary; and
- (xv) sales, conveyances, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/ sell or put/ call arrangements between the joint venture parties set forth in joint venture arrangements or similar binding arrangements.

"**Asset Sale Offer**" has the meaning given to that term in Section 5.14(h).

"**Attributable Debt**" in respect of a Sale/Leaseback Transaction means, as at the time of determination, the present value of the total obligations of the lessee for rental payments during the remaining term of the lease included in such Sale/Leaseback Transaction (including during any period for which such lease has been extended), calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP; provided, however, that if such Sale/Leaseback Transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligation."

"**Authentication Order**" has the meaning given to that term in Section 2.9(c).

"**Bankruptcy Law**" means the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada), and the *Winding Up and Restructuring Act* (Canada), each as now and hereafter in effect, any successors to such statutes, any other applicable insolvency, winding-up, dissolution, restructuring, reorganization, liquidation, or other similar law of any jurisdiction, and any law of any jurisdiction (including any corporate law relating to arrangements, reorganizations, or restructurings) permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it.

"**Beneficial Holders**" means any person who holds a beneficial interest in Global Notes as shown on the books of the Depository or a Participant.

"**Berthold**" means Berthold Transload Inc.

"**Board of Directors**" means:

- (a) with respect to a corporation, the board of directors of the corporation (or any duly authorized committee thereof);
- (b) with respect to a partnership, the board of directors of the corporation that is the general partner or managing partner of the partnership;
- (c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and
- (d) with respect to any other Person, the board or committee of such Person serving a similar function.

**"Board Resolution"** means a copy of a resolution certified by any senior officer or corporate secretary of Pubco or an Issuer, as applicable, to have been duly adopted by the Board of Directors of Pubco or an Issuer, as applicable, or by the Board of Directors of the general partner (in the case of a partnership) and to be in full force and effect on the date of such certification, and delivered to the Trustee.

**"Book Entry Only Notes"** means notes of a series which, in accordance with the terms applicable to such series, are to be held only by or on behalf of the Depository.

**"Borrowing Base"** means, collectively, 85% of the receivables of the members of the Restricted Group plus 60% of the inventory of the members of the Restricted Group, in each case, determined as of the relevant date on a consolidated basis in accordance with GAAP.

**"Business Day"** means a day other than (a) a Saturday or Sunday or (b) any other day on which banking institutions in the Province of Alberta or the Province of Ontario are authorized or required by law to close.

**"Calculation Period"** has the meaning given to it in Section 2.16(g).

**"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 have been required to be classified and accounted for as a financing lease or capitalized lease obligation on a balance sheet in accordance with GAAP as in effect on and prior to December 31, 2018 and, for greater certainty, without regard to the effect of IFRS 16 (Leases).

**"Capital Stock"** means:

- (a) in the case of a corporation, association or other business entity, any and all shares, interests, participations, rights or other equivalents (however designated and whether or not voting) of corporate stock;
- (b) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (c) any other interest or participation that confers on a Person rights in, or other equivalents of or interests in, the equity of the issuing Person or otherwise confers 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 including debt securities convertible into or exchangeable for Capital Stock, whether or not such debt securities have any right of participation with Capital Stock.

**"CARES Act"** means the Coronavirus Aid, Relief, and Economic Security Act, or the CARES Act and applicable rules and regulations, as amended from time to time.

**"Cash Equivalents"** means:

- (a) Canadian or United States dollars;
- (b) securities issued by or directly and fully guaranteed or insured by the federal government of Canada, the United States of America, the United Kingdom or any member state of the European Union (provided that such member state has a rating of "A" or higher from S&P, "A2" or higher from Moody's or "A" or higher from DBRS) or any agency or instrumentality thereof (provided that the full faith and credit of the federal government of

Canada, the United States, the United Kingdom or the relevant member state of the European Union is pledged in support of those securities) having maturities of not more than two years from the date of acquisition;

- (c) demand accounts, time deposit accounts, bearer deposit notes, certificates of deposit and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year, demand and overnight bank deposits and other similar types of investments routinely offered by commercial banks or trust companies, in each case, with any bank or trust company that has a rating of "A" or higher from S&P, "A2" or higher from Moody's or "A" or higher from DBRS;
- (d) repurchase obligations with a term of not more than 365 days for underlying securities of the types described in clauses (b) and (c) above entered into with any financial institution meeting the qualifications specified in clause (c) above;
- (e) commercial paper having a rating of "P-1" from Moody's, "A-1" or higher from S&P or "R-1(low)" or higher from DBRS and in each case maturing within 365 days after the date of acquisition;
- (f) readily marketable direct obligations issued by a state of the United States of America or a province of Canada or any political subdivision thereof having a rating of "A" or higher from S&P or "A2" or higher from Moody's in each case with maturities not exceeding two years from the date of acquisition; and
- (g) money market or investment funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (f) of this definition.

**"Cash Management Obligations"** means obligations in respect of cash management services consisting of automated clearing house transactions, controlled disbursement services, treasury, depository, overdraft and electronic funds transfer services, foreign exchange facilities, currency exchange transactions or agreements and options with respect thereto, credit card processing services, credit or debit cards, purchase cards and any indemnity given in connection with any of the foregoing.

**"Cash Sweep Amount"** has the meaning given to that term in Section 4.3(b).

**"Cash Sweep Redemption Date"** has the meaning given to that term in Section 4.3(b).

**"Cash Sweep Redemption Notice"** has the meaning given to that term in Section 4.3(b).

**"CDS"** means CDS Clearing and Depository Services Inc. and its successors.

**"CDS Nominee"** means the nominee of CDS in whose name Global Notes are registered.

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

- (a) any Person or group of Persons acting jointly or in concert (any such group, a **"Group"**), is or becomes the beneficial owner, directly or indirectly, of more than 50% of the Voting Stock (measured by voting power rather than number of shares) of Pubco;
- (b) the first day on which a majority of the members of the Board of Directors of Pubco are not Continuing Directors;

- (c) the adoption by the shareholders of Pubco of a plan or proposal for the liquidation or dissolution;
- (d) the direct or indirect sale, lease, transfer, conveyance or other disposition (other than by way of plan of arrangement, merger, amalgamation or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of (i) the members of the Restricted Group, taken as a whole, (ii) comprising the Source Canada Business, (iii) the Source US Business, or (iv) Pubco, to any Person or Group; or
- (e) the Corporate Issuer ceases to be a Wholly Owned Restricted Subsidiary of the LP Issuer.

For purposes of this definition, (i) a beneficial owner of a security includes any Person or Group who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares: (A) voting power, which includes the power to vote, or to direct the voting of, such security; and/or (B) investment power, which includes the power to dispose of, or to direct the disposition of, such security; (ii) a Person or Group shall not be deemed to have beneficial ownership of securities subject to a stock purchase agreement, merger agreement or similar agreement until the consummation of the transactions contemplated by such agreement; and (iii) to the extent that one or more regulatory approvals are required for any of the transactions or circumstances described in clauses (a), (c) or (d) above to become effective under applicable law and such approvals have not been received before such transactions or circumstances have occurred, such transactions or circumstances shall be deemed to have occurred at the time such approvals have been obtained and become effective under applicable law.

"**Change of Control Offer**" has the meaning given to that term in Section 5.15(a).

"**Change of Control Payment**" has the meaning given to that term in Section 5.15(a).

"**Change of Control Payment Date**" has the meaning given to that term in Section 5.15(a).

"**Collateral**" has the meaning given to such term under the Intercreditor Agreement.

"**Collateral Account**" means the segregated collateral account established by the Collateral Agent in the name of the Collateral Agent for the sole benefit of the Holders in accordance with Section 14.10.

"**Collateral Agent**" means Computershare Trust Company of Canada, in its capacity as collateral agent under this Indenture and the Intercreditor Agreement and its successors and permitted assigns in such capacity.

"**Consolidated EBITDA**" means, for any period, Consolidated Net Income for such period plus the sum of (without duplication):

- (a) Consolidated Interest Expense, to the extent that Consolidated Interest Expense was deducted in determining Consolidated Net Income and was not added back thereto pursuant to the definition thereof; plus
- (b) provision for income taxes, to the extent that such provision for income taxes was deducted in computing such Consolidated Net Income and was not added back thereto pursuant to the definition thereof; plus

- (c) depreciation and amortization and other non-cash items, in each case to the extent deducted in computing such Consolidated Net Income and not added back thereto pursuant to the definition thereof; plus
- (d) the net amount of losses deducted in determining Consolidated Net Income (and not added back thereto pursuant to the definition thereof) resulting from the disposition of assets (excluding inventory), provided, however, if there is a net gain resulting from the disposition of assets (excluding inventory) which increases Consolidated Net Income for such period (and which is not deducted therefrom pursuant to the definition thereof), such amount shall be deducted from Consolidated EBITDA; minus
- (e) non-cash items increasing Consolidated Net Income for such period and not deducted therefrom pursuant to the definition thereof;

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

**"Consolidated Interest Expense"** means, for any period, the total interest expense of the members of the Restricted Group on a consolidated basis in accordance with GAAP (excluding any accretion or accrual of discounted liabilities not constituting Indebtedness), plus, to the extent not included in such total interest expense, and to the extent incurred by the members of the Restricted Group (determined on a consolidated basis in accordance with GAAP), without duplication:

- (a) the amortization of debt discount and debt issuance costs; plus
- (b) the amortization of all fees (including, without limitation, fees with respect to Hedging Obligations) payable in connection with the incurrence of Indebtedness; plus
- (c) interest payable on Capital Lease Obligations; plus
- (d) payments in the nature of interest pursuant to Hedging Obligations; plus
- (e) interest accruing on any Indebtedness of any other Person, to the extent such Indebtedness is guaranteed by, or secured by a Lien on any Property of, a member of the Restricted Group.

**"Consolidated Net Income"** means, for any period, the aggregate comprehensive income (or loss) of the members of the Restricted Group for such period determined on a consolidated basis in conformity with GAAP, provided that the following (without duplication, and in each case to the extent that they are included in such comprehensive income (or loss)) will be excluded in computing Consolidated Net Income:

- (a) any impairment charges (including, for certainty, impairment charges attributable to tangible and intangible assets) or restructuring charges or write-offs (other than write-offs of inventory and accounts receivables in the ordinary course of business), in each case pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP;
- (b) the cumulative effect of a change in accounting principles;
- (c) any non-cash expense realized or resulting from stock option plans, employee benefit plans or postemployment benefit plans, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other rights;

- (d) any net after-tax non-cash gains, losses, income and expenses resulting from fair value accounting required by the applicable standard under GAAP and related interpretations, including, for certainty, the mark-to-market adjustments for Hedging Obligations;
- (e) any extraordinary or non-recurring gains or losses, together with and related provision for taxes on such extraordinary or non-recurring gains or losses;
- (f) any net earnings (losses) from discontinued operations;
- (g) any net earnings (losses) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting, except to the extent of dividends and other equity distributions received in cash or Cash Equivalents by a member of the Restricted Group; and
- (h) any net earnings (but not any loss) of any Restricted Subsidiary, to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of those net earnings 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 that Restricted Subsidiary or its shareholders.

**"Consolidated Tangible Assets"** as of any date means the total amount of assets of the members of the Restricted Group, determined as of such date on a consolidated basis in accordance with GAAP, after deducting therefrom all goodwill, trade names, trademarks, patents, licenses, copyrights and other intangible assets as of such date, determined on a consolidated basis in accordance with GAAP.

**"Commodity Hedging Contracts"** means any transaction, arrangement or agreement entered into between a Person (or any of its Restricted Subsidiaries) and a counterparty on a case by case basis, including any futures contract, a commodity option, a swap, a forward sale or otherwise, the purpose of which is to mitigate, manage or eliminate its exposure to fluctuations in commodity prices, transportation or basis costs or differentials or other similar financial factors including contracts settled by physical delivery of the commodity not settled within 60 days of the date of any such contract.

**"Continuing Directors"** means, as of the date of determination, any member of the Board of Directors of Pubco, (a) who was a member of such Board of Directors on the Issue Date or (b) whose election or nomination for election to such Board of Directors has been approved by a majority of the Continuing Directors who were at the time of such nomination or election members of such Board of Directors.

**"Corporate Issuer"** means Source Energy Services Canada Holdings Ltd. and includes any successor thereto, as permitted by the terms hereof.

**"Counsel"** means a barrister or solicitor or firm of barristers or solicitors retained or employed by the Trustee or retained or employed by the Issuers and reasonably acceptable to the Trustee.

**"Credit Facilities"** means one or more credit or debt facilities (including, without limitation, under the Senior Credit Facility), commercial paper facilities or Debt Issuances, in each case with banks, investment banks, insurance companies, mutual or other institutional lenders or investors providing for, among other things, revolving credit loans, term loans, 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), letters of credit or letter of credit guarantees or Debt Issuances, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

**"Currency Agreement"** means any financial arrangement entered into between a Person (or its Restricted Subsidiaries) and a counterparty on a case by case basis in connection with a foreign exchange futures contract, currency swap agreement, currency option or currency exchange or other similar currency related transactions, the purpose of which is to mitigate or eliminate its exposure to fluctuations in exchange rates and currency values.

**"Custodian"** means any receiver, receiver-manager, trustee, assignee, liquidator, monitor, or similar official under any Bankruptcy Law.

**"DBRS"** means DBRS Ltd. or any successor to the rating agency business thereof.

**"Debt Issuances"** means, with respect to a member of the Restricted Group, one or more issuances after the Issue Date of Indebtedness evidenced by notes, debentures, bonds or other similar securities or instruments.

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

**"Definitive Note"** means a certificated Note registered in the name of the Holder thereof and issued in accordance with Sections 3.2(b) and 3.6 hereof, substantially in the form of Appendix A hereto, except that such Note will not bear the Global Note Legend.

**"Depository"** means CDS and such other Person as is designated in writing by the Issuers and acceptable to the Trustee to act as depository in respect of any series of Book Entry Only Notes.

**"Disqualified Stock"** means, with respect to any Person, any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, prior to the Stated Maturity of the principal of the Notes. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the issuer thereof to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the provisions applicable to such Capital Stock either (a) are no more favourable to the holders of such Capital Stock than the provisions contained in Sections 5.14 and 5.15 and such Capital Stock specifically provides that the issuer will not repurchase or redeem any of such Capital Stock pursuant to such provisions prior to the Issuers' repurchase of such of the Notes as are required to be repurchased pursuant to Sections 5.14 and 5.15, or (b) provide that the issuer thereof may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption is permitted by Section 5.10.

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

**"Equity Offering"** means any public or private issuance or sale of Capital Stock (other than Disqualified Stock) of Pubco or warrants, options or other rights to acquire Capital Stock (other than Disqualified Stock) of Pubco.

**"Equity Securities"** of a Person means any Capital Stock of such Person and any debt securities convertible into or exchangeable for such Capital Stock.



"**Event of Default**" has the meaning given to that term in Section 7.1 and any other event defined as an "Event of Default" in this Indenture.

"**Excess Cash Flow**" has the meaning given to that term in Section 4.3(b).

"**Excess Proceeds**" has the meaning given to that term in Section 5.14(g).

"**Existing Indebtedness**" means the aggregate principal amount of Indebtedness of the members of the Restricted Group (other than (a) Indebtedness represented by the Notes or the Note Guarantees, (b) Indebtedness under the Senior Credit Facility, (c) Indebtedness under the Additional Liquidity Facility, and (d) Indebtedness under the SBA PPP Loan) in existence on the Issue Date), in each case until such Indebtedness is Repaid or otherwise extended, refinanced, renewed, replaced, defeased or refunded.

"**Extraordinary Resolution**" means a resolution passed as an extraordinary resolution by the affirmative votes of the Holders of at least 66 2/3% of the outstanding principal amount of Notes, represented and voting on a poll at a meeting of Holders duly convened for the purpose and held in accordance with the provisions of this Indenture.

"**Fair Market Value**" means the value that would be paid by a willing buyer to a willing seller that is not an Affiliate of the willing buyer in a transaction not involving distress or necessity of either party, provided that, in the case of an Asset Sale where such value exceeds \$1.0 million, such determination shall be made in good faith by the Chief Executive Officer or Chief Financial Officer of the LP Issuer GP.

"**FATCA**" means (a) Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended from time to time (including regulations and guidance thereunder) (the "**Code**"), (b) any successor version thereof, (c) any agreement entered into pursuant to Section 1471(b)(1) of the Code or (d) any law, regulation, rule or practice implementing an intergovernmental agreement or approach thereto.

"**Financial Reports**" has the meaning given to that term in Section 5.5(a).

"**Fixed Charge Coverage Ratio**" means, for any period, the ratio of Consolidated EBITDA to Fixed Charges for such period.

For purposes of calculating the Fixed Charge Coverage Ratio:

- (a) in the event that a member of the Restricted Group 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;
- (b) acquisitions that have been made by a member of the Restricted Group, including through mergers or consolidations, or any Person or any of its Restricted Subsidiaries acquired by a member of the Restricted Group, 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 as if they had occurred on the first day of the four-quarter reference period;

- (c) the Consolidated EBITDA 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;
- (d) 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;
- (e) any Person that is a member of the Restricted Group on the Calculation Date will be deemed to have been a member of the Restricted Group at all times during such four-quarter period;
- (f) any Person that is not a member of the Restricted Group on the Calculation Date will be deemed not to have been a member of the Restricted Group at any time during such four-quarter period; and
- (g) if any Indebtedness bears a floating rate of interest, the interest expense on such Indebtedness will be calculated as if the weighted average interest rate during such period had been the rate of interest in effect on the Calculation Date and 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 or ends on the maturity date of such Indebtedness).

**"Fixed Charges"** means, for any period, the sum, without duplication, of:

- (a) the Consolidated Interest Expense for such period; *plus*
- (b) the product of (i) all dividends, whether paid or accrued and whether or not in cash, on Disqualified Stock, other than dividends on Equity Interests payable solely in Equity Interests of Pubco (other than Disqualified Stock) or another member of the Restricted Group, times (ii) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, provincial, state and local statutory tax rate of the members of the Restricted Group, expressed as a decimal, in each case, determined on a consolidated basis in accordance with GAAP.

**"GAAP"** means the International Financial Reporting Standards as issued by the International Accounting Standards Board and adopted by the Canadian Accounting Standards Board.

**"Global Note Legend"** means the legend set forth in Section 2.18(c).

**"Global Notes"** means one or more certificates representing the aggregate principal amount of Notes issued and outstanding and registered in the name of the CDS Nominee (or any replacement Depository) for purposes of being held by such Depository on behalf of the Beneficial Holders of the Notes meaning, individually and collectively, each of the Restricted Global Notes and the Regulation S Global Notes.

**"Government Securities"** means direct non-callable obligations of, or obligations guaranteed by, the federal government of Canada for the payment of which guarantee or obligations the full faith and credit of the federal government of Canada is pledged.

**"guarantee"** means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness or other obligations.

**"Guarantor"** means each member of the Restricted Group that provides a Note Guarantee on the Issue Date and each other Restricted Subsidiary that executes a Note Guarantee pursuant to Section 5.6 or otherwise.

**"Hedging Obligations"** means, with respect to any specified Person, all obligations of such Person under all Currency Agreements, all Interest Rate Agreements and all Commodity Hedging Contracts, with the amount of such obligations being equal to the net amount payable if such obligations were terminated at that time due to default by such Person (after giving effect to any contractually permitted set-off).

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

**"Holders' Request"** means an instrument signed in one or more counterparts by the Holder or Holders of not less than 25% in aggregate principal amount of the outstanding Notes requesting the Trustee to take an action or proceeding permitted by this Indenture.

**"Immaterial Subsidiary"** means, at any date of determination, any Restricted Subsidiary of Pubco, the total assets of which (when combined with the assets of such Restricted Subsidiary's Restricted Subsidiaries and after intercompany eliminations) at the last day of the most recent fiscal quarter ending prior to the date of determination for which internal financial statements are available were less than \$2.0 million and the Consolidated EBITDA attributable to such Subsidiary is less than one percent (1.0%) of the Consolidated EBITDA of Pubco and provided that in no event shall (i) the aggregate total assets of all Immaterial Subsidiaries as at the last day of the most recent fiscal quarter ending prior to the date of determination for which internal financial statements are available exceed five percent (5.0%) of the total assets of Pubco and its Subsidiaries on a consolidated basis or (ii) the aggregate Consolidated EBITDA attributable to all Immaterial Subsidiaries as at the last day of the most recent fiscal quarter ending prior to the date of determination for which internal financial statements are available exceed five percent (5.0%) of the Consolidated EBITDA of Pubco. As of the Issue Date each of Sahara Field Solutions Ltd., Source Energy Services Chemical US LP and Source Energy Services US Chemical GP, Inc. are Immaterial Subsidiaries.

**"incur"** means, with respect to any Indebtedness or Obligation of any Person, to create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to such Indebtedness or Obligation (and "incurrence" and "incurred" shall have meanings correlative to the foregoing).

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

- (a) all indebtedness of such Person in respect of borrowed money (including, for certainty, any capitalized interest);
- (b) all obligations of such Person evidenced by bonds, notes, debentures or similar instruments or letters of credit, letters of guarantee or tender cheques (or reimbursement agreements in respect thereof);

- (c) all obligations of such Person in respect of banker's acceptances;
- (d) all Capital Lease Obligations of such Person and all Attributable Debt in respect of Sale/Leaseback Transactions entered into by such Person;
- (e) all obligations of such Person representing the balance deferred and unpaid of the purchase price of any property that would be included on a balance sheet as a liability in accordance with GAAP, except any such balance that constitutes an accrued expense or trade payable;
- (f) all net obligations of such Person under Hedging Obligations;
- (g) all conditional sale obligations of such Person and all obligations of such Person under title retention agreements, but excluding a title retention agreement to the extent it constitutes an operating lease under GAAP;
- (h) all obligations of such Person under an agreement or arrangement that in substance provides financing pursuant to the factoring of accounts receivable; and
- (i) all Indebtedness of others secured by a Lien on any Property of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and,
- (j) to the extent not otherwise included above, a guarantee by the specified Person of any Indebtedness of any other Person.

The amount of any Indebtedness issued at a price that is less than the principal amount thereof shall be the accreted value of the Indebtedness.

The amount of any Indebtedness of another Person secured by a Lien on the Property of the specified Person shall be the lesser of:

- (i) the Fair Market Value of such Property at the date of determination; and
- (ii) the amount of such Indebtedness of such other Person.

For the avoidance of doubt, "Indebtedness" of any Person shall not include:

- (A) trade payables and accrued liabilities incurred in the ordinary course of business and payable in accordance with customary practice;
- (B) deferred tax obligations;
- (C) minority interests;
- (D) uncanceled interest;
- (E) in connection with a purchase by a member of the Restricted Group of any business or assets, any post-closing payment adjustment to which the seller may become entitled to the extent such adjustment is determined by a final closing balance sheet or such adjustment depends on the performance of such business or assets after the closing; provided, however, that, at the time of closing, the amount of any such

payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid within 45 days thereafter; and

- (F) pension fund obligations or rehabilitation obligations that are classified as "indebtedness" under GAAP but that would not otherwise constitute Indebtedness under clauses (a) through (h) above.

**"Indenture"** means this indenture (including, for the avoidance of any doubt, the preamble and recitals hereto), as originally executed or as it may from time to time be supplemented, amended, restated, or otherwise modified in accordance with the terms hereof.

**"Indenture Obligations"** means the obligations of the Issuers and any other obligor under this Indenture or under the Notes, including any Guarantor, to pay principal of, premium, if any, and interest when due and payable, and all other amounts due or to become due under or in connection with this Indenture, the Notes and the performance of all other obligations to the Trustee and the Holders under this Indenture and the Notes, according to the respective terms thereof.

**"Intercreditor Agreement"** means the intercreditor agreement dated as of the Issue Date, between the Trustee and Collateral Agent, on behalf of the holders of Notes, the Senior Credit Facility Collateral Agent, on behalf of the holders of the Senior Credit Facility Obligations and the Additional Liquidity Facility Obligations, the Issuers and the Guarantors party thereto (as amended, modified, restated, supplemented or replaced from time to time in accordance with its terms).

**"Interest Payment Date"** means February 15, May 15, August 15 and November 15 of each year that the Notes are outstanding, commencing (except in respect of any Additional Notes) on February 15, 2021.

**"Interest Period"** means the period commencing on the later of (a) the date of issue of the applicable Notes and (b) the immediately preceding Interest Payment Date on which interest has been paid, and ending on the date immediately preceding the Interest Payment Date in respect of which interest is payable.

**"Interest Rate Agreement"** means any financial arrangement entered into between a Person (or its Restricted Subsidiaries) and a counterparty on a case by case basis in connection with interest rate swap transactions, interest rate options, cap transactions, floor transactions, collar transactions and other similar interest rate protection related transactions, the purpose of which is to mitigate or eliminate its exposure to fluctuations in interest rates.

**"Intergroup Indebtedness"** means all Indebtedness among the Restricted Group.

**"Investments"** means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the form of:

- (a) any direct or indirect advance, loan or other extension of credit to another Person;
- (b) any capital contribution to another Person, by means of any transfer of cash or other Property in any form;
- (c) any purchase or acquisition of Equity Interests, bonds, notes or other Indebtedness, or other instruments or securities, issued by another Person, including the receipt of any of the above as consideration for the disposition of assets or rendering of services;
- (d) any guarantee of any Indebtedness of another Person; and

- (e) all other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP;

provided that "Investments" with respect to any Person shall exclude extensions of trade credit in the ordinary course of business on commercially reasonable terms in accordance with the normal trade practices of such Person.

If a member of the Restricted Group sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary such that, after giving effect to any such sale or disposition, such Person is no longer a Restricted Subsidiary, the Person making such sale or other disposition 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 Investments of the members of the Restricted Group in such Restricted Subsidiary that were not sold or disposed of. The acquisition by a member of the Restricted Group of a Person that holds an Investment in a third Person will be deemed to be an Investment by such member of the Restricted Group in such third Person in an amount equal to the Fair Market Value of the Investment held by the acquired Person in such third Person. If Pubco designates any of its Restricted Subsidiaries as an Unrestricted Subsidiary in accordance with Section 5.7, Pubco will be deemed to have made an Investment in such Subsidiary on the date of such designation equal to the Fair Market Value of such Person. In each of the foregoing cases, the amount of the Investment will be determined as provided in Section 5.10(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 December 30, 2020.

**"Issuers"** means the LP Issuer and the Corporate Issuer.

**"Issuers Order"** means an order or direction in writing signed by any one officer or director of each Issuer or, in the case of the LP Issuer, any one officer or director of LP Issuer GP.

**"Issuers' Auditors"** means an independent firm of chartered professional accountants duly appointed as auditors of the Issuers.

**"Lien"** means any mortgage, lien (statutory or otherwise), pledge, charge, security interest or encumbrance upon or with respect to any property of any kind, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement.

**"LP Issuer"** means Source Energy Services Canada LP and includes any successor thereto, as permitted by the terms hereof.

**"LP Issuer GP"** means Source Energy Services Canada LP GP Ltd. or any successor general partner of the LP Issuer.

**"LVTS"** means the large value electronic money transfer system operated by the Canadian Payments Association and any successor thereto.

**"Maturity"** means, when used with respect to any Note, the date on which the principal of such Note or an instalment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, notice of redemption, notice of option to elect repayment or otherwise.

**"Maturity Account"** means an account or accounts required to be established by the Issuers (and which shall be maintained by and subject to the control of the Paying Agent) for the Notes issued pursuant to and in accordance with this Indenture.

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

**"Mortgages"** means one or more mortgages, deeds of trust or deeds to secure Indebtedness or other grants or transfers for security executed and delivered by the Issuers or applicable Guarantor to the Collateral Agent for the benefit of the Collateral Agent, the Trustee, and the Holders.

**"Net Cash Proceeds"** means, with respect to any issuance or sale of Equity Interests, the cash proceeds of such issuance or sale net of attorneys' fees, accountants' fees, underwriters' or placement agents' fees, listing fees, discounts or commissions and brokerage, consultant and other fees and charges actually incurred in connection with such issuance or sale and net of taxes paid or payable as a result of such issuance or sale.

**"Net Proceeds"** means, with respect to any Asset Sale, the proceeds therefrom in the form of cash or Cash Equivalents, including payments in respect of deferred payment obligations when received in the form of cash or Cash Equivalents, or stock or other assets when disposed of for cash or Cash Equivalents, received by a member of the Restricted Group from such Asset Sale, net of:

- (a) all legal, title, engineering and environmental fees and expenses (including fees and expenses of legal counsel, advisors, accountants, consultants and investment banks, sales commissions and relocation expenses) related to such Asset Sale;
- (b) provisions for all cash taxes payable or required to be accrued in accordance with GAAP as a result of such Asset Sale;
- (c) payments made to retire Indebtedness where payment of such Indebtedness is secured by a Lien on the assets or properties that are the subject of such Asset Sale, provided that such Lien is not equal or junior in priority to the Note Lien on such assets or properties;
- (d) amounts required to be paid to any Person owning a beneficial interest in the assets or properties that are subject to the Asset Sale; and
- (e) appropriate amounts to be provided by such member of the Restricted Group, as a reserve required in accordance with GAAP against any liabilities associated with such Asset Sale and retained by the seller after such Asset Sale, including pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale;

*provided* that cash and/ or Cash Equivalents in which such member of the Restricted Group has an individual beneficial ownership shall not be deemed to be received by such member of the Restricted Group until such time as such cash and/ or Cash Equivalents are free from any restrictions under agreements with the other beneficial owners of such cash and/ or Cash Equivalents which prevent such member of the Restricted Group from applying such cash and/ or Cash Equivalents to any use permitted by Section 5.14 or to purchase Notes.

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

- (a) as to which no member of the Restricted Group:

- (i) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness),
  - (ii) is directly or indirectly liable as a guarantor or otherwise, or
  - (iii) constitutes the lender; and
- (b) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness (other than the Notes) of a member of the Restricted Group to declare a default on such other Indebtedness or cause the payment of such Indebtedness to be accelerated or payable prior to its Stated Maturity.

**"Note Guarantee"** means a guarantee in the form attached as Appendix C hereto executed by a Guarantor and delivered to the Trustee pursuant to which such Guarantor shall fully and unconditionally guarantee the obligations of the Issuers hereunder and under the Notes.

**"Note Liens"** means all Liens in favour of the Collateral Agent on Collateral securing the Indenture Obligations.

**"Note Net Proceeds"** means the Net Proceeds arising from a sale of Note Priority Collateral, determined in accordance with the Intercreditor Agreement.

**"Note Priority Collateral"** means the "Note Priority Collateral" as such term is defined in the Intercreditor Agreement.

**"Notes"** means the 10.5% senior secured first lien notes due 2025 issued under this Indenture (including, unless the context otherwise requires, any Additional Notes).

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

**"Officer's Certificate"** means a certificate signed by any senior officer or the Corporate Secretary of Pubco or the applicable Issuer (or of its general partner in the case of an Issuer that is a limited partnership), as applicable.

**"Opinion of Counsel"** means a written opinion (which may contain customary exceptions and qualifications) of Counsel in a form acceptable to the Trustee, acting reasonably.

**"Participants"** has the meaning given to that term in Section 3.2(d) and individually a "Participant".

**"Paying Agent"** has the meaning given to that term in Section 2.10(a).

**"Payment Default"** has the meaning given to that term in Section 7.1(g) .

**"Permitted Assets"** means any and all Property that is used or useful in a Permitted Business (including Capital Stock in a Person that is a Restricted Subsidiary and Capital Stock in a Person whose primary business is a Permitted Business that shall become a Restricted Subsidiary immediately upon the acquisition of such Capital Stock by a member of the Restricted Group, but excluding any other securities).



**"Permitted Business"** means any business conducted (as described in Pubco's annual information form for the year ended December 31, 2019) by the members of the Restricted Group on the Issue Date, and other businesses reasonably related or ancillary thereto or that are a reasonable extension or development thereof.

**"Permitted Debt"** has the meaning given to that term in Section 5.11(b).

**"Permitted Investments"** means, without duplication:

- (a) any Investment in a member of the Restricted Group;
- (b) any Investment in Cash Equivalents;
- (c) any Investment in a Person, if as a result of such Investment:
  - (i) such Person becomes a Restricted Subsidiary, or
  - (ii) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, a member of the Restricted Group;
- (d) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 5.14;
- (e) any acquisition of assets or other Investments in a Person solely in exchange for the issuance of Capital Stock (other than Disqualified Stock) of Pubco, or warrants, options or other rights to acquire Capital Stock (other than Disqualified Stock) of Pubco;
- (f) Investments resulting from repurchases of the Notes;
- (g) any Investments received in compromise of:
  - (i) obligations of trade creditors or customers that were incurred in the ordinary course of business, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer or
  - (ii) litigation, arbitration or other disputes;
- (h) Hedging Obligations incurred in the ordinary course of business and not for speculative purposes;
- (i) Investments (A) existing on the Issue Date or (B) that are an extension, modification or renewal of any such Investments described under the preceding subclause (A), but only to the extent not involving additional advances, contributions or other Investments of cash or other assets or other increases thereof, and Investments made with the proceeds, including, without limitation, from sales or other dispositions, of such Investments and any other Investments made pursuant to this clause (i) ;
- (j) guarantees issued in accordance with Section 5.11;

- (k) guarantees of performance or other obligations (other than Indebtedness) arising in the ordinary course of business;
- (l) loans or advances made to officers, directors or employees of any member of the Restricted Group; provided that the aggregate principal amount outstanding at any time under this clause (l) shall not exceed \$1.0 million;
- (m) Investments of a Restricted Subsidiary acquired after the Issue Date or of an entity merged into, amalgamated with, or consolidated with a member of the Restricted Group in a transaction that is not prohibited by Section 10.1 after the Issue Date to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation; and
- (n) 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 (n) that are at the time outstanding not to exceed at any one time outstanding the greater of \$10.0 million and 3% of Consolidated Tangible Assets.

**"Permitted Liens"** means, as of any date:

- (a) Liens on the Collateral securing (i) Indebtedness under Credit Facilities that was incurred in reliance on Section 5.11(b)(i) (measured at the time of the incurrence of such Indebtedness) and any other obligations related thereto and (ii) Cash Management Obligations incurred by a member of the Restricted Group in the ordinary course of business; provided that, in each case, (A) to the extent that any such Liens are on the Note Priority Collateral, such Liens are junior in priority to the Note Liens on such Collateral and (B) any such Liens are subject to the terms of the Intercreditor Agreement;
- (b) Liens on the Collateral securing Indebtedness under the Additional Liquidity Facility, provided that (A) such Liens shall rank senior to the Note Liens on the Collateral solely to the extent and for the period permitted pursuant to Section 5.11(b)(iii) and (B) any such Liens are subject to the terms of the Intercreditor Agreement;
- (c) Liens in favour of any member of the Restricted Group;
- (d) Liens on property of a Person existing at the time such Person is acquired by or amalgamated or merged with or into or consolidated with any member of the Restricted Group; provided that such Liens were in existence prior to, and were not created in contemplation of, such acquisition, amalgamation, merger or consolidation and do not extend to any property other than those of the Person acquired by or amalgamated or merged into or consolidated with such member of the Restricted Group;
- (e) Liens securing Hedging Obligations incurred in the ordinary course of business and not for speculative purposes;
- (f) Liens for any judgment rendered, or claim filed, against a member of the Restricted Group which is being contested in good faith by appropriate proceedings and that does not constitute an Event of Default if during such contestation a stay of enforcement of such judgment or claim is in effect;

- (g) Liens on property existing at the time of acquisition of such property by a member of the Restricted Group, provided that such Liens do not extend to any other property of such member of the Restricted Group and were in existence prior to, and were not created in contemplation of, such acquisition;
- (h) Liens incurred or deposits made to secure the performance of or otherwise in connection with statutory obligations, environmental reclamation obligations, bids, leases, government contracts, surety or appeal bonds, performance or return-of-money bonds or other obligations of a like nature incurred in the ordinary course of business, including letters of credit, performance bonds and other reimbursement obligations permitted by Section 5.11(b)(ii);
- (i) Liens securing Indebtedness permitted by Section 5.11(b)(viii) covering only the assets acquired, developed or improved with such Indebtedness;
- (j) Liens existing on the Issue Date (other than Liens described in clause (a) and (b) above);
- (k) Liens for taxes, workers' compensation, unemployment insurance and other types of social security, assessments or other governmental charges or claims that are not yet due and payable or, if due and payable and delinquent, that are being contested by a member of the Restricted Group 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;
- (l) licences, permits, reservations, covenants, servitudes, easements, rights-of-way and rights in the nature of easements (including, without limiting the generality of the foregoing, in respect of sidewalks, public ways, sewers, drains, gas, steam and water mains or electric light and power, or telephone and telegraph conduits, poles, wires and cables) and zoning, land use and building restrictions, by-laws, regulations and ordinances of federal, provincial, regional, state, municipal and other governmental authorities;
- (m) Liens imposed by law that are incurred in the ordinary course of business and do not secure Indebtedness for borrowed money, such as carriers', warehousemen's, mechanics', landlords', materialmen's, employees', labourers', employers', suppliers', banks', builders', repairmen's and other like Liens;
- (n) easements, rights-of-way, zoning restrictions and other similar charges, restrictions or encumbrances in respect of real property or immaterial imperfections of title that do not, in the aggregate, impair in any material respect the ordinary conduct of the business of the a member of the Restricted Group taken as a whole;
- (o) Liens securing Permitted Refinancing Indebtedness in respect of Indebtedness that was secured by Permitted Liens, provided that such Liens secure only the same property as, and have no greater priority than, such Permitted Liens;
- (p) Liens given to a public utility or any municipality or governmental or other public authority when required by such utility or other authority in connection with the operation of the business or the ownership of the assets of the a member of the Restricted Group;

- (q) Liens arising from precautionary PPSA or UCC (or its equivalent) financing statement filings regarding operating leases entered into by a member of the Restricted Group in the ordinary course of business;
- (r) applicable municipal and other governmental restrictions, including municipal by laws and regulations, affecting the use of land or the nature of any structures which may be erected thereon, provided such restrictions have been complied with;
- (s) subdivision agreements, site plan control agreements, servicing agreements, development agreements, facilities sharing agreements, cost sharing agreements and other similar agreements provided they do not materially impair the use of the affected property for the purpose for which it is used by a member of the Restricted Group or materially impair the value of the property subject thereto or interfere with the ordinary conduct of the business of such Person and provided the same are complied with;
- (t) landlord distraint rights and similar rights arising under the leasehold interests of a member of the Restricted Group limited to the assets located at or about such leased properties;
- (u) title defects, encroachments or irregularities which are of a minor nature;
- (v) the reservations, limitations, provisos and conditions, if any, expressed in any original grant from the Crown of any real property or any interest therein or in any comparable grant in jurisdictions other than Canada;
- (w) Liens in favour of customs, revenue, and taxation authorities arising by operation of law;
- (x) Liens in favour of any federal government or any province, state or territory thereof or any municipality therein or any political subdivision, department, agency or instrumentality of any of them to secure the performance of any covenant or obligation to or in favour of or entered into at the request of such authorities where such security is required pursuant to any contract, statute or regulation or with respect to any franchise, grant, license or permit (including related to periodic payments in connection therewith) or arises by operation of law and any defects in title to structures or other facilities arising solely from the fact that such structures or facilities are constructed or installed on lands held by a member of the Restricted Group under government permits, leases or grants, provided that such Lien is not given in connection with Indebtedness;
- (y) Liens or other encumbrances, not related to the borrowing of money or other Indebtedness, incurred or arising by operation of law or in the ordinary course of business or incidental to the ownership of property or assets;
- (z) Liens securing the Notes and the Note Guarantees thereof; and
- (aa) other Liens securing Indebtedness and related obligations in an aggregate principal amount not to exceed, at any one time outstanding, \$5.0 million.

**"Permitted Refinancing Indebtedness"** means any Indebtedness of a member of the Restricted Group issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease

or refund other Indebtedness of a member of the Restricted Group (other than Intergroup Indebtedness); *provided that:*

- (a) 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 extended, refinanced, renewed, replaced, defeased or refunded (plus all accrued interest on the Indebtedness and the amount of all reasonable fees and expenses and premiums incurred in connection therewith);
- (b) the Stated Maturity of the principal of such Permitted Refinancing Indebtedness is (i) no earlier than the Stated Maturity of the principal of the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded, or (ii) at least 91 days after the Stated Maturity of the principal of the Notes;
- (c) the Permitted Refinancing Indebtedness has a Weighted Average Life to Maturity at the time such Permitted Refinancing Indebtedness is incurred that is equal to or greater than the Weighted Average Life to Maturity of the Indebtedness being extended, refinanced, renewed, replaced, deferred or refunded;
- (d) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is Subordinated Indebtedness of the obligor thereon, such Permitted Refinancing Indebtedness is subordinated in right of payment to the Notes issued by, or the Note Guarantee of, the obligor thereon, as the case may be, on terms at least as favourable, taken as a whole, to the Holders as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded;
- (e) (i) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is secured Indebtedness, no additional security, or security with greater priority, is granted in respect thereof; and (A) if such Indebtedness is unsecured Indebtedness, no security is granted in respect thereof; and
- (f) such Permitted Refinancing Indebtedness is incurred by the Person that was the obligor on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded and is guaranteed only by Persons who were obligors on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded.

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

**"PIK Election"** means an election by the Issuers to defer payment of the obligations to pay interest on the applicable Interest Payment Date by, in part, issuing PIK Notes in accordance with Section 2.4.

**"PIK Election Notice"** means a written notice made by the Issuers to the Trustee specifying (i) the obligation to pay interest and Interest Payment Date to which the PIK Election relates, (ii) the amount of interest subject to the PIK Election and (iii) directing the Trustee to authenticate and issue such PIK Notes.

**"PIK Interest Amount"** means that portion of any obligation to pay interest to be deferred by the issuance of PIK Notes by the Issuers in accordance with a PIK Election made, or deemed made, by the Issuers pursuant to Section 2.4.

"**PIK Notes**" means, as applicable, (x) additional Notes issued from time to time by the Issuers in accordance with Section 2.4 or (y) any increase made to the principal amount of the outstanding Global Note in accordance with Section 2.4, in either case to satisfy any payment of interest.

"**Post-Closing Undertaking**" means the post-closing undertaking attached hereto as Appendix D.

"**PPSA**" means the *Personal Property Security Act* (Alberta) and the regulations thereof in force from time to time, and, as it applies to floating land charges, includes the *Law of Property Act* (Alberta), provided, however, that, at any time, if by reason of mandatory provisions of law, any or all of the perfection or priority of the Collateral Agent's security interest in any item or portion of the Collateral is governed by the PPSA as in effect in a jurisdiction other than the Province of Alberta, the term "PPSA" shall mean the Personal Property Security Act or equivalent as in effect, at such time, in such other jurisdiction for purposes of the provisions hereof relating to such perfection or priority and for purposes of definitions relating to such provisions.

"**Premium**" means, at any time with reference to any Note and without duplication, the excess of the applicable Redemption Price of such Note at such time and/or any other amount owing at such time with respect to such Note over the principal amount of such Note.

"**Property**" means, with respect to any Person, any interest of such Person in any kind of property or asset, whether real, personal, or mixed, or tangible or intangible, including Capital Stock in, and other securities of, any other Person.

"**Pubco**" means Source Energy Services Ltd., a corporation incorporated pursuant to the laws of Alberta and its successors.

"**Purchase Money Obligations**" means Indebtedness of a member of the Restricted Group incurred for the purpose of financing all or any part of the purchase price, or the cost of installation, construction or improvement, of Permitted Assets.

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

"**Receivables**" means receivables, chattel paper, instruments, documents or intangibles evidencing or relating to the right to payment of money.

"**Record Date**" means, (i) with respect to any Interest Payment Date, the close of business five Business Days immediately preceding such Interest Payment Date and (ii) with respect to each Cash Sweep Redemption, the close of business five Business Days following the date on which the Cash Sweep Redemption Notice is delivered to the Trustee.

"**Redemption Date**" has the meaning given to that term in Section 4.6.

"**Redemption Notice**" has the meaning given to that term in Section 4.6.

"**Redemption Price**" has the meaning given to that term in Section 4.1.

"**Registrar**" has the meaning given to that term in Section 2.10(a).

"**Regulation S**" means Regulation S adopted by the SEC under the 1933 Act.

**"Regulation S Definitive Note"** means one or more Definitive Notes substantially in the form of Appendix A hereto except that such Definitive Notes do not bear and are not required to bear the 144A U.S. Legend.

**"Regulation S Global Note"** means a Global Note (which, if certificated, shall be represented by a certificate substantially in the form of Exhibit A hereto bearing the Global Note Legend, the Regulation S Legend but without the 144A U.S. Legend) deposited with or on behalf of and registered in the name of the Depository or its nominee that will initially be issued in a denomination equal to the outstanding principal amount of Notes sold in the provinces of Canada in reliance on Regulation S.

**"Regulation S Legend"** means the legend set forth in 2.18(a).

**"Relevant Taxing Jurisdiction"** has the meaning given to that term in Section 2.6(a).

**"Repay"** means, in respect of any Indebtedness, to repay, prepay, repurchase, redeem, legally defease or otherwise retire such Indebtedness. "Repayment" and "Repaid" shall have correlative meanings. For purposes of Section 5.14 and the definition of "Fixed Charge Coverage Ratio," Indebtedness shall be considered to have been Repaid only to the extent the related loan commitment, if any, shall have been permanently reduced in connection therewith.

**"Restricted Definitive Note"** means one or more Definitive Notes substantially in the form of Appendix A except bearing the 144A U.S. Legend.

**"Restricted Global Note"** means a Global Note (which, if certificated, shall be represented by a certificate substantially in the form of Exhibit A hereto bearing the Global Note Legend and the 144A U.S. Legend) deposited with or on behalf of, and registered in the name of, the Depository or its nominee that will initially be issued in a denomination equal to the outstanding principal amount of the Notes sold in the United States or to, or for the account of benefit of, QIBs, in reliance on Rule 144A.

**"Restricted Group"** means Pubco, collectively with each of its direct and indirect existing and future Restricted Subsidiaries, and each individually is a "member" of the Restricted Group.

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

**"Restricted Payment"** has the meaning given to that term in Section 5.10(a).

**"Restricted Subsidiary"** of a Person means any Subsidiary of such Person that is not an Unrestricted Subsidiary. On the Issue Date, every direct and indirect Subsidiary of Pubco will be a Restricted Subsidiary. If at any time following the Issue Date, the Trustee, acting pursuant to a direction of Holders of a majority in aggregate principal amount of the outstanding Notes, so requests, the Issuers shall promptly provide a list of Restricted Subsidiaries.

**"Rule 144A"** means Rule 144A promulgated under the 1933 Act.

**"S&P"** means Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc. and its successors.

**"Sale/Leaseback Transaction"** means an arrangement relating to property owned by a member of the Restricted Group on the Issue Date or thereafter acquired by a member of the Restricted Group whereby a member of the Restricted Group transfers such property to a Person and a member of the Restricted Group leases it from such Person.

"**SBA**" means the U.S. Small Business Administration.

"**SBA PPP Loan**" means a loan incurred by the SBA PPP Loan Applicant under 15 U.S.C. 636(a)(36) (as added to the Small Business Act by Section 1102 of the CARES Act).

"**SEC**" means the U.S. Securities and Exchange Commission, including any successor thereto.

"**Security Documents**" means, collectively, the Security Agreement, the Mortgages, the Intercreditor Agreement and all of the security agreements, pledges, collateral assignments, mortgages, deeds of hypothec, deeds of trust, trust deeds or other instruments, including, for certainty, the documents set forth in the Post-Closing Undertaking, evidencing or creating or purporting to create any security interests in favour of the Collateral Agent for its benefit and for the benefit of the Trustee, or the Holders, in all or any portion of the Collateral, as amended, modified, restated, supplemented or replaced from time to time.

"**Security Agreement**" means the security agreement dated on the Issue Date among the Issuers, the Guarantors and the Collateral Agent, as amended, modified, restated, supplemented or replaced from time to time.

"**Senior Credit Facility**" means the fifth amended and restated credit agreement in effect on the Issue Date among the LP Issuer, the guarantors from time to time party thereto, the lenders from time to time party thereto, and the Bank of Montreal, as agent, including any related notes, debentures, pledges, guarantees, security documents, instruments and agreements executed from time to time in connection therewith, and in each case as amended, modified, restated, renewed, replaced or refinanced from time to time, including any agreement extending the maturity of, refinancing, replacing or otherwise restructuring or adding a member of the Restricted Group as replacement or additional borrowers or guarantors thereunder, and all or any portion of the Indebtedness and other obligations under such agreement or agreements or any successor or replacement agreement or any agreements, and whether by the same or any other agent, lender or group of lenders; provided that Interest Rate Agreements, Currency Agreements and Commodity Hedging Contracts entered into with a Person that at that time is a lender (or an Affiliate thereof) under the Senior Credit Facility are separate from, are not included within and do not form part of, any above inclusions of the Senior Credit Facility.

"**Senior Credit Facility Collateral Agent**" means the Bank of Montreal as collateral agent under the Senior Credit Facility, and its successors, replacements and/ or assigns in such capacity.

"**Senior Credit Facility Priority Collateral**" means: the "Bank Priority Collateral" as such term is defined in the Intercreditor Agreement.

"**Senior Credit Facility Obligations**" means the Indebtedness and other obligations under the Senior Credit Facility which are secured by a Lien on the Collateral, in an amount of such Indebtedness permitted by Section 5.11(b)(i) together with any Cash Management Obligations or Hedging Obligations that are owing to the lenders under the Senior Credit Facility and are secured by a Lien on the Collateral permitted by clause (a)(ii) or clause (d), respectively, of the definition of "Permitted Liens."

"**Source Canada Business**" means the business that on the Issue Date is carried on by, collectively, (a) LP Issuer GP, (b) the LP Issuer, (c) SES Sand Holdings (US) LP, (d) SES Sand Holdings (US) Ltd. and (e) any Subsidiary of any of the foregoing, in the case of each of the foregoing clauses (a) through (c), including the assets and liabilities thereof, as such business may be carried on from time to time thereafter (and includes entities or other assets acquired or otherwise owned by any of them after the Issue Date).



**"Source US Business"** means the business that on the Issue Date is carried on by, collectively, (a) SES Sand Holdings (Canada) Inc., (b) Source Energy Services US II LP GP Ltd., (c) Source Energy Services US LP, (d) Berthold, and (e) any Subsidiary of either or both of them, in the case of each of the foregoing clauses (a) through (e), including the assets and liabilities thereof, as such business may be carried on from time to time thereafter (and includes entities or other assets acquired or otherwise owned by any of them after the Issue Date).

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

**"Subordinated Indebtedness"** means Indebtedness of an Issuer or a Guarantor that is subordinated in right of payment to the Notes or the Note Guarantee issued by such Issuer or Guarantor, as the case may be.

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

- (a) 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) 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
- (b) any partnership or limited liability company if (i) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, thereof are owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof), whether in the form of membership, general, special or limited partnership interests or otherwise, and (ii) the specified Person, or any Subsidiary of the specified Person, is a controlling general partner of, or otherwise controls, such entity.

**"Subsidiary Guarantor"** means a Guarantor that is a direct or indirect Subsidiary of Pubco.

**"Supplemental Indenture"** means an indenture supplemental to this Indenture which may be executed, acknowledged and delivered for any of the purposes set out in Section 12.6.

**"Tax Act"** means the *Income Tax Act* (Canada), as in effect from time to time.

**"Taxes"** means any present or future tax, levy, impost, assessment or other government charge (including penalties, interest and any other liabilities related thereto) imposed or levied by or on behalf of a Taxing Authority.

**"Taxing Authority"** means any government or any political subdivision or territory or possession of any government or any authority or agency therein or thereof having power to tax.

**"Terminal Assets"** means rail terminals and those chattels and fixtures forming part of each rail terminal location, consisting of land, rail tracks, rail switches, commodity storage, conveyors and commodity handling equipment.

**"Trustee"** means Computershare Trust Company of Canada in its capacity as trustee under this Indenture and its successors and permitted assigns in such capacity.

**"Trust Monies"** means all cash and Cash Equivalents:

- (a) received by the Restricted Group upon the release of Collateral from the Lien of the Indenture or the Security Documents in connection with any Asset Sale; provided that, any such cash or Cash Equivalents remaining after consummation of an Asset Sale Offer pursuant to Section 5.14 shall cease to be Trust Monies; or
- (b) received by the Collateral Agent as proceeds of any sale or other disposition of all or any part of the Collateral by or on behalf of the Collateral Agent or any collection, recovery, receipt, appropriation or other realization of or from all or any part of the Collateral pursuant to the Indenture or any of the Security Documents.

**"UCC"** means the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, that, at any time, if by reason of mandatory provisions of law, any or all of the perfection or priority of the Collateral Agent's security interest in any item or portion of the Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect, at such time, in such other jurisdiction for purposes of the provisions hereof relating to such perfection or priority and for purposes of definitions relating to such provisions.

**"Unrestricted Subsidiary"** means any Restricted Subsidiary (including a newly acquired or newly formed Subsidiary) that is designated by the Board of Directors of Pubco as an Unrestricted Subsidiary pursuant to Section 5.7, and includes any Subsidiary of an Unrestricted Subsidiary.

**"U.S." or "United States"** means the United States of America.

**"U.S. person"** has the meaning given to that term under Regulation S.

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

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

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

**"Wholly Owned Restricted Subsidiary"** means any Restricted Subsidiary of which all of the outstanding Voting Stock (other than directors' qualifying shares or shares required to be owned by other Persons pursuant to applicable law) is owned directly or indirectly by Pubco or any other Wholly Owned Restricted Subsidiary.

## 1.2 Meaning of "Outstanding"

Every Note issued, authenticated and delivered in accordance with this Indenture shall be deemed to be outstanding until it is cancelled or redeemed or delivered to the Trustee for cancellation or redemption for monies or a new Note is issued in substitution for it pursuant to Section 2.15 or the payment for redemption thereof shall have been set aside under Section 4.8, provided that:

- (a) when a new Note has been issued in substitution for a Note which has been lost, stolen or destroyed, only one of such Notes shall be counted for the purpose of determining the aggregate principal amount of Notes outstanding;
- (b) Notes which have been partially redeemed or purchased shall be deemed to be outstanding only to the extent of the unredeemed or unpurchased part of the principal amount thereof; and
- (c) for the purposes of any provision of this Indenture entitling Holders of outstanding Notes to vote, sign consents, resolutions, requisitions or other instruments or take any other action under this Indenture, or to constitute a quorum of any meeting of Holders, Notes owned directly or indirectly, legally or equitably, by the Issuers or any of its Subsidiaries shall be disregarded (unless the Issuers and/or one or more of its Subsidiaries are the only Holders (or Beneficial Holders) of the outstanding aggregate principal amount of Notes at the time outstanding in which case they shall not be disregarded) except that:
  - (i) for the purpose of determining whether the Trustee shall be protected in relying on any such vote, consent, requisition or other instrument or action, or on the Holders present or represented at any meeting of Holders, only the Notes in respect of which the Trustee has received an Officer's Certificate from each Issuer confirming that the Issuers and/ or one or more of its Subsidiaries are the only Holders shall be so disregarded; and (ii) Notes so owned which have been pledged in good faith other than to the Issuers or any of its Subsidiaries shall not be so disregarded if the pledgee shall establish, to the satisfaction of the Trustee, the pledgee's right to vote such Notes, sign consents, requisitions or other instruments or take such other actions in his discretion free from the control of the Issuers or any of its Subsidiaries.

## 1.3 Interpretation

In this Indenture:

- (a) words importing the singular number or masculine gender shall include the plural number or the feminine or neuter genders, and vice versa;
- (b) all references to Articles and Appendices refer, unless otherwise specified, to articles of and appendices to this Indenture;
- (c) all references to Sections refer, unless otherwise specified, to sections, subsections or clauses of this Indenture;
- (d) words and terms denoting inclusiveness (such as "include" or "includes" or "including"), whether or not so stated, are not limited by and do not imply limitation of their context or the words or phrases which precede or succeed them; and

- (e) "this Indenture", "hereto", "herein", "hereby", "hereunder", "hereof" and similar expressions refer to this Indenture and not to any particular Article, Section, subsection, clause, subdivision or other portion hereof and include the Note Guarantees, as applicable, and any and every Supplemental Indenture.

#### **1.4 Headings, Etc.**

The division of this Indenture into Articles, Sections, subsections and paragraphs, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Indenture.

#### **1.5 Statute Reference**

Any reference in this Indenture to a statute is deemed to be a reference to such statute as amended, re-enacted or replaced from time to time.

#### **1.6 Directors and Officers of Limited Partnerships**

Any reference in this Indenture to a director or an officer of a limited partnership is deemed to be a reference to the equivalent director or officer of the general partner of such limited partnership in its capacity as general partner.

#### **1.7 Day not a Business Day**

In the event that any day on or before which any action required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the first Business Day thereafter.

#### **1.8 Applicable Law**

This Indenture and the Notes shall be construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein and shall be treated in all respects as Alberta contracts.

#### **1.9 Monetary References**

Whenever any amounts of money (including the word "dollars" and the symbol"\$") are referred to herein, such amounts shall be deemed to be in lawful money of Canada unless otherwise expressed; it being understood that any reference to "US\$" or "United States dollars" is a reference to United States dollars, the lawful currency of the United States of America.

#### **1.10 Invalidity, Etc.**

Each provision in this Indenture or in a Note is distinct and severable and a declaration of invalidity or unenforceability of any such provision by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof or thereof.

#### **1.11 Language**

*Les parties aux présentes ont exigé que la présente convention ainsi que tous les documents et avis qui s'y rattachent et/ou qui en découleront soient rédigés en langue anglaise.* The parties hereto have required that this Indenture and all documents and notices related thereto be drawn up in English.

### **1.12 Successors and Assigns**

All references in this Indenture to any Person shall bind and shall apply to their respective successors and assigns, as applicable, whether expressed or not.

### **1.13 Benefits of Indenture**

Nothing in this Indenture or in the Notes, express or implied, shall give to any Person, other than the parties hereto and their respective successors or assigns hereunder, any Paying Agent, the Holders, the Trustee and the Collateral Agent, any benefit or any legal or equitable right, remedy or claim under this Indenture.

### **1.14 Accounting Terms**

Each accounting term used in this Indenture, unless otherwise defined herein, has the meaning assigned to it under GAAP as in effect on the Issue Date, provided that, solely with respect to the treatment of lease obligations, all references to GAAP shall be deemed to refer to GAAP as in effect on and prior to December 31, 2018 and, for greater certainty, without regard to the effect of IFRS 16 (Leases).

## **ARTICLE 2** **THE NOTES**

### **2.1 Issue and Designation of Notes; Ranking**

In accordance with this Indenture, the Issuers are authorized to issue a series of Notes designated "**10.5% Senior Secured First Lien Notes due 2025**". The Notes may be issued from time to time, subject to the conditions and limitations in this Indenture, shall be dated on the date of issue thereof, and shall be issued in denominations of \$1.00 and integral multiples of \$1.00 in excess thereof. The Notes will become due and payable, together with accrued and unpaid interest thereon, on March 15, 2025.

### **2.2 Additional Notes**

The aggregate principal amount of Notes which may be issued under this Indenture on the Issue Date will consist of and initially be limited to \$142,238,201 in lawful money of Canada. The Issuers shall be entitled to issue the PIK Notes issued in accordance with Section 2.4. The Notes issued on the date hereof, and any PIK Notes shall be treated as a single series for all purposes under this Indenture (including, waivers, amendments, redemptions and offers to purchase) and such PIK Notes shall be subject to Section 2.4(d). Any Additional Notes that may be permitted pursuant to 12.2(b)(v), shall be issued pursuant to a supplement or amended and restated Indenture with such changes to establish such notes as a separate series. With respect to any Additional Notes, each Issuer shall set forth in an Officer's Certificate, a copy of which shall be delivered to the Trustee, the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture, and the Holder(s), issue date and first Interest Payment Date of such Additional Notes.

### **2.3 Interest**

Subject to Section 2.4, the Notes will bear interest on the unpaid principal amount thereof at the rate of 10.5% per annum from the issuance thereof or, if interest has already been paid, from the date it was most recently paid to, but excluding, the Stated Maturity date of the Notes, compounded quarterly and payable in arrears in respect of each Interest Period (after, as well as before, Maturity, default and judgment, with overdue interest at the same rate) on each Interest Payment Date in accordance with Section 2.16 and Section 2.19. The first Interest Payment Date will be February 15, 2021.

## 2.4 PIK Election

- (a) With respect to any Interest Payment Date occurring on or prior to February 15, 2022, the Issuers shall have the right to elect, from time to time, provided no Event of Default has occurred or is continuing in respect of all of the then outstanding Notes, to defer payment of a portion of any obligation to pay interest on any Interest Payment Date (other than any Interest Payment Date which is also a Redemption Date or an acceleration date) by (x) delivering PIK Notes in accordance with this Section 2.4 or (y) if applicable, increasing the amount of the Global Note in accordance with clause (d) of this Section 2.4, subject always to Section 2.4(c).
- (b) A PIK Election shall be made by delivering a PIK Election Notice to the Trustee not less than 15 Business Days prior to the Interest Payment Date to which the PIK Election relates; provided, however, that a PIK Election shall not apply to an Interest Payment Date where (i) such Interest Payment Date is the Stated Maturity, a Redemption Date or an acceleration date or (ii) there is an Event of Default which has occurred or is continuing on such Interest Payment Date or would result after giving pro forma effect to such PIK Election, in which case, for greater certainty, all interest due and payable on such Interest Payment Date shall be payable in full in cash.
- (c) So long as a PIK Election Notice has been made and not withdrawn in accordance with this Section 2.4, the Notes shall bear interest at twelve and one half percent (12.5%) per annum paid-in-kind for the applicable Interest Period in respect of which such PIK Election has been made (which payment-in-kind interest shall be capitalized on the applicable Interest Payment Date or, subject to subsection (d), evidenced by PIK Notes).
- (d) At all times, the obligation to pay a PIK Interest Amount shall be satisfied (i) with respect to Notes represented by a Global Note registered in the name of, or held by, CDS or its nominee on the relevant Interest Payment Date, by increasing the principal amount of the outstanding Global Note by an amount equal to the amount of such PIK Interest Amount on the applicable Interest Payment Date (rounded down to the nearest whole dollar), or (ii) with respect to Notes in certificated form, by indicating the deferral thereof and an increase in the principal amount of the Notes in the register for the Notes and by issuing PIK Notes in certificated form in an aggregate principal amount equal to such PIK Interest Amount (rounded down to the nearest whole dollar) and the Trustee will, at the written request of the Issuers, certify and deliver such PIK Notes in certificated form for original issuance to the holders thereof on the relevant Interest Payment Date, as shown in the register for the Notes; provided that a holder of a Note represented by a physical certificate shall be entitled to PIK Interest Amount so long as the increase in the principal amount of the Notes is recorded in the register for the Notes, whether or not PIK Notes represented by a physical certificate representing such PIK Interest Amount have been issued to such holder. Following an increase in the principal amount of a Global Note in accordance with this clause (d), such Global Note will bear interest on such increased principal amount from and after the applicable Interest Payment Date as otherwise set forth in Section 2.16. Any PIK Notes issued in certificated form will be dated as of the applicable Interest Payment Date and will bear interest from and after such date as otherwise set forth in Section 2.16.
- (e) PIK Notes issued in accordance with this Section 2.4 shall be subject to the same terms and conditions as the Notes issued on the Issue Date and shall also be designated as "10.5% Senior Secured First Lien Notes due 2025". Such PIK Notes shall constitute part of the same series of securities as the Notes issued on the Issue Date and the holders thereof will

have the right to vote together with the holders of all other outstanding Notes as one class on all matters with respect to this Indenture and the Notes.

- (f) The Issuers shall have the right to withdraw any PIK Election and, for greater certainty, shall be deemed to withdraw the PIK Election effective February 16, 2022 by delivering written notice to the Trustee not less than 5 Business Days prior to the consummation of such PIK Election and the issuance of any PIK Notes on the Interest Payment Date in respect of which such PIK Election was made or deemed made, whereupon the Issuers shall be obliged to pay in cash in full the payment of interest in respect of which such PIK Election was made on such Interest Payment Date.

## 2.5 Currency of Payment

The principal of, and interest and Premium (if any), the Notes will be payable in Canadian dollars.

## 2.6 Additional Amounts

- (a) All payments made by or on behalf of either Issuer or any Guarantor (each a "**Payor**") under or with respect to the Notes or any Note Guarantee will be made free and clear of and without withholding or deduction for or on account of Taxes imposed or levied by or on behalf of any jurisdiction in which such Payor is organized, resident or carrying on business for tax purposes or from or through which such Payor (or its agents) makes any payment on the Notes or any Note Guarantee or any department or political subdivision thereof (each, a "**Relevant Taxing Jurisdiction**"), unless such Payor is required to withhold or deduct Taxes by law or by the interpretation or administration thereof. If a Payor is so required to withhold or deduct any amount for or on account of Taxes from any payment made under or with respect to the Notes or any Note Guarantee, such Payor, subject to the exceptions set forth in Section 2.6(b), will pay such additional amounts ("**Additional Amounts**") as additional interest as may be necessary such that the net amount received in respect of such payment by each Holder or Beneficial Holder after such withholding or deduction (including withholding or deduction attributable to Additional Amounts payable hereunder) will not be less than the amount the Holder or Beneficial Holder, as the case may be, would have received if such Taxes had not been required to be so withheld or deducted.
- (b) Notwithstanding Section 2.6(a), a Payor will not pay Additional Amounts to a Holder or Beneficial Holder with respect to:
  - (i) Canadian withholding Taxes imposed on a payment to a Holder or Beneficial Holder with which the Payor does not deal at arm's length for the purposes of the Tax Act at the time of making such payment;
  - (ii) Canadian withholding Taxes imposed on a payment in respect of a debt or other obligation to pay an amount to a Person with whom the Payor does not deal at arm's length for the purposes of the Tax Act;
  - (iii) [Intentionally Deleted];
  - (iv) any Canadian withholding Taxes imposed on a payment or deemed payment to a Holder or Beneficial Holder by reason of such Holder or Beneficial Holder being a "specified non-resident shareholder" (within the meaning of subsection 18(5) of

the Tax Act) of the Corporate Issuer or of a direct or indirect member of the LP Issuer at the time of payment or deemed payment, or by reason of such Holder or Beneficial Holder being a non-resident person not dealing at arm's length for the purposes of the Tax Act with a "specified shareholder" (within the meaning of subsection 18(5) of the Tax Act) of the Corporate Issuer or of a direct or indirect member of the LP Issuer at the time of payment or deemed payment;

- (v) Taxes giving rise to such Additional Amounts that would not have been imposed but for the existence of any present or former connection between the Holder (or the Beneficial Holder of, or person ultimately entitled to obtain an interest in, such Notes, including a fiduciary, settler, beneficiary, member, partner, shareholder or other equity interest owner of, or possessor of power over, such Holder or Beneficial Holder, if such Holder or Beneficial Holder is an estate, trust, partnership, limited liability company, corporation or other entity) and the Relevant Taxing Jurisdiction (including being a citizen or resident or national of, or carrying on a business or maintaining a permanent establishment in, the Relevant Taxing Jurisdiction but not including any connection resulting solely from the acquisition, ownership, or disposition of Notes, the receipt of payments thereunder or under any Note Guarantee and/ or the exercise or enforcement of rights under the Notes or any Note Guarantee);
- (vi) Taxes giving rise to such Additional Amounts that would not have been imposed but for the failure of such Holder or Beneficial Holder, to the extent such Holder or Beneficial Holder is legally eligible to do so, to timely satisfy any certification, identification, information, documentation or other reporting requirements concerning the nationality, residence, identity or connection with the Relevant Taxing Jurisdiction or arm's length-relationship with the Payor and the Holder or Beneficial Holder or otherwise establishing the right to the benefit of an exemption from, or reduction in the rate of, withholding or deduction, if such compliance is required by statute, treaty, regulation or administrative practice of a Relevant Taxing Jurisdiction as a precondition to exemption from, or reduction in the rate of deduction or withholding of, such Taxes imposed by the Relevant Taxing Jurisdiction;
- (vii) any estate, inheritance, gift, sales or any similar Taxes;
- (viii) any Taxes that were imposed with respect to any payment on a Note to any Holder who is a fiduciary or partnership or person other than the sole beneficial owner of such payment and to the extent the Taxes giving rise to such Additional Amounts would not have been imposed on such payment had the Holder been the beneficiary, partner or sole beneficial owner, as the case may be, of such Note;
- (ix) Taxes imposed on, or deducted or withheld from, payments in respect of the Notes if such payments could have been made without such imposition, deduction or withholding of such Taxes had such Notes been presented for payment (where presentation is required) within 30 days after the date on which such payments or such Notes became due and payable or the date on which payment thereof is duly provided for, whichever is later (except to the extent such Holder or Beneficial Holder would have been entitled to such Additional Amounts had such Notes been presented on the last day of such 30- day period);



- (x) any Taxes imposed under FATCA; or
  - (xi) any combination of the foregoing items (i) through (x).
- (c) At least 30 calendar days prior to each date on which any payment under or with respect to the Notes or any Note Guarantee is due and payable, if a Payor will be obligated to pay Additional Amounts with respect to such payment (unless such obligation to pay Additional Amounts arises after the 35th day prior to the date on which such payment is due and payable, in which case it will be promptly thereafter), each Issuer will deliver to the Trustee an Officer's Certificate stating that such Additional Amounts will be payable and the amounts so payable and will set forth such other information necessary to enable the Trustee (or applicable paying agent) to pay such Additional Amounts to Holders on the payment date.
- (d) The Payor will pay the amount withheld or deducted to the relevant Taxing Authority on a timely basis in accordance with applicable law. As soon as practicable, the Issuers will provide the Trustee with official receipts or other documentation satisfactory to the Trustee in its sole discretion evidencing the payment of the Taxes with respect to which Additional Amounts are paid.
- (e) The Payors, jointly and severally, will indemnify and hold harmless the Holders and Beneficial Holders, and, upon written request of any Holder or Beneficial Holder, reimburse such Holder or Beneficial Holder for the amount of (i) any Taxes levied or imposed by a Relevant Taxing Jurisdiction and payable by such Holder or Beneficial Holder in connection with payments made under or with respect to the Notes held by such Holder or Beneficial Holder under any Note Guarantee (including, for greater certainty, any Taxes payable under Section 803 of the regulations under the Tax Act); and (ii) any Taxes levied or imposed with respect to any reimbursement under the foregoing clause (i) or this clause (ii), so that the net amount received by such Holder or Beneficial Holder after such reimbursement will not be less than the net amount such Holder or Beneficial Holder would have received if the Taxes giving rise to the reimbursement described in clauses (i) and/or (ii) had not been imposed; provided, however, that the indemnification or reimbursement obligations provided for in this clause (e) shall not extend to Taxes for which the applicable Holder or Beneficial Holder would not have been eligible to receive payment of Additional Amounts hereunder by virtue of clauses (i) through (xi) of Section 2.6(b) if the Payor had been required to withhold from such payments or to the extent such Holder or Beneficial Holder received Additional Amounts with respect to such payments, in each case without duplication of any payment made in respect of such Taxes pursuant to clauses (i) through (xi) of Section 2.6(b).
- (f) The Payor will pay any stamp, issue, registration, court, documentation, excise or other similar taxes, charges and duties, including any interest, penalties and any similar liabilities with respect thereto, imposed by any Relevant Taxing Jurisdiction at any time in respect of the execution, issuance, registration or delivery of the Notes, any Note Guarantee, this Indenture or any other document or instrument referred to thereunder and any such taxes, charges or duties imposed by any Relevant Taxing Jurisdiction on any payments made pursuant to the Notes or any Note Guarantee or as a result of, or in connection with, the enforcement of the Notes, any Note Guarantee and/ or any other such document or instrument.

- (g) The obligations described under this Section 2.6 will survive any termination, defeasance or discharge of this Indenture and will apply *mutatis mutandis* to any successor Person to any Payor and to any jurisdiction in which such successor is organized or is otherwise resident or doing business for tax purposes or any jurisdiction from or through which payment is made by such successor or its respective agents. Whenever this Indenture refers to, in any context, the payment of principal, Premium, if any, interest or any other amount payable under or with respect to any Note or Note Guarantee, such reference shall include the payment of Additional Amounts or indemnification payments as described in this Section 2.6, if applicable.

## **2.7 Appointment of Trustee and Depository**

- (a) The Trustee will be the trustee for the Notes, subject to Article 11.
- (b) The Issuers initially appoint CDS to act as Depository with respect to the Notes.

## **2.8 Form of Note Certificates**

- (a) The Notes may be issued in certificated or uncertificated (electronic) form. A Note that is evidenced by a certificate, and the Trustee's certificate of authentication, shall be substantially in the form set out in Appendix A hereto, together with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture. Notes may have notations, legends or endorsements required by law, stock exchange rule or usage.
- (b) The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Issuers 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.
- (c) Certificates representing the Notes may be typed, engraved, printed, lithographed or reproduced in a different form, or partly in one form and partly in another, as the Issuers may determine. The execution of any such Notes by the Issuers and the authentication by the Trustee in accordance with Section 2.9 of any such Notes will be conclusive evidence that such Notes are Notes authorized by this Indenture.

## **2.9 Execution, Authentication and Delivery of Notes**

- (a) All certificates representing the Notes shall be signed (either manually or by electronic or facsimile signature) by any two authorized directors or officers of each Issuer, holding office at the time of signing. An electronic or facsimile signature upon a Note shall for all purposes of this Indenture be deemed to be the signature of the individual whose signature it purports to be. Notwithstanding that any individual whose signature, either manual or in facsimile or other electronic means, appears on a Note as a director or officer may no longer hold such office at the date of the Note or at the date of the authentication and delivery thereof, such Note shall be valid and binding upon the Issuers and the Holder thereof shall be entitled to the benefits of this Indenture.

- (b) No Notes will be valid or obligatory for any purpose unless such Notes have been authenticated by or on behalf of the Trustee substantially in the form provided for herein. Such authentication of any Notes will be conclusive evidence, and the only evidence, that such Notes have been duly authenticated, issued and delivered and that the Holder thereof is entitled to the benefits hereof.
- (c) Subject to the terms of this Indenture, the Trustee shall from time to time authenticate one or more Notes (including Global Notes and, if applicable, PIK Notes) for original issue on the issue date for such Notes upon and in accordance with an Issuers Order signed by an authorized officer of each Issuer (an "**Authentication Order**"), without the Trustee receiving any consideration therefor. Each such Authentication Order shall specify the principal amount of such Notes to be authenticated and the date on which such Notes are to be authenticated. The aggregate principal amount of Notes outstanding at any time may not exceed the aggregate principal amount specified in the Authentication Orders except as provided in Section 2.15. Except as provided in Sections 2.2, 5.8, and 5.11 there is no limit on the amount of Notes that may be issued hereunder.
- (d) The certificate by or on behalf of the Trustee authenticating Notes will not be construed as a representation or warranty of the Trustee as to the validity of this Indenture or of any Notes or their issuance (except the due authentication thereof by the Trustee) or as to the performance by the Issuers of their obligations under this Indenture or any Notes and the Trustee will be in no respect liable or answerable for the use made of the proceeds of such Notes. The certificate by or on behalf of the Trustee authenticating Notes issued under this Indenture will constitute a representation and warranty by the Trustee that such Notes have been duly authenticated by and on behalf of the Trustee pursuant to the provisions of this Indenture.
- (e) A Note that is not evidenced by a certificate shall, for all purposes of this Indenture, be deemed to have been duly authenticated by the Trustee if the Trustee has, in respect to such Note, completed all Internal Procedures such that the particulars of such Note as required by Section 3.2 are entered in the register referred to in Section 3.2. For this purpose, "Internal Procedures" means, in respect of the making of any one or more entries to, changes in or deletions of any one or more entries in the register referred to in Section 3.2 at any time, the minimum number of the Trustee's internal procedures customary at such time for the entry, change or deletion made to be complete under the operating procedures followed at such time by the Trustee.

## **2.10 Registrar and Paying Agent**

- (a) The Issuers shall maintain for the Notes an office or agency where such Notes may be presented for registration of transfer or for exchange ("**Registrar**") and an office or agency where such Notes may be surrendered for payment ("**Paying Agent**"). The Registrar shall keep a register of such Notes and of their transfer and exchange.
- (b) The Issuers may appoint one or more co-registrars and one or more additional Paying Agents for the Notes in such other locations as it shall determine. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional Paying Agent. The Issuers may change any Paying Agent or Registrar without notice to any Holder. The Issuers shall notify the Trustee in writing of the name and address of any Registrar or Paying Agent which is not a party to this Indenture. Any member of the Restricted Group may act as Paying Agent or Registrar for the Notes. The Issuers initially

appoint the Trustee at its corporate office in Calgary, Alberta to act as the Registrar, transfer agent, authentication agent and Paying Agent with respect to the Notes.

## **2.11 Paying Agent to Hold Money in Trust**

The Issuers shall require each Paying Agent, other than the Trustee, to agree in writing that the Paying Agent will, and the Trustee when acting as Paying Agent agrees that it will, hold in trust, for the benefit of the Holders or the Trustee all money held by the Paying Agent for the payment of principal, Premium, if any, and interest on the Notes and shall notify the Trustee of any default by the Issuers 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 and to account for any money disbursed by it. The Issuers 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 a member of the Restricted Group) shall have no further liability for the money. If a member of the Restricted Group acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Issuers, the Trustee shall serve as Paying Agent for the Notes.

## **2.12 Book-Entry Only Notes**

- (a) Subject to Section 3.2(b) and the provisions of the Notes, the Notes shall be electronically issued initially in the form of one or more Global Notes, which shall be deposited by the Trustee on behalf of the purchasers of the Notes represented thereby with the Depository, and registered in the name of the Depository or a nominee of the Depository, and each such Global Note shall constitute a single Note for all purposes of this Indenture. Beneficial interests in a Global Note will not be shown on the register or the records maintained by the Depository but will be represented through book-entry accounts of Participants on behalf of the Beneficial Holders of such Note in accordance with the rules and procedures of the Depository. None of the Issuers or the Trustee shall have any responsibility or liability for any aspects of the records relating to or payments made by any Depository on account of the beneficial interest in any Global Notes or for maintaining, reviewing or supervising any records relating to such beneficial interests therein. Except as otherwise provided in this Indenture, Beneficial Holders shall not be entitled to have Notes registered in their names, shall not receive or be entitled to receive Definitive Notes and shall not be considered owners or Holders thereof under this Indenture. Nothing herein shall prevent Beneficial Holders from voting such Notes using duly executed voting instruction forms.
- (b) Every Note authenticated and delivered upon registration of transfer of a Global Note, or in exchange for or in lieu of a Global Note or any portion thereof, shall be authenticated and delivered in the form of, and shall be, a Global Note, unless such Note is registered in the name of a Person other than the Depository for such Global Notes or a nominee thereof.

## **2.13 Global Notes**

Notes issued to a Depository in the form of Global Notes shall be subject to the following in addition to the provisions of Section 3.2, unless and until Definitive Notes have been issued to Beneficial Holders pursuant to Section 3.2(b):

- (a) the Trustee may deal with such Depository for all purposes as the sole holder of the Notes and the authorized representative of the Beneficial Holders of such Notes;

- (b) the rights of the Beneficial Holders of such Notes shall be exercised only through such Depository and the rights of Beneficial Holders shall be limited to those established by applicable law and agreements between the Depository and the Participants and between such Participants and Beneficial Holders, and must be exercised through a Participant in accordance with the rules and procedures of the Depository;
- (c) whenever this Indenture requires or permits actions to be taken based upon instructions or directions of Holders evidencing a specified percentage of the outstanding Notes, the Depository shall be deemed to be counted in that percentage to the extent that it has received instructions to such effect from Beneficial Holders or Participants;
- (d) such Depository will make book-entry transfers among the direct Participants of such Depository and will receive and transmit distributions of principal, Premium and interest on the Notes to such direct Participants;
- (e) the direct Participants of such Depository shall have no rights under this Indenture or under or with respect to any of the Notes held on their behalf by such Depository, and such Depository may be treated by the Trustee and his agents, employees, officers and directors as the absolute owner of the Notes represented by such Global Notes for all purposes whatsoever;
- (f) whenever a notice or other communication is required to be provided to Holders, the Trustee shall provide all such notices and communications to the Depository and the Depository for delivery of such notices and communications to the Beneficial Holders in accordance with applicable securities laws and regulations; and
- (g) notwithstanding any other provision of this Indenture, all payments in respect of Notes represented by a Global Note shall be made to the Depository or its nominee for subsequent payment by the Depository or its nominee to the Beneficial Holders thereof.

## **2.14 Interim Notes**

Pending the delivery of Definitive Notes to the Trustee, the Issuers may issue and the Trustee authenticate in lieu thereof (but subject to the same provisions, conditions and limitations as set forth in this Indenture) interim printed, mimeographed or typewriter Notes in such forms and in such denominations and signed in such manner as provided herein, entitling the holders thereof to Definitive Notes when the same are ready for delivery; or the Issuers may execute and deliver to the Trustee and the Trustee authenticate a temporary Note for the whole principal amount of Notes then authorized to be issued hereunder and thereupon the Trustee may issue its own interim certificates in such form and in such amounts, not exceeding in the aggregate the principal amount of the temporary Note so delivered to it, as the Issuers and the Trustee may approve entitling the holders thereof to Definitive Notes when the same are ready for delivery; and, when so issued and certified, such interim or temporary Notes or interim certificates shall, for all purposes but without duplication, rank in respect of this Indenture equally with Notes duly issued hereunder and, pending the exchange thereof for Definitive Notes, the holders of the interim or temporary Notes or interim certificates shall be deemed without duplication to be Holders and entitled to the benefit of this Indenture to the same extent and in the same manner as though the said exchange had actually been made. Forthwith after the Issuers shall have delivered the Definitive Notes to the Trustee, the Trustee shall call in for exchange all temporary or interim Notes or certificates that shall have been issued and forth will after such exchange shall cancel the same. No charge shall be made by the Issuers or the Trustee to the holders of such interim or temporary Notes or interim certificates for the exchange thereof.

## **2.15 Mutilation, Loss, Theft or Destruction**

In case any of the Notes issued hereunder shall become mutilated or be lost, stolen or destroyed, the Issuers, in their discretion, may issue, and thereupon the Trustee shall authenticate and deliver, a new Note upon surrender and cancellation of the mutilated Note, or in the case of a lost, stolen or destroyed Note, in lieu of and in substitution for the same, and the substituted Note shall be in a form approved by the Trustee and shall entitle the Holder thereof to the benefits of this Indenture and shall rank equally in accordance with its terms with all other Notes issued or to be issued hereunder. In case of loss, theft or destruction the applicant for a substituted Note shall furnish to the Issuers and to the Trustee such evidence of the loss, theft or destruction of the Note as shall be satisfactory to them in their discretion and shall also furnish an indemnity and surety bond satisfactory to them in their discretion. The applicant shall pay all reasonable expenses incidental to the issuance of any substituted Note.

## **2.16 Concerning Interest**

- (a) All Notes issued hereunder, whether originally or upon exchange or in substitution for previously issued Notes (including for certainty Notes issued under Sections 2.4, 2.14 and 2.15), shall bear interest (i) from and including their respective issue date, or (ii) from and including the last Interest Payment Date therefor to which interest shall have been paid or made available for payment on such outstanding Notes, whichever shall be the later, in all cases, to and excluding the next Interest Payment Date therefor.
- (b) Subject to accrual of any interest on unpaid interest from time to time, interest on a Note will cease to accrue from the Maturity of such Note (including, for certainty, if such Note was called for redemption, the Redemption Date in accordance with Section 4.7); unless upon due presentation and surrender of such Note for payment on or after the Maturity thereof, such payment is improperly withheld or refused.
- (c) If the date for payment of any amount of principal, Premium or interest in respect of a Note is not a Business Day at the place of payment, then payment thereof will be made on the next Business Day and the Holder of such Note will not be entitled to any further interest on such principal, or to any interest on such interest, Premium or other amount so payable solely as a result of such delayed payment, in respect of the period from the date for payment to such next Business Day.
- (d) The Holder of any Note at the close of business on any Record Date with respect to any Interest Payment Date shall be entitled to receive the interest, if any, payable on such Interest Payment Date notwithstanding any transfer or exchange of such Note subsequent to such Record Date and prior to such Interest Payment Date, except if and to the extent the Issuers shall default in the payment of the interest due on such Interest Payment Date, in which case such defaulted interest shall be paid to the Persons in whose names such Note is registered at the close of business on a subsequent Record Date (which shall be not less than two Business Days prior to the date of payment of such defaulted interest) established by notice given by mail by or on behalf of the Issuers to the Holders of all affected Notes not less than 15 days preceding such subsequent Record Date.
- (e) Wherever in this Indenture or any Note there is mention, in any context, of the payment of interest, such mention is deemed to include the payment of interest on amounts in default to the extent that, in such context, such interest is, was or would be payable pursuant to this Indenture or the Note, and express mention of interest on amounts in default in any of the

provisions of this Indenture will not be construed as excluding such interest in those provisions of this Indenture where such express mention is not made.

- (f) Unless otherwise specifically provided in this Indenture or the terms of any Note, interest on Notes shall be computed on the basis of a 365-day or 366- day year, as applicable.
- (g) For purposes of disclosure under the *Interest Act* (Canada), the yearly rate of interest to which interest is calculated under a Note for any period in any calendar year (the "**Calculation Period**") is equivalent to the rate payable under a Note in respect of the Calculation Period multiplied by a fraction the numerator of which is the actual number of days in such calendar year and the denominator of which is the actual number of days in the Calculation Period.

## **2.17 Payments of Amounts Due on Maturity**

- (a) Subject to Section 2.17(b), the following provisions shall apply to all Notes:
  - (i) in the case of fully registered Notes, the Issuers shall establish and maintain with the Paying Agent a Maturity Account for the Notes. On or before 11:00 a.m. (Toronto time) on the Business Day before the Stated Maturity date for the Notes, the Issuers shall deposit in the applicable Maturity Account by wire transfer or certified cheque an amount sufficient to pay all amounts payable in respect of the outstanding Notes (less any taxes required by law to be deducted or withheld therefrom). The Paying Agent will pay to each Holder of such Notes entitled to receive payment, the principal amount of, and Premium (if any) on such Notes upon surrender of such Notes to the Paying Agent. The deposit or making available of such amounts into the applicable Maturity Account will satisfy and discharge the liability of the Issuers for the Notes to which the deposit or making available of funds relates to the extent of the amount deposited or made available (plus the amount of any taxes deducted or withheld as aforesaid) and such Notes will thereafter not be considered as outstanding under this Indenture to such extent and such Holder will have no other right than to receive out of the money so deposited or made available the amount to which it is entitled. Failure to make a deposit or make funds available as required to be made pursuant to this Section 2.17(a)(i) will constitute Default in payment on the Notes in respect of which the deposit or making available of funds was required to have been made; and
  - (ii) in the case of any Notes issued and outstanding in the form of or represented by Global Notes, on or before 11:00 a.m. (Toronto time) on the Business Day before the Stated Maturity date for such Notes, the Issuers shall deliver to the Paying Agent to transfer to the Depository by electronic funds transfer an amount sufficient to pay the amount payable in respect of such Global Notes (less any taxes required by law to be deducted or withheld therefrom). The Issuers shall cause the Paying Agent to pay to the Depository the principal amount of, and Premium (if any) on, such Global Notes against receipt of the relevant Global Notes. The delivery of such electronic funds to the Depository will satisfy and discharge the liability of the Issuers for the Notes to which the electronic funds relates to the extent of the amount deposited or made available (plus the amount of any taxes deducted or withheld as aforesaid) and such Notes will thereafter not be considered as outstanding under this Indenture unless such electronic funds transfer is not received. Failure to make delivery of funds available as required pursuant to this

Section 2.17(a)(ii) will constitute Default in payment on the Notes in respect of which the delivery or making available of funds was required to have been made.

- (b) Notwithstanding Section 2.17(a), all payments in excess of \$25,000,000 (or such other amount as determined from time to time by the Canadian Payments Association or any successor thereto) shall be made by the use of the LVTS. The Paying Agent shall have no obligation to disburse funds pursuant to Section 2.17(a)(i) unless it has received written confirmation satisfactory to it that the funds have been deposited with it in sufficient amount to pay in full all amounts due and payable on the applicable date of Maturity. The Paying Agent shall, if it accepts any funds received by it in the form of uncertified cheques, be entitled to delay the time for release of such funds until such uncertified cheques shall be determined to have cleared the financial institution upon which the same are drawn.

## 2.18 Legends on Notes

- (a) Notes and, if applicable, any PIK Notes issued with respect thereto, will not be registered under any United States federal or state securities laws, and each certificated Regulation S Global Note and Regulation S Definitive Note shall bear the following legend (the "**Regulation S Legend**"):

"THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION ORIGINALLY EXEMPT FROM REGISTRATION UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**1933 ACT**"), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE 1933 ACT AND ALL APPLICABLE STATE SECURITIES LAWS. TERMS USED ABOVE HAVE THE MEANINGS GIVEN TO THEM IN REGULATION S UNDER THE 1933 ACT."

- (b) Any certificates representing Notes issued and sold, or PIK Notes issued, in the United States or to, or for the account of benefit of, U.S. persons will be issued and sold only to Persons who are QIBs within the meaning of, and in reliance on, Rule 144A under the 1933 Act, as well as all certificates representing Notes issued in exchange for or in substitution of the foregoing securities, and shall bear, unless otherwise directed by the Issuers, the following legend (the "**144A U.S. Legend**"):

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**1933 ACT**"), OR UNDER ANY U.S. STATE SECURITIES LAWS. THE HOLDER HEREOF, BY PURCHASING THESE SECURITIES, AGREES FOR THE BENEFIT OF SOURCE ENERGY SERVICES CANADA LP (THE "**ISSUER LP**") AND SOURCE ENERGY SERVICES CANADA HOLDINGS LTD. ("**SOURCE CANADA HOLDINGS**", AND TOGETHER WITH ISSUER LP, THE "**ISSUERS**") THAT THESE SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (A) TO THE ISSUERS, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE 1933 ACT, (C) IN ACCORDANCE WITH (1) RULE 144A UNDER THE 1933 ACT OR (2) RULE 144 UNDER THE 1933 ACT, IF AVAILABLE, OR (D) PURSUANT TO ANOTHER EXEMPTION FROM REGISTRATION UNDER THE 1933 ACT, AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE U.S. STATE SECURITIES LAWS AND AFTER, IN THE CASE OF TRANSFERS UNDER CLAUSE (C)(2) OR



(D) (OR IF REQUIRED BY COMPUTERSHARE TRUST COMPANY OF CANADA, CLAUSE (B)), THE HOLDER HAS FURNISHED TO THE ISSUERS AN OPINION OF COUNSEL OF RECOGNIZED STANDING OR OTHER EVIDENCE REASONABLY SATISFACTORY TO THE ISSUERS TO THAT EFFECT."

- (c) Each certificated Global Note shall bear a legend in substantially the following form, subject to such modification as required by the applicable Depository (the "**Global Note Legend**"):

"THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREIN REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. THIS NOTE MAY NOT BE TRANSFERRED TO OR EXCHANGED FOR NOTES REGISTERED IN THE NAME OF ANY PERSON OTHER THAN THE DEPOSITORY OR A NOMINEE THEREOF AND NO SUCH TRANSFER MAY BE REGISTERED EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE. EVERY NOTE AUTHENTICATED AND DELIVERED UPON REGISTRATION OF, TRANSFER OF, OR IN EXCHANGE FOR, OR IN LIEU OF, THIS NOTE SHALL BE A GLOBAL NOTE SUBJECT TO THE FOREGOING, EXCEPT IN SUCH LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF CDS CLEARING AND DEPOSITORY SERVICES INC. ("**CDS**") TO SOURCE ENERGY SERVICES CANADA LP (THE "**LP ISSUER**") AND SOURCE ENERGY SERVICES CANADA HOLDINGS LTD. (THE "**CORPORATE ISSUER**" AND TOGETHER WITH THE LP ISSUER, THE "**ISSUERS**") OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IN RESPECT THEREOF IS REGISTERED IN THE NAME OF CDS & CO., OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF CDS (AND ANY PAYMENT IS MADE TO CDS & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED HOLDER HEREOF, CDS & CO., HAS A PROPERTY INTEREST IN THE SECURITIES REPRESENTED BY THIS NOTE HEREIN AND IT IS A VIOLATION OF ITS RIGHTS FOR ANOTHER PERSON TO HOLD, TRANSFER OR DEAL WITH THIS NOTE."

- (d) Prior to the issuance of Notes, the Issuers shall notify the Trustee, in writing, concerning which Notes are to be certificated and are to bear the legend or legends described in this Section 2.18.

## 2.19 Payment of Interest

- (a) As interest becomes due on each fully registered Note (except on redemption thereof, when interest may at the option of the Issuers be paid upon surrender of such Note), the Issuers, either directly or through the Trustee or any agent of the Trustee, shall, subject to Section 2.4, send or forward by prepaid ordinary mail, electronic transfer of funds or such other means as may be agreed to by the Trustee, payment of such interest including any Additional Amounts (net of any **Taxes** required by law to be deducted or withheld therefrom) to the order of the Holder of such Note at the close of business on the Record

Date prior to the applicable Interest Payment Date and addressed to the Holder at the Holder's last address appearing on the register (or in the case of joint Holders, to such address of one of the joint Holders), unless such Holder otherwise directs. If payment is made by cheque, such cheque shall be forwarded at least two days prior to each Interest Payment Date and if payment is made by other means (such as electronic transfer of funds, provided the Trustee must receive confirmation of receipt of funds prior to being able to wire funds to Holders), such payment shall be made in a manner whereby the Holder receives credit for such payment on the Interest Payment Date. The mailing of such cheque or the making of such payment by other means shall, to the extent of the sum represented thereby, plus the amount of any Taxes deducted or withheld as aforesaid, satisfy and discharge all liability for interest including any Additional Amounts on such Note to such extent, unless in the case of payment by cheque, such cheque is not paid at par on presentation. In the event of non-receipt of any cheque for or other payment of interest by the Person to whom it is so sent as aforesaid, the Issuers shall issue to such Person a replacement cheque or other payment for a like amount upon being furnished with such evidence of non-receipt as it shall reasonably require and upon being indemnified to its satisfaction. Notwithstanding the foregoing, if the Issuers are prevented by circumstances beyond their control (including, without limitation, any interruption in mail service) from making payment of any interest due on any Note in the manner provided above, the Issuers may make payment of such interest or make such interest available for payment in any other manner acceptable to the Trustee with the same effect as though payment had been made in the manner provided above. If payment is made through the Trustee, by 11:00 a.m. (Toronto time) at least one Business Day prior to the related Interest Payment Date for a Note or to the date of mailing the cheques for the interest due on such Interest Payment Date, whichever is earlier, the Issuers shall deliver sufficient funds to the Trustee by electronic transfer or certified cheque or make such other arrangements for the provision of funds as may be agreeable between the Trustee and the Issuers in order to effect such interest payment hereunder.

- (b) So long as the Notes or any portion thereof are issued in the form of or represented by a Global Note, then, subject to Section 2.4, all payments of interest on such Global Note shall be made by 11:00 a.m. (Toronto time) at least one Business Day prior to the related Interest Payment Date by electronic funds transfer made payable to the Paying Agent for delivery to the Depository or its nominee for subsequent payment to Beneficial Holders of the applicable interests in that Global Note, unless the Issuers and the Depository otherwise agree.
- (c) Notwithstanding Sections 2.19(a) and 2.19(b), all payments in excess of \$25,000,000 (or such other amount as determined from time to time by the Canadian Payments Association or any successor thereto) shall be made by the use of the LVTS. The Trustee or Paying Agent, as applicable, shall have no obligation to disburse funds in respect of any Note pursuant to Section 2.19(a) unless it has received written confirmation satisfactory to it that the funds have been deposited with it in sufficient amount to pay in full all amounts due and payable with respect to such Interest Payment Date for such Note. The Trustee or Paying Agent, as applicable, shall, if it accepts any funds received by it in the form of uncertified cheques, be entitled to delay the time for release of such funds until such uncertified cheques shall be determined to have cleared the financial institution upon which the same are drawn.

**2.20 [Intentionally Deleted]**

**2.21 Record of Payment**

The Trustee will maintain accounts and records evidencing any payment (including payment made pursuant to Section 2.4), by it on behalf of the Issuers, of principal, Premium (if any) and interest in respect of Notes, which accounts and records will constitute, in the absence of manifest error, *prima facie* evidence of such payment.

**2.22 Representation Regarding Third Party Interest**

The Issuers hereby represent to the Trustee that any account to be opened by, or interest to be held by, the Trustee in connection with this Indenture, for or to the credit of the Issuers, either (a) is not intended to be used by or on behalf of any third party; or (b) is intended to be used by or on behalf of a third party, in which case the Issuers hereby agree to complete, execute and deliver forthwith to the Trustee a declaration, in the Trustee's prescribed form or in such other form as may be reasonably satisfactory to it, as to the particulars of such third party.

**ARTICLE 3**  
**REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP**

**3.1 Register of Certificated Notes**

- (a) With respect to certificated Notes issuable in whole or in part as fully registered Notes, the Issuers shall cause to be kept by and at the principal office of the Trustee in Calgary, Alberta or by such other Registrar as the Issuers, with the approval of the Trustee, may appoint at such other place or places, if any, as may be specified in the Notes or as the Issuers may designate with the approval of the Trustee, a register in which shall be entered the names and addresses of the Holders and particulars of the Notes held by them respectively and of all transfers of Notes. Such registration shall be noted on the relevant Notes by the Trustee or other Registrar unless a new Note shall be issued upon such transfer.
- (b) No transfer of a certificated registered Note shall be valid unless made on such register referred to in Section 3.1(a) by the Holder or such Holder's executors, administrators or other legal representatives or an attorney duly appointed by an instrument in writing in form and executed in a manner satisfactory to the Trustee or other Registrar upon surrender of the Notes together with a duly executed form of transfer acceptable to the Trustee or other Registrar and upon compliance with such other reasonable requirements as the Trustee or other Registrar may prescribe, and unless the name of the transferee shall have been noted on the Note by the Trustee or other Registrar.

**3.2 Global Notes**

- (a) With respect to Notes issuable as or represented by, in whole or in part, one or more Global Notes, the Issuers shall cause to be kept by and at the principal office of the Trustee in Calgary, Alberta or by such other Registrar as the Issuers, with the approval of the Trustee, may appoint at such other place or places, if any, as the Issuers may designate with the approval of the Trustee, a register in which shall be entered the name and address of the Holder of each such Global Note (being the Depository, or its nominee, for such Global Note) and particulars of the Global Note held by it, and of all transfers thereof. If any Notes

are at any time not Global Notes, the provisions of Section 3.1 shall govern with respect to registrations and transfers of such Notes.

- (b) Notwithstanding any other provision of this Indenture, a Global Note may not be transferred by the Holder thereof and, accordingly, subject to Section 3.6, no Definitive Notes shall be issued to Beneficial Holders except in the following circumstances or as otherwise specified in a resolution of the Trustee, a Board Resolution or an Officer's Certificate of each Issuer:
  - (i) Definitive Notes may be issued to Beneficial Holders at any time after:
    - (A) the Issuers have determined that CDS (i) is unwilling or unable to continue as Depository for Global Notes, or (ii) ceases to be eligible to be a Depository, and, in each case the Issuers are unable to locate a qualified successor to its reasonable satisfaction;
    - (B) the Issuers have determined, in their sole discretion, or is required by law, to terminate the book-entry only registration system in respect of such Global Notes and have communicated such determination or requirement to the Trustee in writing, or the book-entry system ceases to exist; or
    - (C) the Trustee has determined that an Event of Default has occurred and is continuing with respect to Notes issued as Global Notes, provided that Beneficial Holders representing, in the aggregate, not less than 50% of the aggregate outstanding principal amount of the Notes advise the Depository in writing, through the Participants, that the continuation of the book-entry only registration system for the Notes is no longer in their best interests; and
  - (ii) Global Notes may be transferred (A) if such transfer is required by applicable law, as determined by the Issuers and Counsel, or (B) by a Depository to a nominee of such Depository, or by a nominee of a Depository to such Depository, or to another nominee of such Depository, or by a Depository or its nominee to a successor Depository or its nominee.
- (c) Upon the termination of the book-entry only registration system on the occurrence of one of the conditions specified in Section 3.2(b)(i) or upon the transfer of a Global Note to a Person other than a Depository or a nominee thereof in accordance with subsection 3.2(b)(ii)(A), the Trustee shall notify all Participants, through the Depository, of the availability of Definitive Notes. Upon surrender by the Depository of the Global Notes and receipt of new registration instructions from the Depository, the Trustee shall deliver the Definitive Notes to the Beneficial Holders thereof in accordance with the new registration instructions and thereafter, the registration and transfer of such Notes will be governed by Section 3.1 and the remaining provisions of this Article 3.
- (d) It is expressly acknowledged that transfer of beneficial ownership in any Note issuable in the form of or represented by a Global Note will be effected only (i) with respect to the interests of participants in the Depository ("**Participants**"), through records maintained by the Depository or its nominee for the Global Note, and (ii) with respect to interests of Persons other than Participants, through records maintained by Participants.

Beneficial Holders who are not Participants but who desire to purchase, sell or otherwise transfer ownership of or other interest in Notes represented by a Global Note may do so only through a Participant.

### **3.3 Transferee Entitled to Registration**

The transferee of a Note shall be entitled, after the appropriate form of transfer is deposited with the Trustee or other Registrar and upon compliance with all other conditions for such transfer required by this Indenture or by law, to be entered on the register as the owner of such Note free from all equities or rights of set-off or counterclaim between the Issuers and the transferor or any previous Holder of such Note, save in respect of equities of which the Issuers are required to take notice by law (including any statute or order of a court of competent jurisdiction).

### **3.4 No Notice of Trusts**

None of the Issuers, the Trustee and any Registrar or Paying Agent will be bound to take notice of or see to the performance or observance of any duty owed to a third Person, whether under a trust, express, implied, resulting or constructive, in respect of any Note by the Holder or any Person whom the Issuers or the Trustee treats, as permitted or required by law, as the owner or the Holder of such Note, and may transfer the same on the direction of the Person so treated as the owner or Holder of the Note, whether named as Trustee or otherwise, as though that Person were the Beneficial Holder thereof.

### **3.5 Registers Open for Inspection**

The registers referred to in Sections 3.1 and 3.2 shall, subject to applicable law, at all reasonable times be open for inspection by the Issuers, the Trustee or any Holder. Every Registrar, including the Trustee, shall from time to time when requested so to do by the Issuers or by the Trustee, in writing, furnish the Issuers or the Trustee, as the case may be, with a list of names and addresses of Holders entered on the registers kept by them and showing the principal amount and serial numbers of the Notes held by each such Holder, provided the Trustee shall be entitled to charge a reasonable fee to provide such a list.

### **3.6 Transfers and Exchanges of Notes**

- (a) Transfer and Exchange of Global Notes. A Global Note may be transferred in whole and not in part only pursuant to Section 3.2(b)(ii). A beneficial interest in a Global Note may not be exchanged for a Definitive Note other than pursuant to Section 3.2(b)(i). A Global Note may not be exchanged for another Note other than as provided in this Section 3.6(a), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 3.6(b) or 3.6(c).
- (b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depository, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes and the Regulation S Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the 1933 Act and applicable Canadian securities laws. Transfers and exchanges of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:
  - (i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in the 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 if such beneficial interest is being transferred in accordance with the transfer restrictions set forth in the 144A U.S. Legend. Beneficial interests in the Regulation S Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the Regulation S Global Note if such beneficial interest is being transferred in accordance with the transfer restrictions set forth in the Regulation S Legend. No written orders or instructions shall be required to be delivered to the Registrar to effect transfers described in this Section 3.6(b)(i).

- (ii) 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 3.6(b)(i), the transferor of such beneficial interest must deliver to the Registrar either (A) (i) a written order from a Participant or a Beneficial Holder, in each case, given to the Depository in accordance with the Applicable Procedures directing the Depository 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) (i) a written order from a Participant or a Beneficial Holder, in each case, given to the Depository in accordance with the Applicable Procedures directing the Depository 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 Depository to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer referred to in (B)(i) above. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the 1933 Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 3.6(f).
- (iii) Transfer of Beneficial Interests in a Restricted Global Note for Beneficial Interests in a Regulation S Global Note. A beneficial interest in a Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in a Regulation S Global Note if the transfer complies with the requirements of Section 3.6(b)(ii) and the Issuers and the Registrar receive a certificate from such holder in the form of Appendix B hereto, including the applicable certifications in item (2) thereof, and, other than if the Issuers and the Registrar receive the certification in item 2(a) of Appendix B (unless required by the Registrar), an Opinion of Counsel in form reasonably acceptable to the Issuers to the effect that such transfer is in compliance with the 1933 Act and that the restrictions on transfer contained herein and in the 144A U.S. Legend are no longer required in order to maintain compliance with the 1933 Act. If any such transfer is effected pursuant to subparagraph (iii) above at a time when a Regulation S Global Note has not yet been issued, the Issuers shall issue and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee shall authenticate one or more Regulation S Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (iii) above.
- (iv) Transfer of Beneficial Interests in a Regulation S Global Note for Beneficial Interests in a Restricted Global Note. Beneficial interests in a Regulation S Global

Note can be transferred to Persons who take delivery thereof in the form of a beneficial interest in a Restricted Global Note if the transfer complies with the requirements of Section 3.6(b)(ii) and the Issuers and the Registrar receive a certificate in the form of Appendix B hereto, including the certifications in item (1) thereof.

- (c) Transfer or Exchange of Beneficial Interests in the Global Notes for Definitive Notes. A holder of a beneficial interest in a Global Note may exchange such beneficial interest for a Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note only upon the occurrence of any of the preceding events in Section 3.2(b)(i) and satisfaction of the conditions set forth in Section 3.6(b)(ii). Upon the occurrence of any such preceding event and receipt by the Registrar of the documentation referred to in the appropriate subparagraph of this Section 3.6(c), the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 3.6(f), and the Issuers shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 3.6(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 Depository and the Participant or Beneficial Holder. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. The foregoing requirements shall apply to all transfers pursuant to this Section 3.6(c).
- (i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. A holder of a beneficial interest in a Restricted Global Note may transfer such beneficial interest to a QIB in accordance with Rule 144A under the 1933 Act who takes delivery thereof in the form of a Restricted Definitive Note upon the receipt by the Issuers and the Registrar of a certificate substantially in the form of Appendix B hereto, including the certifications in item (1) thereof. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 3.6(c)(i) shall bear the 144A U.S. Legend and shall be subject to all restrictions on transfer contained therein.
- (ii) Beneficial Interests in Restricted Global Notes to Regulation S Definitive Notes. A holder of a beneficial interest in a Restricted Global Note may transfer such beneficial interest to a Person who takes delivery thereof in the form of a Regulation S Definitive Note upon the receipt by the Issuers and the Registrar of a certificate from such holder substantially in the form of Appendix B hereto, including the applicable certifications in item (2) thereof, and, other than if the Issuers and the Registrar receive the certification in item 2(a) of Appendix B (unless required by the Registrar), an Opinion of Counsel in form reasonably acceptable to the Issuers to the effect that such transfer is in compliance with the 1933 Act and that the restrictions on transfer contained herein and in the 144A U.S. Legend are no longer required in order to maintain compliance with the 1933 Act.
- (iii) Beneficial Interests in Regulation S Global Notes to Regulation S Definitive Notes. A holder of a beneficial interest in a Regulation S Global Note may transfer such beneficial interest to a Person who takes delivery thereof in the form of a Regulation S Definitive Note if the Issuers and the Registrar receive a certificate from such holder in the form of Appendix B hereto, including the applicable

certifications in item 2 thereof and, other than if the Issuers and the Registrar receive the certification in item 2(a) of Appendix B (unless required by the Registrar), an Opinion of Counsel in form reasonably acceptable to the Issuers to the effect that such transfer is in compliance with the 1933 Act and that the restrictions on transfer contained herein and in the 144A U.S. Legend are no longer required in order to maintain compliance with the 1933 Act.

- (iv) Beneficial Interests in Regulation S Global Notes to Restricted Definitive Notes. A holder of a beneficial interest in a Regulation S Global Note may transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note upon the receipt by the Issuers and the Registrar of a certificate from such holder substantially in the form of Appendix B hereto, including the certifications in item (1) thereof. Any Definitive Note issued in exchange for a beneficial interest in a Regulation S Global Note pursuant to this Section 3.6(c)(iv) shall bear the 144A U.S. Legend and shall be subject to all restrictions on transfer contained therein.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests in the Global Notes.

- (i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. A Holder of a Restricted Definitive Note may transfer such Restricted Definitive Note (A) pursuant to and in accordance with Rule 144 under the 1933 Act or (B) to the Issuers, who take delivery thereof in the form of a beneficial interest in a Restricted Global Note upon the receipt by the Issuers and the Registrar of a certificate substantially in the form of Appendix B hereto, including the certifications in item (3)(a) or (3)(b) thereof, as applicable.

Upon satisfaction of the conditions in this Section 3.6(d)(i), the Trustee shall cancel the Restricted Definitive Note, and increase or cause to be increased the aggregate principal amount of the Restricted Global Note.

- (ii) Restricted Definitive Notes to Beneficial Interests in Regulation S Global Notes. A Holder of a Restricted Definitive Note may transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in a Regulation S Global Note if the Issuers and the Registrar receive a certificate from such Holder substantially in the form of Appendix B hereto, including the applicable certifications in item (2) thereof, and, other than if the Issuers and the Registrar receive the certification in item 2(a) of Appendix B (unless required by the Registrar), an Opinion of Counsel in form reasonably acceptable to the Issuers to the effect that such transfer is in compliance with the 1933 Act and that the restrictions on transfer contained herein and in the 144A U.S. Legend are no longer required in order to maintain compliance with the 1933 Act.

Upon satisfaction of the conditions of this Section 3.6(d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Regulation S Global Note.

- (iii) Regulation S Definitive Notes to Beneficial Interests in Regulation S Global Notes. A Holder of a Regulation S Definitive Note may transfer such Regulation S Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Regulation S Global Note if the Issuers and the Registrar receive a



certificate from such Holder in the form of Appendix B hereto, including the applicable certifications in item (2) thereof and, other than if the Issuers and the Registrar receive the certification in item 2(a) of Appendix B (unless required by the Registrar), an Opinion of Counsel in form reasonably acceptable to the Issuers to the effect that such transfer is in compliance with the 1933 Act and that the restrictions on transfer contained herein and in the 144A U.S. Legend are no longer required in order to maintain compliance with the 1933 Act. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Regulation S Definitive Note and increase or cause to be increased the aggregate principal amount of the Regulation S Global Notes.

- (iv) Regulation S Definitive Notes to Beneficial Interests in Restricted Global Notes. A Holder of a Regulation S Definitive Note may transfer such Regulation S Definitive Note to a QIB in accordance with Rule 144A under the 1933 Act who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note if the Issuer and the Registrar receive a certificate substantially in the form of Appendix B hereto, including the certifications in item (1) thereof, and the Trustee shall cancel the Regulation S Definitive Note, and increase or cause to be increased the aggregate principal amount of the Restricted Global Note.

If any such transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraphs (ii) or (iii) above at a time when a Regulation S Global Note has not yet been issued, the Issuers shall issue and, upon receipt of an Authentication Order in accordance with Section 2.9 hereof, the Trustee shall authenticate one or more Regulation S 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 3.6(e) and applicable Canadian securities laws, the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to applicable Canadian securities laws and pursuant to the following provisions of this Section 3.6(e).
- (i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note transferred to a QIB in accordance with Rule 144A 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 Issuers and the Registrar receive a certificate substantially in the form of Appendix B hereto, including the certifications in item (1) thereof.
- (ii) Restricted Definitive Notes to Regulation S Definitive Notes. Any Restricted Definitive Note may be transferred to a Person or Persons who take delivery thereof in the form of a Regulation S Definitive Note if the Issuers and the Registrar receive a certificate substantially in the form of Appendix B hereto, including the applicable certifications in item (2) thereof, and, other than if the Issuers and the Registrar receive the certification in item 2(a) of Appendix B

(unless required by the Registrar), an Opinion of Counsel in form reasonably acceptable to the Issuers to the effect that such exchange or transfer is in compliance with the 1933 Act and that the restrictions on transfer contained herein and in the 144A U.S. Legend are no longer required in order to maintain compliance with the 1933 Act.

- (iii) Regulation S Definitive Notes to Regulation S Definitive Notes. A Holder of Regulation S Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of a Regulation S Definitive Note if the Issuers and the Registrar receive a certificate from such Holder substantially in the form of Appendix B hereto, including the applicable certifications in item (2) thereof and, other than if the Issuers and the Registrar receive the certification in item 2(a) of Appendix B (unless required by the Registrar), an Opinion of Counsel in form reasonably acceptable to the Issuers to the effect that such transfer is in compliance with the 1933 Act and that the restrictions on transfer contained herein and in the 144A U.S. Legend are no longer required in order to maintain compliance with the 1933 Act. Upon receipt of a request to register such a transfer, the Registrar shall register the Regulation S Definitive Notes pursuant to the instructions from the Holder thereof.
- (iv) Regulation S Definitive Notes to Restricted Definitive Notes. Any Regulation S Definitive Notes transferred to a QIB in accordance with Rule 144A 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 Issuers and the Registrar receives a certificate substantially in the form of Appendix B hereto, including the certifications in item (1) thereof.
- (f) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 3.10 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 shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.
- (g) General Provisions Relating to Transfers and Exchanges.
  - (i) To permit registrations of transfers and exchanges, the Issuers shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon an Authentication Order in accordance with Section 2.9 or at the Registrar's request.
  - (ii) Neither the Registrar nor the Issuers shall be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

- (iii) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Issuers, 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.
- (iv) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Registrar or Paying Agent and the Issuers may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of (and premium, if any) and interest on such Notes and for all other purposes, and none of the Trustee, any Registrar or Paying Agent or the Issuers shall be affected by notice to the contrary.
- (v) The Trustee shall authenticate certificated Global Notes and Definitive Notes in accordance with the provisions of Section 2.9.
- (vi) Upon surrender for registration of transfer of any Note at the office or agency of the Issuers, the Issuers shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more replacement Notes of any authorized denomination or denominations of a like aggregate principal amount.
- (vii) At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination or denominations of a like aggregate principal amount upon surrender of the Notes to be exchanged at such office or agency. Whenever any Global Notes or Definitive Notes are so surrendered for exchange, the Issuers shall execute, and the Trustee shall authenticate and deliver, the replacement Global Notes and Definitive Notes which the Holder making the exchange is entitled to in accordance with the provisions of Section 2.9.
- (viii) All certifications, certificates and Opinions of Counsel required to be submitted pursuant to this Section 3.6 to effect a registration of transfer or exchange may be submitted by facsimile.

### **3.7 Closing of Registers**

- (a) Neither the Issuers nor the Trustee nor any Registrar shall be required to:
  - (i) Register the transfer of or exchange Notes on any Interest Payment Date for such Notes or during the 10 preceding Business Days;
  - (ii) (A) issue, register the transfer of or exchange any Notes during a period beginning at the opening of business 15 Business Days before the day of any selection of Notes for redemption under Section 4.1 and ending at the close of business on the day of selection, or (B) register the transfer of or exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part;
  - (iii) register the transfer of or exchange Notes between the date of any selection of any Notes represented by fully registered Notes to be redeemed (as applicable) and the mailing of a Redemption Notice to Holders thereof;

- (iv) make exchanges of Notes which have been selected or called for redemption unless upon due presentation thereof for redemption such Notes are not redeemed; or
  - (v) to register the transfer of or to exchange a Note tendered and not withdrawn in connection with a Change of Control Offer or an Asset Sale Offer.
- (b) Subject to any restriction provided in this Indenture, the Issuers with the approval of the Trustee may at any time close any register for the Notes (other than those kept at the principal office of the Trustee in Calgary, Alberta) and transfer the registration of any Notes registered thereon to another register (which may be an existing register) and thereafter such Notes shall be deemed to be registered on such other register. Notice of such transfer shall be given to the Holders of such Notes.

### **3.8 Charges for Registration, Transfer and Exchange**

For each Note exchanged, registered, transferred or discharged from registration, the Trustee or other Registrar, except as otherwise herein provided, may make a reasonable charge for its services and in addition may charge a reasonable sum for each new Note issued (such amounts to be agreed upon from time to time by the Trustee and the Issuers), and payment of such charges and reimbursement of the Trustee or other Registrar for any stamp taxes or governmental or other charges required to be paid shall be made by the party requesting such exchange, registration, transfer or discharge from registration as a condition precedent thereto. Notwithstanding the foregoing provisions, no charge shall be made to a Holder hereunder:

- (a) for any exchange, registration, transfer or discharge from registration of any Note applied for within a period of two months from the date of the first delivery thereof;
- (b) for any exchange of any interim or temporary Note or interim certificate that has been issued under Section 2.14 for a Definitive Note;
- (c) for any exchange of a Global Note as contemplated in Section 3.2; or
- (d) for any exchange of any Note resulting from a partial redemption under Section 4.5.

### **3.9 Ownership of Notes**

- (a) The Holder for the time being of any Note shall be entitled to the principal, Premium, if any, and/or interest evidenced by such Note, free from all equities or rights of set-off or counterclaim between the Issuers and the original or any intermediate Holder thereof (except in respect of equities of which the Issuers are required to take notice by law) and all Persons may act accordingly and the receipt of any such Holder for any such principal, Premium, if any, or interest shall be a valid discharge to the Trustee, any Registrar and to the Issuers for the same and none shall be bound to inquire into the title of any such Holder.
- (b) Where Notes are registered in more than one name, the principal, Premium, if any, and interest from time to time payable in respect thereof may be paid to the order of all such Holders, and the receipt of any one of such Holders therefor shall be a valid discharge, to the Trustee, any Registrar and to the Issuers.
- (c) Subject to the Registrar's receipt of appropriate supporting documentation, in the case of the death of one or more joint Holders, the principal, Premium, if any, and interest from

time to time payable thereon may be paid to the order of the survivor or survivors of such Holders and to the estate of the deceased and the receipt by such survivor or survivors and the estate of the deceased thereof shall be a valid discharge by the Trustee, any Registrar and the Issuers.

- (d) Unless otherwise required by law, the Holder shall for all the purposes of this Indenture (except for references in this Indenture to "Beneficial Holders") be and be deemed to be the owner thereof, and payment of or on account of the principal of, Premium, if any, and interest on such Note shall be made only to or upon the order in writing of such Holder.

### **3.10 Cancellation and Destruction**

All matured Notes shall forthwith after payment of all obligations thereunder be delivered to the Trustee or to a Person appointed by it or by the Issuers with the approval of the Trustee and cancelled by the Trustee. All Notes which are cancelled or required to be cancelled under this or any other provision of this Indenture, including Section 4.10 shall be destroyed by the Trustee and, if required by the Issuers, the Trustee shall furnish to it a destruction certificate setting out the designating numbers of the Notes so destroyed.

## **ARTICLE 4 REDEMPTION AND PURCHASE OF NOTES**

### **4.1 Redemption of Notes**

Notes may be redeemed before the Stated Maturity thereof, in whole at any time or in part from time to time, at the option of the Issuers and in accordance with and subject to the provisions set out in this Indenture, including those relating to the payment of any required redemption price ("**Redemption Price**").

### **4.2 Optional Redemption**

- (a) The Issuers may acquire Notes by means other than a redemption, whether by tender offer, open market purchases, negotiated transactions or otherwise, in accordance with applicable securities laws and regulations, so long as such acquisition does not otherwise violate the terms of this Indenture;
- (b) [Intentionally Deleted];
- (c) On or after the Issue Date, the Issuers may on any one or more occasions, redeem all or a part of the Notes upon not less than 30 nor more than 60 days' notice, at the Redemption Prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest, if any, on the Notes redeemed, to but excluding the applicable Redemption Date, if redeemed during the twelve-month period beginning on November 15 of the years indicated below:

<u>Year</u>	<u>Redemption Price</u>
2020	103%
2021	102%
2022	101%
2023 and thereafter	100%

- (d) If, as a result of:
  - (i) any amendment to, or change in, the laws (or regulations or rulings promulgated thereunder) of any Relevant Taxing Jurisdiction which is announced and becomes effective after the date of this Indenture (or, where a jurisdiction in question does not become a Relevant Taxing Jurisdiction until a later date, such later date); or
  - (ii) any amendment to, or change in, the official application, official interpretation, official administration or official assessing practices of any such laws, regulations or rulings of any Relevant Taxing Jurisdiction, or a judicial decision rendered by a court of competent jurisdiction (whether or not made, taken or reached with respect to an Issuer or any of the Guarantors) which is announced and becomes effective after the date of this Indenture (or, where a jurisdiction in question does not become a Relevant Taxing Jurisdiction until a later date, such later date),

an Issuer or a Guarantor has become or will become obligated to pay, on the next date on which any amount would be payable with respect to the Notes or a Note Guarantee, as applicable, Additional Amounts or indemnification payments pursuant to Section 2.6 with respect to the Relevant Taxing Jurisdiction, which payment such Issuer or Guarantor, as applicable, cannot avoid with the use of reasonable measures available to it (including making payment through a paying agent located in another jurisdiction), then the Issuers may, at their option, redeem all but not less than all of the Notes, upon not more than 60 days' and not less than 30 days' notice prior to the earliest date on which such Issuer or Guarantor, as applicable, would be required to pay such Additional Amounts or indemnification payments, at a Redemption Price of 100% of the principal amount of the Notes redeemed, plus accrued and unpaid interest, if any, to but excluding the Redemption Date. Prior to the giving of any notice of redemption described in this Section 4.2(d), each Issuer will deliver to the Trustee (i) an Opinion of Counsel of independent legal counsel to the applicable Issuer of recognized standing to the effect that such Issuer or Guarantor, as applicable, has or will become obligated to pay such Additional Amounts or indemnification payments as a result of an amendment or change described above, and (ii) an Officer's Certificate to the effect that such Issuer or Guarantor, as applicable, cannot avoid its obligation to pay Additional Amounts by taking measures reasonably available to it.

#### 4.3 Mandatory Redemption

- (a) The Issuers are not required to make any mandatory redemption or sinking fund payments with respect to the Notes except as set forth in Section 4.3(b) below; provided, however, that the Issuers may be required to offer to purchase the Notes pursuant to Sections 5.14 and 5.15.
- (b) Subject to the terms and conditions of the Intercreditor Agreement and the Senior Credit Facility (including any restrictions on payment of such amounts), for each fiscal year ending on or after December 31, 2021, the Issuers shall (i) within 90 days of the end of each fiscal year, provide notice to the Trustee (the "**Cash Sweep Redemption Notice**") of the principal amount of the Notes outstanding plus accrued interest thereon to be redeemed on the day that is ten (10) Business Days following the delivery of such Cash Sweep Redemption Notice (the "**Cash Sweep Payment Date**") to the Trustee, which redemption will be in an amount equal to the Cash Sweep Amount and (ii) on the Cash Sweep Payment

Date pay to the Trustee on behalf of the Holders, the Cash Sweep Amount . For greater certainty, no Premium shall be payable in respect to such redemptions.

For the purposes of this Section 4.3(b), "**Cash Sweep Amount**" shall mean 50% of the Excess Cash Flow for the applicable fiscal year less \$10 million.

For the purposes of this Section 4.3(b), "**Excess Cash Flow**" means, for the applicable fiscal year, without duplication, an amount equal to the following (determined on a consolidated basis):

- (i) the cash flow provided by (used in) operating activities as reported on the Issuers' consolidated audited "**Consolidated Statement of Cash Flows**" (or any similar successor report) delivered pursuant to Section 5.5(a)(ii); *less*
- (ii) to the extent not already reflected in the amount set forth in (i) above, the aggregate amount of maintenance capital expenditures as approved by the Board of Directors of Pubco, as included in the Issuers' consolidated audited financial statements delivered pursuant to Section 5.5(a)(ii); *less*
- (iii) to the extent not already reflected in the amount set forth in (i) above, the aggregate amounts paid by the Restricted Group in respect of lease obligations and Taxes (including, for certainty, income taxes and any net amounts paid by all of the Restricted Group in respect to goods and services taxes), as included in the Issuers' consolidated audited financial statements delivered pursuant to Section 5.5(a)(ii); *less*
- (iv) to the extent not already reflected in the amount set forth in (i) above, the amount of all required principal, interest or other payments (including, for greater certainty, cash sweeps and fees) paid under the Senior Credit Facility, the Additional Liquidity Facility and any other indebtedness secured by Permitted Liens, as included in the Issuers' consolidated audited financial statements delivered pursuant to Section 5.5(a)(ii); *less*
- (v) the amount of all interest in respect of the Notes that is paid pursuant to Section 2.16 (excluding, for certainty, any interest paid pursuant to Section 2.4), and all repayments of the Notes pursuant to Section 4.2 (other than Section 4.2(a)), as included in the Issuers' consolidated audited financial statements delivered pursuant to Section 5.5(a)(ii).

For greater certainty, (A) if the amount set forth under subsection (i) above is negative, it is deemed to be zero, and (B) the amount of "Excess Cash Flow" as determined pursuant to the above formula shall not be reduced by the amount, if any, paid or advanced by the Issuers, Pubco or any other member of the Restricted Group or their respective Subsidiaries to redeem or purchase any Notes pursuant to any tender offer, open market purchases, negotiated transactions or otherwise pursuant to Section 4.2(a), provided that Excess Cash Flow shall be reduced by the amount of any Redemption Price paid to redeem Notes redeemed pursuant to a redemption consummated pursuant to Section 4.3(b).

#### 4.4 Places of Payment

The Redemption Price will be payable upon presentation and surrender of the Notes called for redemption at any of the places where the principal of such Notes is expressed to be payable and at any other places specified in the Redemption Notice.

#### 4.5 Partial Redemption

- (a) If less than all of the Notes are to be redeemed at any time, unless otherwise required by law or depositary requirements, the Trustee will select Notes for redemption as follows:
  - (i) if the Notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which such Notes are listed; or
  - (ii) if the Notes are not listed on any national securities exchange, on a pro rata basis, or based on a method that most nearly approximates a pro rata selection as the Trustee deems fair and appropriate.

Subject to the foregoing, Notes or portions of Notes the Trustee selects for redemption shall be in amounts of \$1.00 or a multiple of \$1.00 in excess thereof.

- (b) If Notes are to be redeemed in part only, the Redemption Notice that relates to such Notes will state the portion of the principal amount of such Notes that is to be redeemed. In the event that one or more of such Notes becomes subject to redemption in part only, upon surrender of any such Notes for payment of the Redemption Price, together with interest accrued to but excluding the Redemption Date, the Issuers shall execute and the Trustee shall authenticate and deliver without charge to the Holder thereof or upon the Holder's order one or more new Notes for the unredeemed part of the principal amount of the Notes so surrendered or, with respect to certificated Global Notes, the Trustee shall make notations on the Global Notes of the principal amount thereof so redeemed. Unless the context otherwise requires, the terms "Note" or "Notes" as used in this Article 4 shall be deemed to mean or include any part of the principal amount of any Note which in accordance with the foregoing provisions has become subject to redemption.

#### 4.6 Notice of Redemption

Notice of redemption (the "**Redemption Notice**") of any Notes shall be given to the Holders of the Notes so to be redeemed not more than 60 days nor less than 30 days prior to the date fixed for redemption (the "**Redemption Date**") in the manner provided in Section 15.2; provided that Redemption Notices in respect of optional redemptions of Notes may be mailed more than 60 days prior to a Redemption Date if the Redemption Notice is issued in connection with a defeasance of the relevant Notes or a satisfaction and discharge of this Indenture. Every such Redemption Notice shall specify the aggregate principal amount of Notes called for redemption, the Redemption Date, the Redemption Price and the places of payment and shall state that interest upon the principal amount of Notes called for redemption shall cease to be payable from and after the Redemption Date. Redemption Notices in respect of an optional redemption, including without limitation, upon an Equity Offering, may, at the Issuers' discretion, be subject to one or more conditions precedent, including, but not limited to, completion of an Equity Offering in connection with an optional redemption with the proceeds from an Equity Offering. In addition, unless all the outstanding Notes are to be redeemed, the Redemption Notice shall specify:



- (a) the distinguishing letters and numbers of the Notes which are to be redeemed (as are registered in the name of such Holder);
- (b) if such Notes are selected by terminal digit or other similar system, such particulars as may be sufficient to identify the Notes so selected;
- (c) in the case of Global Notes, that the redemption will take place in such manner as may be agreed upon by the Depository, the Trustee and the Issuers; and
- (d) in all cases, the principal amounts of such Notes or, if any such Note is to be redeemed in part only, the principal amount of such part.

Notwithstanding Section 15.2, in the event that all Notes to be redeemed are Global Notes, publication of the Redemption Notice shall not be required.

#### **4.7 Notes Due on Redemption Dates**

Upon a Redemption Notice having been given as provided in Section 4.6, all the Notes so called for redemption or the principal amount to be redeemed of the Notes called for redemption, as the case may be, shall thereupon be and become due and payable at the Redemption Price, together with accrued interest to but excluding the Redemption Date, on the Redemption Date specified in such notice, in the same manner and with the same effect as if it were the Stated Maturity specified in such Notes, anything therein or herein to the contrary notwithstanding. From and after such Redemption Date, if the monies necessary to redeem such Notes shall have been deposited as provided in Section 4.8 and affidavits or other proof satisfactory to the Trustee as to the publication and/ or mailing of such Redemption Notices shall have been lodged with it, interest upon the Notes shall cease to accrue. If any question shall arise as to whether any notice has been given as above provided and such deposit made, such question shall be decided by the Trustee whose decision shall be final and binding upon all parties in interest.

#### **4.8 Deposit of Redemption Monies**

- (a) Upon Notes being called for redemption, the Issuers shall deposit with the Trustee or any Paying Agent to the order of the Trustee, on or before 11:00 a.m. (Toronto time) on the Business Day immediately prior to the Redemption Date specified in the Redemption Notice, such sums of money as may be sufficient to pay the Redemption Price of the Notes so called for redemption, plus accrued and unpaid interest thereon up to but excluding the Redemption Date and including any Additional Amounts, less any taxes required by law to be deducted or withheld therefrom. The Issuers shall also deposit with the Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Trustee in connection with such redemption. Every such deposit shall be irrevocable. From the sums so deposited, the Trustee shall pay or cause to be paid, to the Holders of such Notes so called for redemption, upon surrender of such Notes, the principal, Premium (if any) and interest (if any) to which they are respectively entitled on redemption.
- (b) Payment of funds to the Trustee upon redemption of Notes shall be made by electronic transfer or certified cheque or pursuant to such other arrangements for the provision of funds as may be agreed between the Issuers and the Trustee in order to effect such payment hereunder. Notwithstanding the foregoing, (i) all payments in excess of \$25,000,000 (or such other amount as determined from time to time by the Canadian Payments Association) shall be made by the use of the LVTS; and (ii) in the event that payment must be made to the Depository, the Issuers shall remit payment to the Trustee by LVTS. The Trustee shall

have no obligation to disburse funds pursuant to this Section 4.8 unless it has received written confirmation satisfactory to it that the funds have been deposited with it in sufficient amount to pay in full all amounts due and payable on the applicable Redemption Date.

#### **4.9 Failure to Surrender Notes Called for Redemption**

In case the Holder of any Note so called for redemption shall fail on or before the Redemption Date so to surrender such Holder's Note, or shall not within such time specified on the Redemption Notice accept payment of the redemption monies payable, or give such receipt therefor, if any, as the Trustee may require, such redemption monies may be set aside in trust, without interest, either in the deposit department of the Trustee or in a chartered bank, and such setting aside shall for all purposes be deemed a payment to the Holder of the sum so set aside and, to that extent, such Note shall thereafter not be considered as outstanding hereunder and the Holder thereof shall have no other right except to receive payment of the Redemption Price of such Note, plus any accrued but unpaid interest thereon to but excluding the Redemption Date and including any Additional Amounts, less any taxes required by law to be deducted or withheld, out of the monies so paid and deposited, upon surrender and delivery up of such Holder's relevant Note. Subject to any applicable law regarding unclaimed property, in the event that any money required to be deposited hereunder with the Trustee or any Paying Agent on account of principal, Premium, if any, or interest, if any, on Notes issued hereunder shall remain so deposited for a period of six years from the Redemption Date, then such monies, together with any accumulated interest thereon, shall at the end of such period be paid over or delivered over by the Trustee or such Paying Agent to the Issuers on its demand, and thereupon the Trustee shall not be responsible to Holders of such Notes for any amounts owing to them and subject to applicable law, thereafter the Holders of Notes in respect of which such money was so repaid to the Issuers shall have no rights in respect thereof except to obtain payment of the money due from the Issuers, subject to any limitation period provided by the laws of Alberta. Notwithstanding the foregoing, the Trustee will pay any remaining funds prior to the expiry of six years after the Redemption Date to the Issuers upon receipt from any member of the Restricted Group, of an unconditional letter of credit from a Canadian chartered bank in an amount equal to or in excess of the amount of the remaining funds. If the remaining funds are paid to the Issuers prior to the expiry of six years after the Redemption Date, and such funds or any portion thereof are claimed after the date of such payment of the remaining funds to the Issuers but prior to six years after the Redemption Date, then the Trustee shall immediately provide to the Issuers written notice of such claim and the Issuers shall promptly deposit with the Trustee funds in the amount necessary to satisfy such claim.

#### **4.10 Cancellation of Notes Redeemed**

Subject to the provisions of Sections 4.5 and 4.11 as to Notes redeemed or purchased in part, all Notes redeemed and paid under this Article 4 shall forthwith be delivered to the Trustee and cancelled and no Notes shall be issued in substitution for those redeemed.

#### **4.11 Purchase of Notes for Cancellation**

- (a) Subject to Section 5.21, the Issuers and/or Pubco may, at any time and from time to time, purchase Notes in the market (which shall include purchases from or through an investment dealer or a firm holding membership on a recognized stock exchange), by private purchase, by tender or by contract, at any price; provided that no Default or Event of Default has occurred and is continuing and such acquisition does not otherwise violate the terms of this Indenture. All Notes so purchased shall be delivered to the Trustee and cancelled in which case no Notes shall be issued in substitution therefor.

- (b) If, upon an invitation for tenders, more Notes are tendered at the same lowest price than the Issuers are prepared to accept, the Notes to be purchased by the Issuers shall be selected by the Trustee on a pro min basis or in such other manner as the Issuers direct in writing and as consented to by the exchange, if any, on which the Notes are then listed which the Trustee considers appropriate, from the Notes tendered by each tendering Holder thereof who tendered at such lowest price. For this purpose the Trustee may make, and from time to time amend, regulations with respect to the manner in which Notes may be so selected, and regulations so made shall be valid and binding upon all Holders thereof, notwithstanding the fact that as a result thereof one or more of such Notes become subject to purchase in part only. The Holder of a Note of which a part only is purchased, upon surrender of such Note for payment, shall be entitled to receive, without expense to such Holder, one or more new Notes for the unpurchased part so surrendered, and the Trustee shall authenticate and deliver such new Note or Notes upon receipt of the Note so surrendered or, with respect to a Global Note, the Depository shall make book-entry notations with respect to the principal amount thereof so purchased.

## **ARTICLE 5**

### **COVENANTS OF THE ISSUERS**

As long as any Notes remain outstanding, each Issuer hereby covenants and agrees with the Trustee for the benefit of the Trustee and the Holders as follows (unless and for so long as any of the members of the Restricted Group are the only Holders (or Beneficial Holders) of the outstanding Notes, in which case the following provisions of this Article 5 shall not apply):

#### **5.1 Payment of Principal, Premium and Interest**

- (a) The Issuers covenant and agree for the benefit of the Holders that they will duly and punctually pay the principal of, Premium, if any, and interest on the Notes in accordance with the terms of the Notes and this Indenture. Principal, Premium, if any, and interest shall be considered paid on the date due if on such date the Trustee holds in accordance with this Indenture money sufficient to pay all principal, Premium if any, and interest, then due and the Trustee is not prohibited from paying such money to the Holders on that date pursuant to the terms of this Indenture.
- (b) The Issuers shall pay interest on overdue principal and Premium, if any, at the rate applicable to the Notes, and it will pay interest on overdue instalments of interest at the same rate to the extent lawful.

#### **5.2 Existence**

Subject to Article 10, Pubco, shall, and shall cause each of its Restricted Subsidiaries to, do or cause to be done all things necessary to preserve and keep in full force and effect the corporate, partnership or other legal existence, as applicable, and the corporate, partnership or other legal power, as applicable, of each member of the Restricted Group and each of their respective Restricted Subsidiaries; provided that none of the members of the Restricted Group will be required to preserve any such corporate, partnership or other legal existence and corporate, partnership or other legal power if the Board of Directors of Pubco determines that the preservation thereof is no longer desirable in the conduct of the business of the Restricted Group taken as a whole and that the loss thereof is not disadvantageous in any material respect to the Holders.

### **5.3 Payment of Taxes and Other Claims**

Pubco shall, and shall cause each of the Restricted Subsidiaries to, file all tax returns required to be filed in any jurisdiction and to pay and discharge, or cause to be paid and discharged, all Taxes shown to be due and payable on such returns and all other Taxes imposed on them or any of their properties, assets, income or franchises, to the extent such Taxes have become due and payable and before they have become delinquent and all claims for which sums have become due and payable that have or might become a Lien on Property of any member of the Restricted Group; provided that no member of the Restricted Group need pay any such Taxes or claim if (a) the amount, applicability or validity thereof is contested by the applicable member of the Restricted Group on a timely basis in good faith and in appropriate proceedings, and the applicable member of the Restricted Group has established adequate reserves therefor in accordance with GAAP on the books of such Person or (b) the non-payment of all such Taxes in the aggregate would not reasonably be expected to have a material adverse effect on the business, affairs or financial condition of the Restricted Group, taken as a whole.

### **5.4 Statement by Officers**

- (a) Each Issuer shall deliver to the Trustee, within 120 days after the end of each of its fiscal years, a brief certificate from the principal executive officer, principal financial officer or principal accounting officer as to his or her knowledge of compliance by each member of the Restricted Group with all conditions and covenants in this Indenture. For purposes of this Section 5.4(a), such compliance shall be determined without regard to any period of grace or requirement of notice under this Indenture.
- (b) Upon becoming aware of any Default or Event of Default, the Issuers shall promptly deliver to the Trustee by registered or certified mail or by facsimile transmission an Officer's Certificate, specifying such event, notice or other action giving rise to such Default or Event of Default and the action that the such member of the Restricted Group, is taking or proposes to take with respect thereto.

### **5.5 Provision of Reports and Financial Statements**

- (a) Subject to Section 5.5(d), Pubco will provide to the Trustee, and the Trustee shall deliver to the Holders, the following:
  - (i) within 60 days after the end of each quarterly fiscal period in each fiscal year of Pubco, other than the last quarterly fiscal period of each such fiscal year, copies of:
    - (A) an unaudited consolidated balance sheet of Pubco as at the end of such quarterly fiscal period and unaudited consolidated statements of income, cash flows and changes in shareholders' equity for such quarterly fiscal period and, in the case of the second and third quarters, for the portion of the fiscal year ending with such quarter; and
    - (B) an associated "Management's Discussion and Analysis" prepared by Pubco for such period; and

- (ii) within 120 days after the end of each fiscal year of Pubco, copies of:
  - (A) an audited consolidated balance sheet of Pubco as at the end of such year and audited consolidated statements of income, cash flows and changes in shareholders' equity for such fiscal year, together with a report of Pubco's auditors thereon; and
  - (B) (B) an associated "Management's Discussion and Analysis" prepared by Pubco for such period;

in the case of each of the foregoing subclauses 5.5(a)(i)(A) and 5.5(a)(ii)(A) prepared in accordance with GAAP. The reports referred to in the foregoing clauses (i) and (ii) are collectively referred to as the "**Financial Reports**".

- (b) Pubco will, within 15 Business Days of any request therefor made by Holders of at least 25% of the principal amount of Notes outstanding, hold a conference call for legal or beneficial holders of Notes, to discuss the Financial Reports and the results of operations provided for the applicable reporting period and the Issuers shall provide details to the Trustee to be provided to Holders with details about accessing any such call on a toll-free basis.
- (c) Notwithstanding Section 5.5(a), in the event that Pubco is a "reporting issuer" (or its equivalent) in any province or territory of Canada, (i) all Financial Reports applicable to Pubco will be deemed to have been provided to the Trustee and the Holders once filed on the System for Electronic Document Analysis and Retrieval (SEDAR) or any successor system thereto and (ii) Pubco will no longer be required to maintain a website on which it makes such Financial Reports available.
- (d) So long as (i) the Notes are outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the 1933 Act and may not be resold pursuant to Rule 144(b)(1) of the 1933 Act and (ii) the Issuers are not subject to Section 13 or 15(d) of the U.S. Exchange Act, or is exempt from reporting pursuant to Rule 12g3-2(b) under the U.S. Exchange Act, the Issuers shall make available to Holders and Beneficial Holders of the Notes, and to prospective purchasers of such Notes designated by such Holders, upon the request of such Holders, at or prior to the time of resale, the information required to be delivered pursuant to Rule 144A(d)(4) under the 1933 Act to permit compliance with Rule 144A in connection with resales of the Notes.

## 5.6 Future Guarantors

- (a) If a member of the Restricted Group acquires or creates another Restricted Subsidiary, other than any Immaterial Subsidiary, after the Issue Date, or if a Subsidiary is deemed to be a Restricted Subsidiary due to ceasing to meet the test to be qualified as an Immaterial Subsidiary, or if Pubco designates an Unrestricted Subsidiary as a Restricted Subsidiary in accordance with Section 5.7, then that newly acquired, created or designated Restricted Subsidiary will become a Guarantor, execute and deliver a Note Guarantee and appropriate joinders to the Security Documents, and deliver an Opinion of Counsel to the Trustee, in each case within 10 Business Days of the date on which it is so acquired, created or designated, as applicable. Thereafter, such Restricted Subsidiary shall be a Guarantor for all purposes of this Indenture.

- (b) Any Opinion of Counsel provided to the Trustee in accordance with clause (a) of this Section 5.6 must state that in the opinion of such counsel, (i) the Note Guarantee constitutes a legal, valid and binding obligation of the relevant Guarantor, enforceable against such Guarantor in accordance with its terms, subject to customary qualifications with respect to principles of equity and bankruptcy laws, (ii) all conditions precedent and covenants in this Indenture relating to the execution and delivery by the Trustee of the Note Guarantee have been satisfied, and (iii) the execution by the Trustee of the Note Guarantee is authorized or permitted by this Indenture; provided that such Opinion of Counsel may rely as to matters of fact on an Officer's Certificate or a certificate of a public official.

## **5.7 Designation of Subsidiaries as Restricted or Unrestricted**

- (a) The Board of Directors of Pubco may designate any of its Restricted Subsidiaries an Unrestricted Subsidiary, provided that:
  - (i) such Restricted Subsidiary does not hold Equity Interests in another Restricted Subsidiary;
  - (ii) immediately after and giving effect to such designation, no Default or Event of Default shall have occurred and be continuing;
  - (iii) at the time of the designation, the members of the Restricted Group could make a Restricted Payment in an amount equal to the Fair Market Value of the Subsidiary so designated in compliance with Section 5.10;
  - (iv) at the time of such designation, to the extent that any Indebtedness of the Subsidiary so designated is not Non-Recourse Debt, any guarantee or other credit support thereof by the members of the Restricted Group could be incurred at such time in compliance with Section 5.10 and Section 5.11;
  - (v) such Subsidiary is not party to any agreement, contract, arrangement or understanding with a member of the Restricted Group unless any such agreement, contract, arrangement or understanding would, immediately after giving effect to such designation, be permitted by Section 5.13; and
  - (vi) such Subsidiary is a Person with respect to which none of the members of the Restricted Group has any direct or indirect obligation 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 unless such obligation could be performed by the Issuers in compliance with Section 5.10 (and the maximum amount of such obligation shall be deemed to be an Investment by the Issuers for purposes of Section 5.10).
- (b) Any designation of a Restricted Subsidiary as an Unrestricted Subsidiary will be evidenced to the Trustee by each Issuer filing with the Trustee a certified copy of the Board Resolution of Pubco giving effect to such designation and an Officer's Certificate certifying that such designation complied with the conditions set forth in Section 5.7(a). Such filing with the Trustee is to occur within 60 days after the end of the fiscal quarter or fiscal year of the Issuers, as the case may be, in which such designation is made.

- (c) Pubco shall not permit any Restricted Subsidiary to become an Unrestricted Subsidiary other than in accordance with Sections 5.7(a) and 5.7(b). If, at any time, any Unrestricted Subsidiary would fail to meet any of the requirements described in Section 5.7(a), it will thereafter become a Restricted Subsidiary for purposes of this Indenture and any Indebtedness, Investments or Liens on the Property of such Subsidiary will be deemed to be incurred or made by such Subsidiary as of such date and, if such Indebtedness, Investments or Liens are not permitted to be incurred or made as of such date under this Indenture, the Issuers will be in default under this Indenture.
- (d) The Board of Directors of Pubco may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that:
  - (i) immediately after and giving effect to such designation, no Default or Event of Default shall have occurred and be continuing;
  - (ii) such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of any outstanding Indebtedness of such Unrestricted Subsidiary, and such designation will only be permitted if such Indebtedness is permitted under Section 5.11;
  - (iii) the aggregate Fair Market Value of all outstanding Investments owned by the Unrestricted Subsidiary so designated will be deemed to be an Investment made as of the time of the designation and any such designation will only be permitted if the Investment would be permitted at that time in compliance with Section 5.10;
  - (iv) all Liens upon Property of such Unrestricted Subsidiary existing at the time of such designation would be permitted under Section 5.8; and
  - (v) such Unrestricted Subsidiary becomes a Guarantor pursuant to Section 5.6.

## **5.8 Limitation on Liens**

No member of the Restricted Group will, directly or indirectly, create, incur, assume or otherwise cause or suffer to exist or become effective any Lien (other than Permitted Liens) upon or with respect to any of their Property, now owned or hereafter acquired.

## **5.9 Payments for Consent**

No member of the Restricted Group shall, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee, or otherwise, 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, the Notes, the Note Guarantees or the Security Documents unless such consideration is offered to be paid or is paid to all Holders that consent, waive, or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver, or amendment.

## **5.10 Restricted Payments.**

- (a) No member of the Restricted Group will, directly or indirectly:
  - (i) declare or pay any dividend or make any other payment or distribution on account of any Equity Interests of any member of the Restricted Group (including, without

limitation, in connection with any merger, amalgamation or consolidation (including pursuant to a plan of arrangement) involving a member of the Restricted Group) or to the direct or indirect holders of the Equity Interests of any member of the Restricted Group in their capacity as such (other than (A) dividends or distributions payable in Capital Stock (other than Disqualified Stock) of Pubco, or in warrants, options or other rights to acquire Capital Stock (other than Disqualified Stock) of Pubco, and (B) dividends or distributions payable to a member of the Restricted Group);

- (ii) purchase, retract, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger, amalgamation or consolidation involving Pubco), in whole or in part, any Equity Interests of Pubco (other than any such Equity Interests owned by a member of the Restricted Group);
- (iii) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Subordinated Indebtedness except for any such Indebtedness owed to a member of the Restricted Group; or
- (iv) make any Restricted Investment,

(all such payments and other actions set forth in clauses (i) through (iv) above being collectively referred to as "**Restricted Payments**").

(b) Section 5.10(a) will not prohibit:

- (i) the payment by a member of the Restricted Group of any dividend or distribution, within 60 days after the date of the declaration of the dividend or distribution or the giving of the notice of redemption, as the case may be, if at the date of declaration or notice the dividend or distribution would have been permitted by this Indenture;
- (ii) the making of any Restricted Investment in exchange for, or out of the Net Cash Proceeds of the substantially concurrent sale (other than to a Subsidiary of Pubco) of, Capital Stock (other than Disqualified Stock) of Pubco or warrants, options or other rights to acquire Capital Stock (other than Disqualified Stock) of Pubco provided that any Capital Stock acquired pursuant to such Restricted Investment shall, subject to any restrictions contained in the terms governing such Capital Stock at the time of such Restricted Investment that would prohibit the granting of such Liens, be subject to the Note Liens in accordance with the Security Documents provided that, in the case of shares, partnership units or trust units, the applicable Restricted Subsidiary shall use commercially reasonable efforts to obtain consent to the Note Liens;
- (iii) the defeasance, redemption, repurchase, retirement or other acquisition of Subordinated Indebtedness of a member of the Restricted Group with the net cash proceeds from a substantially concurrent incurrence of, or in exchange for, any Permitted Refinancing Indebtedness;
- (iv) the declaration and payment of any dividend or other distribution by a Restricted Subsidiary that is not a Wholly Owned Restricted Subsidiary to the holders of its Capital Stock on a pro rata basis;



- (v) the repurchase, redemption or other acquisition of Equity Interests of Pubco to satisfy obligations to issue stock upon the vesting of equity incentive plans or stock option plans pursuant to any employment agreement, stock option plan, equity incentive or other plan or similar agreement, in each case in effect as of the Issue Date;
  - (vi) the declaration and payment of regularly scheduled or accrued dividends to holders of any class or series of Disqualified Stock of a member of the Restricted Group issued after the Issue Date in accordance with Section 5.11, provided that such dividends are included in Fixed Charges of the Restricted Group as accrued;
  - (vii) the purchase, redemption, acquisition, cancellation or other retirement for nominal value per right of any rights granted to all the holders of Capital Stock of a member of the Restricted Group pursuant to any shareholders' rights plan adopted for the purpose of protecting shareholders from unfair takeover tactics;
  - (viii) payments to dissenting shareholders (A) pursuant to applicable law or (B) in connection with the settlement or other satisfaction of legal claims made pursuant to or in connection with a consolidation, merger or transfer of assets in connection with a transaction that is not prohibited by this Indenture;
  - (ix) the making of cash payments in lieu of the issuance by Pubco of fractional shares of Capital Stock in connection with stock dividends, splits or business combinations or the exercise of warrants, options or other securities convertible or exchangeable for Equity Interests that are not derivative securities;
  - (x) the making of any Restricted Investment from Excess Cash Flow provided that (a) the Issuers have satisfied the requirements of Section 4.3(b) from such Excess Cash Flow and (b) the Issuers have not made a PIK Election in respect of the immediately preceding Interest Period prior to the date on which such Restricted Investment is made and do not make a PIK Election in the Interest Period in which such Restricted Investment is made; and
  - (xi) additional Restricted Payments in an aggregate amount which, when taken together with all other Restricted Payments made pursuant to this Section 5.10(b)(xi), do not exceed \$1.0 million and provided that no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof.
- (c) For purposes of determining compliance with this Section 5.10, if a Restricted Payment meets the criteria of more than one of the types of Restricted Payments described in Sections 5.10(b)(i) through 5.10(b)(xi), the Issuers may, in their sole discretion, divide and classify (or later reclassify in whole or in part, from time to time in its sole discretion) such transaction in any manner that complies with this Section 5.10.
- (d) The amount of each Restricted Payment (other than cash) will be the Fair Market Value on the date of such Restricted Payment of the assets or securities proposed to be transferred or issued by the relevant member of the Restricted Group pursuant to such Restricted Payment.

## 5.11 Incurrence of Indebtedness and Issuance of Disqualified Stock

- (a) No member of the Restricted Group will, directly or indirectly, (i) incur any Indebtedness, or (ii) issue any Disqualified Stock.
- (b) Section 5.11(a) will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "**Permitted Debt**"):
  - (i) the incurrence by a member of the Restricted Group of Indebtedness under Credit Facilities (excluding amounts under the Additional Liquidity Facility); provided that the aggregate principal amount of all Indebtedness of the members of the Restricted Group at any one time outstanding incurred in reliance on this Section 5.11(b)(i) (with letters of guarantee, tender cheques and letters of credit being deemed to have a principal amount equal to the maximum potential liability of members of the Restricted Group thereunder) shall not exceed the greater of (A) \$63.0 million plus US\$8,500,000 in respect of letters of credit, and (B) the Borrowing Base; in the case of the foregoing subclause (A) as reduced by the amount of any permanent reduction in commitments thereunder from the proceeds of one or more Asset Sales in accordance with Section 5.14;
  - (ii) the incurrence of Indebtedness under Credit Facilities or otherwise in connection with one or more standby letters of credit, bankers' acceptances, completion guarantees, performance bonds, bid bonds, appeal bonds or surety bonds or other similar reimbursement obligations, in each case, issued in the ordinary course of business (including for the purpose of providing security for environmental reclamation obligations to government agencies, workers' compensation claims, payment obligations in connection with self-insurance or similar statutory and other requirements) and not in connection with the borrowing of money or the obtaining of an advance or credit;
  - (iii) the incurrence by a member of the Restricted Group of Indebtedness under the Additional Liquidity Facility; provided that the aggregate principal amount of all Indebtedness under the Additional Liquidity Facility shall not exceed (a) \$20 million at any time from the Issue Date until March 31, 2022, (b) \$12.5 million at any time from and after March 31, 2022 until March 31, 2023 and (c) \$5 million at any time from and after March 31, 2023, in each case less any permanent reduction in commitments thereunder from the proceeds of one or more Asset Sales in accordance with Section 5.14;
  - (iv) the incurrence by a member of the Restricted Group of Indebtedness under the SBA PPP Loan in an amount not to exceed US\$2,200,000;
  - (v) the incurrence by a member of the Restricted Group of Indebtedness under a federal, state or provincial government forgivable loan program provided such loan is unsecured and at the time of any advance, in the reasonable determination of the Board of Directors of Pubco, the applicable member of the Restricted Group, will be able to comply with the conditions for forgiveness of such loan;
  - (vi) the incurrence by the Issuers of Indebtedness represented by the Notes to be issued on the Issue Date and any PIK Notes issued from time to time in accordance with

the terms of this Indenture and the incurrence by the Guarantors of the Note Guarantees to be issued on the Issue Date;

- (vii) the incurrence by the Issuers of Indebtedness represented by the Notes to be issued subsequent to the Issue Date provided such Notes are approved in accordance with Section 12.2(b) and the incurrence by the Guarantors of the Note Guarantees to be issued concurrent with such Notes;
- (viii) the incurrence by a member of the Restricted Group of Attributable Debt or Indebtedness and obligations represented by Capital Lease Obligations 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, development or improvement of property, plant or equipment used in the business of a member of the Restricted Group, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this Section 5.11(b)(viii), not to exceed at any one time outstanding the greater of (A) \$7.5 million and (B) 2.5% of Consolidated Tangible Assets.
- (ix) the incurrence by a member of the Restricted Group of the Existing Indebtedness (provided that if any such Existing Indebtedness constitutes Subordinated Indebtedness on the Issue Date, then any subsequent amendment, restatement or other modification of the terms thereof pursuant to which such Existing Indebtedness is not subordinated in right of payment to the Notes or to any Note Guarantee will be deemed, in each case, to constitute an incurrence of Indebtedness that was not permitted by this Section 5.11(b)(ix));
- (x) the incurrence by a member of the Restricted Group 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 Intergroup Indebtedness between or among members of the Restricted Group) that was incurred in reliance on Section 5.11(a) or clauses (iv), (viii), (ix), (x), or (xviii), of this Section 5.11(b);
- (xi) the incurrence by a member of the Restricted Group of Intergroup Indebtedness between or among members of the Restricted Group; provided, however, that:
  - (A) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than a member of the Restricted Group; and
  - (B) any sale or other transfer of any such Indebtedness to a Person that is not a member of the Restricted Group,will be deemed, in each case, to constitute an incurrence of such Indebtedness by such member of the Restricted Group that was not permitted by this clause (xi);

- (xii) the issuance of Disqualified Stock by any member of the Restricted Group to another member of the Restricted Group; provided, however, that:
  - (A) any subsequent issuance or transfer of Equity Interests that results in any such Disqualified Stock being held by a Person other than a member of the Restricted Group; and
  - (B) any sale or other transfer of any such Disqualified Stock to a Person that is not a member of the Restricted Group,will be deemed, in each case, to constitute an incurrence of such Indebtedness by such member of the Restricted Group that was not permitted by this clause (xii);
- (xiii) the incurrence by a member of the Restricted Group of Hedging Obligations in the ordinary course of business and not for speculative purposes;
- (xiv) the guarantee by a member of the Restricted Group of Indebtedness of a member of the Restricted Group that was permitted to be incurred by another provision of this Section 5.11 (including, for greater certainty, Note Guarantees in respect of Additional Notes so permitted to be incurred); provided that if the Indebtedness being guaranteed is subordinated in right of payment to or *pari passu* in right of payment with the Notes or any of the Note Guarantees, then the guarantee must be subordinated in right of payment or *pari passu* in right of payment to the same extent as the Indebtedness guaranteed;
- (xv) the incurrence of Indebtedness by a member of the Restricted Group arising
  - (A) from the honouring by a bank or other financial institution of a cheque, draft or similar instrument drawn against insufficient funds in the ordinary course of business or
  - (B) in connection with endorsement of instruments for deposit in the ordinary course of business;
- (xvi) the incurrence by a member of the Restricted Group of Cash Management Obligations in the ordinary course of business;
- (xvii) the incurrence of Indebtedness or Disqualified Stock of any Person: (A) existing at the time such Person becomes a Restricted Subsidiary or is merged into, amalgamated with or consolidated with a member of the Restricted Group or (B) assumed in connection with the acquisition of assets from such Person; provided that such Indebtedness or Disqualified Stock was not incurred in contemplation of such Person becoming a member of the Restricted Group or of such merger, amalgamation, consolidation or acquisition; provided, further, that after giving effect to such Person becoming a member of the Restricted Group or to such merger, amalgamation, consolidation or acquisition, the Fixed Charge Coverage Ratio is equal to or greater than immediately prior to such Person becoming a member of the Restricted Group or to such merger, amalgamation, consolidation or acquisition; and
- (xviii) the incurrence by a member of the Restricted Group of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable), including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any

indebtedness pursuant to this Section 5.11(b)(xviii), not to exceed \$2.0 million at any one time outstanding.

- (c) For purposes of determining compliance with this Section 5.11:
- (i) 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 (ii) through (xviii) of Section 5.11(b), or is entitled to be incurred pursuant to Section 5.11(a), the Issuers will be permitted to divide and classify (or later redivide and reclassify) such item of Indebtedness in whole or in part in any manner that complies with this Section 5.11, including by allocation to more than one other type of Indebtedness, except that Indebtedness under the Senior Credit Facility that is outstanding or available on the Issue Date will be deemed to have been incurred on such date under Section 5.11(b)(i) ;
  - (ii) the outstanding principal amount of any particular Indebtedness shall be counted only once, and any obligations arising under any guarantee, Lien, letter of credit or similar instrument supporting such Indebtedness shall not be double counted;
  - (iii) Indebtedness or Disqualified Stock of any Person (A) existing at the time such Person becomes a member of the Restricted Group or is merged into, amalgamated with or consolidated with a member of the Restricted Group or (B) assumed in connection with the acquisition of assets from such Person (any Indebtedness or Disqualified Stock described in the foregoing subclauses (A) and (B), "**Acquired Indebtedness**") shall be deemed to have been incurred or issued by a member of the Restricted Group at the time such Person becomes a member of the Restricted Group; provided that any such Indebtedness or Disqualified Stock that is redeemed, defeased, retired or otherwise repaid at the time of or immediately upon the consummation of the transaction by which such Person becomes a member of the Restricted Group (or is merged into, amalgamated with or consolidated with a member of the Restricted Group) will be deemed not to have been incurred or issued for the purposes of this Section 5.11; and
  - (iv) 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, and the payment of dividends or the making of any distribution on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this Section 5.11; provided, in each such case, that the amount thereof is included in Fixed Charges of Restricted Group as accrued.
- (d) For purposes of determining compliance with any Canadian dollar or other currency denominated restriction on the incurrence of Indebtedness, the Canadian dollar or other currency equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Canadian dollar or other currency-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing,

such Canadian dollar denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced.

- (e) Notwithstanding any other provision of this Section 5.11, the maximum amount of Indebtedness that members of the Restricted Group may incur pursuant to this Section 5.11 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Permitted Refinancing Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.
- (f) No member of the Restricted Group will incur any additional Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of such Person unless such additional Indebtedness is also contractually subordinated in right of payment to the Notes or the applicable Note Guarantee, as the case may be, on substantially identical terms; provided, however, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness solely by virtue of being unsecured or by virtue of being secured on a junior priority basis.

## **5.12 Limitation on Contractual Restrictions**

- (a) No member of the Restricted Group will, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:
  - (i) pay dividends or make any other distributions on its Capital Stock to a member of the Restricted Group or pay any Indebtedness owed to a member of the Restricted Group; provided that the priority of any preferred stock over common stock in receiving dividends or distributions (upon a liquidation or otherwise) shall not be deemed a restriction on the ability to make distributions on Capital Stock;
  - (ii) make loans or advances to a member of the Restricted Group; or
  - (iii) sell, lease or transfer any of its Property to a member of the Restricted Group.
- (b) Section 5.12(a) will not apply to encumbrances or restrictions existing under or by reason of:
  - (i) agreements or instruments (including agreements governing Existing Indebtedness or Credit Facilities) as in effect or which come into effect on the Issue Date;
  - (ii) this Indenture, the Notes, the Note Guarantees and the Security Documents;
  - (iii) applicable law, rule, regulation, order, approval, license or permit;
  - (iv) any instrument governing Indebtedness or Capital Stock of a Person acquired by a member of the Restricted Group as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred or issued in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the Property of any Person, other than

the Person, or the Property of the Person, so acquired, provided that, in the case of Indebtedness or Disqualified Stock, such Indebtedness or Disqualified Stock was permitted by the terms hereof to be incurred or issued, as the case may be;

- (v) customary non-assignment and non-subletting provisions in contracts, leases and licenses entered into in the ordinary course of business;
- (vi) agreements relating to Purchase Money Obligations, Capital Lease Obligations and Sale/Leaseback Transactions that impose restrictions on the property relating thereto of the nature described in Section 5.12(a)(iii);
- (vii) any agreement for the sale or other disposition of assets or Capital Stock of a Restricted Subsidiary that restricts transfers of such assets or the making by that Restricted Subsidiary of distributions, loans or advances pending such sale or other disposition;
- (viii) Permitted Liens that limit the right of the debtor to dispose of the assets subject to such Liens;
- (ix) provisions in joint venture agreements, partnership agreements, limited liability company agreements, asset sale agreements, stock sale agreements and other similar agreements entered into in the ordinary course of business or with the approval of the Board of Directors of the applicable member of the Restricted Group, that limit the disposition or distribution of assets or property, which limitations are applicable only to the assets that are the subject of such agreements (including restrictions on the transfer of ownership interests in any joint venture, partnership, limited liability company or other applicable entity);
- (x) restrictions on cash, Cash Equivalents or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;
- (xi) encumbrances and restrictions contained in contracts entered into in the ordinary course of business, not relating to any Indebtedness, and that do not, individually or in the aggregate, detract from the value of, or from the ability of the members of the Restricted Group to realize the value of, Property of any members of the Restricted Group in any manner material to any member of the Restricted Group;
- (xii) agreements encumbering or restricting cash or marketable securities to secure Hedging Obligations;
- (xiii) agreements governing Indebtedness permitted to be incurred under Section 5.11; provided that the restrictions therein will not materially adversely impact the ability of the Issuers to make required principal and interest payments on the Notes; and (xiv) and any amendments, restatements, renewals, increases, supplements, refundings, replacements or refinancings (collectively, "**refinancings**") of the agreements, instruments or obligations referred to in clauses (i) through (xiii) of this Section 5.12(b); provided that such refinancings are not materially more restrictive (taken as a whole) with respect to such encumbrances and restrictions than those in effect prior to such refinancings.

### 5.13 Transactions with Affiliates

- (a) No member of the Restricted Group will make any payment to, or sell, lease, transfer or otherwise dispose of any of its Property to, or purchase any Property from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of such member of the Restricted Group (each, an " **Affiliate Transaction**") involving aggregate consideration in excess of \$2.5 million for any Affiliate Transaction or series of related Affiliate Transactions, unless:
  - (i) the Affiliate Transaction is on terms that are no less favourable in the aggregate to the relevant member of the Restricted Group than those that would reasonably be expected to have been obtained in a comparable transaction at such time by such member of the Restricted Group in an arm's-length dealing with a Person who is not an Affiliate of such member of the Restricted Group;
  - (ii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$5.0 million, the Issuers deliver to the Trustee a resolution of the Board of Directors of each Issuer set forth in an Officer's Certificate certifying that such Affiliate Transaction or series of Affiliate Transactions, as the case may be, complies with this Section 5.13 and that such Affiliate Transaction or series of Affiliate Transactions, as the case may be, has been approved by a majority of the disinterested members of the Board of Directors of the applicable member of the Restricted Group; and (iii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$10.0 million, the Issuers deliver to the Trustee a written opinion of an investment banking firm of national standing or other recognized independent expert stating that such Affiliate Transaction or series of Affiliate Transactions, as the case may be, is fair to the relevant member of the Restricted Group from a financial point of view.
- (b) The following items will be deemed not to be Affiliate Transactions and therefore will not be subject to Section 5.13(a):
  - (i) any consulting or employment agreement or arrangement, employee or director compensation, stock option, bonus, benefit or other similar plan, officer or director indemnification, severance or expense reimbursement arrangement, or any similar arrangement existing on the Issue Date or thereafter entered into by a member of the Restricted Group in the ordinary course of business and payments and other benefits (including bonuses and retirement, severance, health, stock option, restricted share, stock appreciation right, phantom right, profit interest, equity incentive and other benefit plans) pursuant thereto;
  - (ii) transactions between or among the members of the Restricted Group;
  - (iii) the issuance or sale of Capital Stock (other than Disqualified Stock) of Pubco or warrants, options or other rights to acquire Capital Stock (other than Disqualified Stock) of Pubco to, or the receipt by a Pubco of any capital contribution from, its shareholders or Affiliates;
  - (iv) Restricted Payments that are permitted by the provisions of this Indenture described in Section 5.10 and Permitted Investments (except for Investments made



in reliance on clauses (b), (c), (e) and (f) of the definition of Permitted Investments);

- (v) the performance of obligations of a member of the Restricted Group under the terms of any agreement described in this Indenture and to which such member of the Restricted Group is a party as of or on the Issue Date, as each such agreement may be amended, modified, supplemented, extended or renewed from time to time; provided, however, that any future amendment, modification, supplement, extension or renewal entered into after the Issue Date will only be permitted under this clause (v) to the extent that its terms are not materially more disadvantageous, in the aggregate (in the good faith determination of the Board of Directors of the LP Issuer), to the Holders than the terms of the relevant agreement as in effect on the Issue Date;
- (vi) transactions with customers, suppliers or purchasers or sellers of goods or services that are Affiliates of a member of the Restricted Group, in each case in the ordinary course of business and which, in the reasonable determination of the Board of Directors of the applicable member of the Restricted Group are on terms at least as favourable to such member of the Restricted Group as would reasonably have been obtained at such time from an unaffiliated party;
- (vii) transactions between a member of the Restricted Group and any Person that is an Affiliate solely because one or more of its directors or officers is also a director or officer of a member of the Restricted Group; provided that such director abstains from voting as a director of such member of the Restricted Group on any such transaction involving such other Person; and (viii) a repurchase of Notes held by an Affiliate of an Issuer if repurchased on the same terms as have been offered to all Holders that are not Affiliates of an Issuer.

#### **5.14 Asset Sales**

- (a) No member of the Restricted Group will consummate an Asset Sale in any single transaction or series of related transactions unless:
  - (i) such member of the Restricted Group receives 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 relating to such Asset Sale) of the assets, properties or Equity Interests issued, sold or otherwise disposed of in such Asset Sale;
  - (ii) at least 75% of the consideration received in the Asset Sale by such member of the Restricted Group in the manner referred to in Section 5.14(a)(i) is in the form of cash, Cash Equivalents, or Permitted Assets. For purposes of this provision, each of the following will be deemed to be cash:
    - (A) any liabilities of any member of the Restricted Group (other than contingent liabilities or liabilities that are by their terms subordinated to the Notes or any Note Guarantee), as shown on the members of the Restricted Group's most recent internally available annual or quarterly consolidated balance sheet, that are assumed by the transferee of any such assets pursuant to a customary novation agreement or similar agreement

that releases such member of the Restricted Group from further liability;  
and

- (B) any securities, notes or other obligations received by such member of the Restricted Group from such transferee that are, within 180 days of the applicable Asset Sale, converted by a member of the Restricted Group into cash or Cash Equivalents, to the extent of the cash or Cash Equivalents received in that conversion; and (iii) if such Asset Sale involves the disposition of Note Priority Collateral or, after the discharge of the Senior Credit Facility Obligations, the disposition of Senior Credit Facility Priority Collateral, the Net Proceeds thereof shall be paid directly by the purchaser of the Collateral to the Collateral Agent for deposit into the Collateral Account pending application in accordance with the provisions described below, and, if any property other than cash or Cash Equivalents is included in such Net Proceeds, substantially all of such property shall be made subject to the Note Liens.
- (b) Within 365 days after the receipt of any Net Proceeds (excluding any Note Net Proceeds) from an Asset Sale, the applicable member of the Restricted Group may apply those Net Proceeds (excluding any Note Net Proceeds) for any combination of the following purposes:
- (i) to Repay permanently any Indebtedness that is secured by a Lien on Senior Credit Facility Priority Collateral or the Note Priority Collateral (solely in the case of the Additional Liquidity Facility) which Lien ranks in priority to the Note Liens or the Note Guarantees or which has a prior right of payment, as the case may be (other than any such Indebtedness that is subordinate in right of payment to the Notes or any Note Guarantee);
  - (ii) to acquire all or substantially all of the assets of, or to acquire Capital Stock of, a Person that is engaged in a Permitted Business and that, in the case of an acquisition of Capital Stock, is or becomes a member of the Restricted Group; provided that to the extent such Net Proceeds are received in respect of Note Priority Collateral, such Net Proceeds are applied to acquire assets substantially all of which constitute Note Priority Collateral;
  - (iii) to make a voluntary repayment of the Notes;
  - (iv) to make a capital expenditure; or
  - (v) to acquire other assets that are not classified as current assets under GAAP and that are Permitted Assets.
- (c) Within 365 days after the receipt of any Note Net Proceeds from an Asset Sale, other than the sale of Terminal Assets, or within 180 days after the receipt of any Note Net Proceeds in respect to the sale of Terminal Assets, the applicable member of the Restricted Group may apply those Net Proceeds for any one or a combination of the following purposes:
- (i) to first, repay permanently any Indebtedness pursuant to the Additional Liquidity Facility and secondly make a voluntary repayment of all or a portion of the Notes in accordance with the terms hereof;

- (ii) to make a capital expenditure in respect of the Note Priority Collateral; or
  - (iii) to acquire other assets that are not classified as current assets under GAAP and that are Permitted Assets; provided that such assets constitute Note Priority Collateral.
- (d) Notwithstanding Section 5.14(b), in the event any member of the Restricted Group enters into a binding agreement committing to make an acquisition, expenditure or investment in compliance with (A) clauses (ii), (iv) or (v) of Section 5.14(b) or (B) clauses (ii) or (iii) of Section 5.14(c) within the applicable period set forth in 5.14(c), after the receipt of any Net Proceeds from an Asset Sale, such commitment will be treated as a permitted application of the Net Proceeds from the date of the execution of such agreement until the earlier of (i) the date on which such acquisition or investment is consummated or such expenditure made or such agreement is terminated, and (ii)(A) in the case of any Net Proceeds other than Note Net Proceeds from the sale of Terminal Assets, the 180th day after the expiration of the applicable 365 day period in respect of such sale under Section 5.14(c), (B) in the case of any Note Net Proceeds from the sale of Terminal Assets that are to be applied for a purpose other than the construction of a new or replacement Terminal Assets, the 180th day after the expiration of the applicable 180 day period in respect of such sale under Section 5.14(c) and (C) in the case of any Note Net Proceeds from the sale of Terminal Assets that are to be applied for the purpose of constructing a new or replacement Terminal Assets, the 365th day after the expiration of the applicable 180 day period in respect of such sale under Section 5.14(c).
- (e) Pending the final application of any Net Proceeds (other than Net Note Proceeds), the applicable member of the Restricted Group may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds (other than Net Note Proceeds) in any manner that is not prohibited by this Indenture.
- (f) The Issuers shall determine in good faith whether, and to what extent, an Asset Sale is in respect of Note Priority Collateral and to what extent the Net Proceeds in respect of an Asset Sale of Note Priority Collateral are used to acquire or are invested in Note Priority Collateral taking into account all relevant factors, including, without limitation, the existence of structurally senior claims against the Note Priority Collateral and the assets of an entity whose Capital Stock is subject to such Asset Sale or acquired with such Net Proceeds. For greater certainty, all Net Note Proceeds shall be Trust Monies.
- (g) Any Net Proceeds from Asset Sales (including Net Note Proceeds) that are not applied or invested as provided in Sections 5.14(b), 5.14(c) or 5.14(d) will constitute "**Excess Proceeds**" and shall, prior to any Asset Sale Offer, be utilized by the Issuers to permanently repay any amounts outstanding under the Additional Liquidity Facility.
- (h) Except to the extent such time periods are extended pursuant to Section 5.14(d), not later than the 366th day after any Asset Sale other than the sale of Terminal Assets, and the 181st day after the sale of Terminal Assets, if the aggregate amount of Excess Proceeds after the repayment of any amounts outstanding under the Additional Liquidity Facility exceeds \$1.0 million, the Issuers will make a pro rata offer (an "**Asset Sale Offer**") to all Holders and to all holders of other Indebtedness that ranks *pari passu* in right of payment with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem, with the proceeds of sales of assets, in each case to purchase the maximum aggregate principal amount of Notes and such other *pari passu* Indebtedness, as the case may be, that may be purchased out of the Excess Proceeds. The offer price in any

Asset Sale Offer will be equal to 100% of the aggregate principal amount (or accreted value in the case of any such other *pari passu* Indebtedness, as the case may be, issued with a significant original issue discount) plus accrued and unpaid interest, if any, to but excluding the date of purchase, and will be payable in cash.

- (i) If the aggregate principal amount of Notes and other *pari passu* Indebtedness, as the case may be, tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee will select the Notes and such other *pari passu* Indebtedness, as the case may be, to be purchased on a pro rata basis (subject to the procedures of the relevant depository), on the basis of the aggregate principal amounts (or accreted values) tendered in round denominations (which in the case of the Notes will be minimum denominations of \$1.00 principal amount or multiples of \$1.00 in excess thereof).
- (j) If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Issuers may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.
- (k) If the Asset Sale Offer purchase date is on or after a 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 other interest will be payable to Holders who tender Notes pursuant to the Asset Sale Offer.
- (l) Within five Business Days after the Issuers are obligated to make an Asset Sale Offer as described in this Section 5.14, the Issuers will send a written notice, by first-class mail, to the Holders, accompanied by such information regarding the Restricted Group as the Issuers in good faith believe will enable such Holders to make an informed decision with respect to such Asset Sale Offer. Such notice shall state, among other things, the purchase price and the purchase date, which shall be a Business Day no earlier than 30 days nor later than 60 days from the date such notice is mailed.
- (m) The Issuers shall comply with the requirements of applicable securities laws and regulations 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 applicable securities laws and regulations conflict with this Section 5.14, the Issuers shall comply with the applicable securities laws and regulations and will be deemed not to have breached its obligations under this Section 5.14 by virtue of such conflict or compliance.

#### **5.15 Purchase of Notes upon a Change of Control**

- (a) Subject to Section 5.15(g), if a Change of Control occurs, the Issuers shall offer to repurchase all or any part (equal to \$1.00 or an integral multiple of \$1.00 in excess thereof) of each Holder's Notes pursuant to the offer described below (the "**Change of Control Offer**"). In the Change of Control Offer, the Issuers shall offer a payment (the "**Change of Control Payment**") in cash equal to not less than 101 % of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest, if any, on the Notes repurchased, to but excluding the date of purchase (the "**Change of Control Payment Date**"), subject to the rights by Holders on the relevant Record Date to receive interest due on the relevant Interest Payment Date as described in Section 5.15(e).

- (b) Within 30 days following any Change of Control, the Issuers shall send a notice to each Holder by first-class mail, with a copy to the Trustee:
  - (i) describing the transaction or transactions that constitute the Change of Control;
  - (ii) offering to purchase, pursuant to the Change of Control Offer, on the Change of Control Payment Date specified in such notice, which date will be, subject to any contrary requirements of applicable law, a Business Day no earlier than 30 days and no later than 60 days from the date such notice is mailed, all Notes properly tendered pursuant to such Change of Control Offer; and
  - (iii) describing the procedures, as required by this Indenture, that Holders must follow in order to (A) tender Notes (or portions thereof) for payment, and (B) withdraw an election to tender Notes (or portions thereof) for payment;
- (c) On the Change of Control Payment Date, each Issuer or its designated agent will, to the extent lawful:
  - (i) accept for payment all Notes or portions thereof properly tendered pursuant to the Change of Control Offer;
  - (ii) deposit with the Trustee, in accordance with Section 4.8, an amount equal to the Change of Control Payment in respect of all Notes or portions thereof properly tendered; and
  - (iii) deliver or cause to be delivered to the Trustee the Notes accepted for purchase together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Issuers.
- (d) On the Change of Control Payment Date, the Trustee shall promptly mail or wire transfer to each Holder of Notes properly tendered and not withdrawn the Change of Control Payment for such tendered Notes, with such payment to be made through the facilities of the Depository for all Global Notes, and the Trustee will promptly authenticate and mail (or cause to be transferred by book-entry) to each Holder new Notes equal in principal amount to any unpurchased portion of the Notes surrendered, if any; provided that each new Note will be in a principal amount of \$1.00 or an integral multiple of \$1.00 in excess thereof.
- (e) Any Note accepted for payment pursuant to a Change of Control Offer will cease to accrue interest on and after the Change of Control Payment Date unless the Issuers default in making the Change of Control Payment. If the Change of Control Payment 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 such Note is registered at the close of business on such Record Date, and no other interest will be payable to Holders who tender pursuant to the Change of Control Offer in respect of Notes (or portions thereof) tendered pursuant to such offer.
- (f) The Issuers shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

- (g) Notwithstanding the preceding paragraphs of this Section 5.15, the Issuers will not be required to make a Change of Control Offer upon a Change of Control if (i) a third party makes an offer (a "**Third Party Offer**") to purchase all of the outstanding Notes in the manner, at the times and otherwise in substantial compliance with the requirements set forth in this Section 5.15 and any other requirements in this Indenture applicable to a Change of Control Offer and purchases all Notes validly tendered and not withdrawn under such Third Party Offer or (ii) a Redemption Notice has been given by the Issuers pursuant to Article 4, unless and until there is a default in payment of the applicable Redemption Price.
- (h) In the event that Holders of not less than 90% of the aggregate principal amount of the outstanding Notes accept a Change of Control Offer or Third Party Offer and the Issuers purchase or a third party making the Third Party Offer purchases, as the case may be, all of the Notes held by such Holders, the Issuers or third party offeror, as applicable, will have the right, upon not less than 30 nor more than 60 days' prior notice, given not more than 30 days following the purchase pursuant to the Change of Control Offer described above, to redeem (in the case of the Issuers) or purchase (in the case of a Third Party Offer) all of the Notes that remain outstanding following such purchase at a Redemption Price or purchase price, as the case may be, equal to the Change of Control Payment plus, to the extent not included in the Change of Control Payment, accrued and unpaid interest on the Notes that remain outstanding, to the date of redemption or purchase (subject to the right of Holders of record on the relevant Record Date to receive interest due on an Interest Payment Date that is on or prior to the Redemption Date or purchase date).
- (i) The Issuers shall comply with the requirements of applicable securities laws and regulations to the extent those laws and regulations are applicable in connection with the repurchase or redemption, if applicable, of the Notes as a result of a Change of Control. To the extent that the provisions of any applicable securities laws and regulations conflict with this Section 5.15, the Issuers shall comply with the applicable securities laws and regulations and will be deemed not to have breached its obligations under this Section 5.15 by virtue of such conflict or compliance.

#### **5.16 Limitation on Business Activities**

No member of the Restricted Group will engage in any business other than Permitted Businesses, except to such extent as would not be material to the members of the Restricted Group taken as a whole.

#### **5.17 Compliance with Applicable Laws**

Pubco shall, and shall cause each Restricted Subsidiary to:

- (a) carry on and conduct its business, and keep, maintain and operate its Property, in accordance with all applicable laws; and
- (b) observe and conform to all requirements of any approval by any governmental authority relative to any of its Property and all covenants, terms and conditions of all agreements upon or under which any of such Property is held,

except to the extent the failure to do so would not reasonably be expected to have a material adverse effect on the business, affairs or financial condition of the Issuers and the Restricted Subsidiaries, taken as a whole.

### **5.18 Keeping of Books**

The Issuers shall keep or cause, and shall cause each Restricted Subsidiary to keep or cause to be kept proper books of record and account, in which full and correct entries (in all material respects) shall be made of all financial transactions and the Property and business of Pubco and the Restricted Subsidiaries in accordance with GAAP.

### **5.19 SEC Reporting Covenant**

The Issuers confirm that as at the date of execution of this Indenture it does not have a class of securities registered pursuant to Section 12 of the 1934 Act, or have a reporting obligation pursuant to Section 15(d) of the 1934 Act. The Issuers covenant that in the event that (i) any class of its securities shall become registered pursuant to Section 12 of the 1934 Act or the Issuers shall incur a reporting obligation pursuant to Section 15(d) of the 1934 Act, or (ii) any such registration or reporting obligation shall be terminated by the Issuers in accordance with the 1934 Act, each Issuer shall promptly deliver to the Trustee an Officer's Certificate (in a form provided by the Trustee) notifying the Trustee of such registration or termination and such other information as the Trustee may require at the time.

### **5.20 Maintenance of Collateral**

Each of the Issuers and the Guarantors will at all times (a) maintain the Collateral material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, and (b) maintain, with insurance companies that are determined (in the good faith judgment of the Issuers) to be financially sound and reputable at the time the relevant coverage is placed or renewed, insurance in at least such amounts and against at least such risks as are determined (in the good faith judgment of the Issuers) to be customarily insured against by companies engaged in the same or similar businesses operating in the same or similar locations as the Issuers and the Guarantors, with each copy of, or certificate as to coverage under, such required insurance policies endorsed or otherwise amended to name the Collateral Agent, on behalf of the Holders, as "first loss payee" under each liability and general insurance policy, subject to the terms and conditions of the Intercreditor Agreement.

### **5.21 Market Purchases**

The Issuers will not purchase Notes pursuant to the provisions of Section 4.2(a), unless (i) on the Interest Payment Date immediately prior to such purchase, the Issuers did not issue PIK Notes for all or part of such interest payment, (ii) pursuant to Section 4.3, the Issuers paid the Cash Sweep Amount in full to the Holders in such calendar year, and (iii) the aggregate Note purchases in such calendar year do not exceed the Cash Sweep Amount for such year.

**ARTICLE 6**  
**[INTENTIONALLY DELETED]**

**ARTICLE 7**  
**DEFAULT AND ENFORCEMENT**

**7.1 Events of Default**

Unless otherwise provided in a Supplemental Indenture, an "Event of Default" means any one of the following events:

- (a) the Issuers fail to pay any interest on any Note when it becomes due and payable, and such failure continues for a period of 30 days;
- (b) the Issuers fail to pay any principal of or Premium (if any) on any of the Notes when the same becomes due and payable at its Stated Maturity, upon acceleration, redemption, optional redemption, required repurchase, or otherwise;
- (c) failure by a member of the Restricted Group to comply with Sections 5.14, or 10.1;
- (d) failure by a member of the Restricted Group to comply with any of the other agreements in this Indenture, any Security Document or in the Post-Closing Undertaking for 30 days after written notice has been given to the Issuers by the Trustee or to the Issuers and the Trustee by Holders of at least 25% of the outstanding aggregate principal amount of the Notes;
- (e) a member of the Restricted Group pursuant to or within the meaning of any Bankruptcy Law:
  - (i) commences a voluntary case or proceeding;
  - (ii) applies for or consents to the entry of an order for relief against it in an involuntary case or proceeding;
  - (iii) applies for or consents to the appointment of a Custodian of it or for all or substantially all of its assets; or (iv) makes a general assignment for the benefit of its creditors;
- (f) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
  - (i) is for relief against a member of the Restricted Group as debtor in an involuntary case or proceeding;
  - (ii) appoints a Custodian of a member of the Restricted Group or a Custodian for all or any substantial part of the assets of such member of the Restricted Group; or
  - (iii) orders the liquidation of a member of the Restricted Group,and the order or decree remains unstayed and in effect for 60 consecutive days and, in the case of the insolvency of a Restricted Subsidiary, such Restricted Subsidiary remains a Restricted Subsidiary on such 60<sup>th</sup> day;



- (g) default under any other mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness of a member of the Restricted Group (or the payment of which is guaranteed by a member of the Restricted Group), including, without limitation, the Senior Credit Facility and the Additional Liquidity Facility, whether such Indebtedness or guarantee exists prior to the Issue Date, or is created after the Issue Date, if that default:
- (i) is caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness prior to the expiration of the applicable grace or cure period provided in such Indebtedness (a "**Payment Default**"); or
  - (ii) 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, which remains outstanding or the maturity of which has been so accelerated, aggregates an amount greater than \$5.0 million, provided that if any such Payment Default is cured or waived or any such acceleration is rescinded, as the case may be, such Event of Default under this Indenture and any consequential acceleration of the Notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;
- (h) failure by a member of the Restricted Group to pay any final judgment or judgments for the payment of money in an aggregate amount in excess of \$5.0 million rendered against a member of the Restricted Group by a court of competent jurisdiction that has not been paid, discharged or stayed for a period of 30 consecutive days after such judgments become final and non-appealable;
- (i) except as permitted by this Indenture, any Note Guarantee shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect, or any Guarantor or any Person acting on behalf of any such Guarantor shall deny or disaffirm its obligations under its Note Guarantee; and
- (j) unless all of the Collateral has been released from the Liens in accordance with the provisions of the Security Documents, (i) default by any Issuer or any Guarantor in the performance of the Security Documents which materially adversely affects the enforceability, validity, perfection or priority of the Liens on any of the Collateral, (ii) the repudiation or disaffirmation by any Issuer or any Guarantor of its material obligations under the Security Documents or (iii) the determination in a judicial proceeding that the Security Documents are unenforceable or invalid against any Issuer or any Guarantor party thereto for any reason with respect to any portion of the Collateral and, in the case of any event described in subclauses (i) through (iii), such default, repudiation, disaffirmation or determination is not rescinded, stayed, or waived by the Persons having such authority pursuant to the Security Documents or otherwise cured within 30 days after the Issuers receive written notice thereof specifying such occurrence from the Trustee or Holders representing at least 25% of the outstanding aggregate principal amount of the Notes and demanding that such default be remedied.

## 7.2 Acceleration of Maturity; Rescission, Annulment and Waiver

- (a) If an Event of Default (other than as specified in Section 7.1(e) or 7.1(f)) occurs and is continuing, the Trustee or the Holders of not less than 25% in aggregate principal amount of the then outstanding Notes may, and the Trustee at the request of such Holders shall, declare by notice in writing to the Issuers and (if given by the Holders) to the Trustee the aggregate principal of (and Premium, if any), and accrued and unpaid interest to the date of acceleration on, all of the outstanding Notes immediately due and payable and, upon any such declaration, all such amounts will become due and payable immediately. If an Event of Default specified in Section 7.1(e) or 7.1(f) occurs and is continuing, the principal of (and Premium, if any), and accrued and unpaid interest on all of the outstanding Notes will thereupon become and be immediately due and payable without any declaration, notice or other action on the part of the Trustee or any Holder.
- (b) The Issuers shall deliver to the Trustee, within 10 days after the occurrence thereof, notice of any Payment Default or acceleration referred to in Section 7.1(g). In addition, for the avoidance of doubt, if an Event of Default specified in Section 7.1(c) occurs in relation to a failure by the Issuers to comply with the provisions of Section 5.15, "Premium" shall include, without duplication to any other amounts included in "Premium" for these purposes, the excess of:
  - (i) the Change of Control Payment that was required to be offered in accordance with Section 5.15, in the event such offer was not made, or, in the event such offer was made, the Change of Control Payment that was required to be paid in accordance with Section 5.15; over
  - (ii) the principal amount of the Notes that were required to be subject to such offer or payment, as applicable.
- (c) At any time after a declaration of acceleration, but before a judgment or decree for payment of the money due has been obtained by the Trustee:
  - (i) the Holders of a majority in aggregate principal amount of the outstanding Notes, by written notice to the Issuers, the Holders and the Trustee, may rescind and annul such declaration and its consequences if:
    - (A) all existing Events of Default, that has occurred and amounts of principal of (and Premium, if any), or interest on the Notes that have become due solely by such declaration of acceleration, have been cured or waived; and
    - (B) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and
  - (ii) the Trustee, so long as it has not become bound to declare the principal and interest on the Notes (or any of them) to be due and payable, or to obtain or enforce payment of the same, shall have the power to waive any Event of Default if, in the Trustee's opinion, the same shall have been cured or adequate satisfaction made therefor, and in such event to rescind and annul such declaration and its consequences,

provided that no such rescission shall affect any subsequent Default or impair any right consequent thereon.

- (d) Notwithstanding Section 7.2(a), in the event of a declaration of acceleration in respect of the Notes because an Event of Default specified in Section 7.1(g) shall have occurred and be continuing, such declaration of acceleration shall be automatically annulled if the Indebtedness that is the subject of such Event of Default has been discharged or the holders thereof have rescinded their declaration of acceleration in respect of such Indebtedness, and written notice of such discharge or rescission, as the case may be, shall have been given to the Trustee by the Issuers and countersigned by the holders of such Indebtedness or a trustee, fiduciary or agent for such holders, within 30 days after such declaration of acceleration in respect of the Notes, and no other Event of Default has occurred during such 30 period which has not been cured or waived during such period.
- (e) The Holders of a majority in aggregate principal amount of the outstanding Notes, by written notice to the Trustee, may on behalf of the Holders of all Notes waive any existing Default or Event of Default and its consequences under this Indenture, except a Default or Event of Default in the payment of any unpaid interest on, or principal (or Premium, if any) of, the Notes.
- (f) In the case of any Event of Default occurring by reason of any wilful action or inaction taken or not taken by or on behalf of the Issuers with the intention of avoiding payment of the Premium that the Issuers would have had to pay if the Issuers then had elected to redeem the Notes pursuant to Section 4.2, an equivalent Premium will also become and be immediately due and payable to the extent permitted by law upon the acceleration of the Notes.

### **7.3 Collection of Indebtedness and Suits for Enforcement by Trustee**

- (a) The Issuers covenant that if:
  - (i) Default is made in the payment of any instalment of interest on any Note when such interest becomes due and payable and such default continues for a period of 30 days, or
  - (ii) Default is made in the payment of the principal of (or Premium, if any on) any Note at the Maturity thereof and such default continues for a period of three Business Days,

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

- (b) If the Issuers fail to pay such amounts forthwith upon such demand, the Trustee, in its own name as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree

and may enforce the same against the Issuers or any other obligor (including the Guarantors, if any) upon the Notes and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Issuers or any other obligor upon the Notes, wherever situated.

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

#### **7.4 Trustee May File Proofs of Claim**

- (a) In case of any pending receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Issuers and its debts or any other obligor upon the Notes (including the Guarantors, if any), and their debts or the Property of the Issuers or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Issuers for the payment of overdue principal (and Premium, if any), or interest shall be entitled and empowered, by intervention in such proceeding or otherwise:
  - (i) to file and prove a claim for the whole amount of principal (and Premium, if any), and interest owing and unpaid in respect of the Notes and to file such 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 of the Holders allowed in such judicial proceeding; and
  - (ii) to collect and receive any moneys or other securities or property payable or deliverable upon the conversion or exchange of such securities or upon any such claims and to distribute the same,

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

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

#### **7.5 Trustee May Enforce Claims Without Possession of Notes**

All rights of action and claims under this Indenture or the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an

express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the rateable benefit of the Holders of the Notes in respect of which such judgment has been recovered.

## 7.6 Application of Monies by Trustee

- (a) Except as herein otherwise expressly provided, any money collected by the Trustee pursuant to this Article 7 shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal (or Premium, if any), or interest, upon presentation of the Notes and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:
- (i) first, in payment or in reimbursement to the Trustee of its reasonable compensation, costs, charges, expenses, borrowings, advances or other monies furnished or provided by or at the instance of the Trustee in or about the execution of its trusts under, or otherwise in relation to, this Indenture, with interest thereon as herein provided;
  - (ii) second, but subject as hereinafter in this Section 7.6 provided, in payment, rateably and proportionately to the Holders, of the principal of and Premium (if any), and accrued and unpaid interest and interest on amounts in default on the Notes which shall then be outstanding in the priority of principal first and then Premium and then accrued and unpaid interest and interest on amounts in default unless otherwise directed by Extraordinary Resolution and in that case in such order or priority as between principal, Premium (if any), and interest as may be directed by such resolution; and
  - (iii) third, in payment of the surplus, if any, of such monies to the Issuers or its assigns and/ or the Guarantors, as the case may be;

provided, *however*, that no payment shall be made pursuant to clause (ii) above in respect of the principal, Premium or interest on any Notes held, directly or indirectly, by or for the benefit of any member of the Restricted Group of the Issuers (other than any Notes pledged for value and in good faith to a Person other than any member of the Restricted Group but only to the extent of such Person's interest therein), except subject to the prior payment in full of the principal, Premium (if any), and interest (if any) on all Notes which are not so held.

- (b) The Trustee shall not be bound to apply or make any partial or interim payment of any monies coming into its hands if the amount so received by it, after reserving thereout such amount as the Trustee may think necessary to provide for the payments mentioned in Section 7.6(a), is insufficient to make a distribution of at least 2% of the aggregate principal amount of the outstanding Notes, but it may retain the money so received by it and invest or deposit the same as provided in Section 11.9 until the money or the investments representing the same, with the income derived therefrom, together with any other monies for the time being under its control shall be sufficient for the said purpose or until it shall consider it advisable to apply the same in the manner hereinbefore set forth. The foregoing shall, however, not apply to a final payment or distribution hereunder.

## **7.7 No Suits by Holders**

Except to enforce payment of the principal of, and Premium (if any) or interest on any Note (after giving effect to any applicable grace period specified therefor in Section 7.1(a)), no Holder shall have any right to institute any action, suit or proceeding at law or in equity with respect to this Indenture or for the appointment of a liquidator, trustee or receiver or for a receiving order under any Bankruptcy Laws or to have the Issuers or any Guarantor wound up or to file or prove a claim in any liquidation or bankruptcy proceeding or for any other remedy hereunder, unless:

- (a) the Trustee shall have failed to act for a period of 30 days after receiving written notice of a continuing Event of Default from such Holder and a written request to act from Holders of at least 25% in aggregate principal amount of the Notes then outstanding;
- (b) the Holders or any of them shall have offered to the Trustee, when so requested by the Trustee, indemnity and funding thereof satisfactory to it in its reasonable judgment against the costs, expenses and liabilities to be incurred therein or thereby; and
- (c) during such 30 day period, the Trustee has not received from the Holders of a majority in aggregate principal amount of the Notes then outstanding a direction inconsistent with such request, it being understood and intended that no one or more Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and rateable benefit of all the Holders.

## **7.8 Unconditional Right of Holders to Receive Principal Premium and Interest**

Notwithstanding any other provision in this Indenture, a Holder shall have the right, which is absolute and unconditional, to receive payment, as provided herein of the principal of (and Premium, if any) and interest on the Notes held by such Holder on the applicable stated Maturity and to institute suit for the enforcement of any such payments or delivery, and such rights shall not be impaired without the consent of such Holder.

## **7.9 Restoration of Rights and Remedies**

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

## **7.10 Rights and Remedies Cumulative**

Except as otherwise expressly provided herein, 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.

### **7.11 Delay or Omission Not Waiver**

No delay or omission of the Trustee or of any Holder 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 7 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.

### **7.12 Control by Holders**

Subject to Section 11.3, the Holders of not less than a majority in principal amount of the outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, provided that:

- (a) such direction shall not be in conflict with any rule of law or with this Indenture;
- (b) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction; and
- (c) the Trustee shall have the right to not take any action which might involve it in personal liability or be unjustly prejudicial to the Holders not consenting.

### **7.13 Notice of Event of Default**

If an Event of Default shall occur and be continuing the Trustee shall, within 30 days after it receives written notice of the occurrence of such Event of Default, give notice of such Event of Default to the Holders and to the Collateral Agent in the manner provided in Sections 15.2 and 15.3, provided that, notwithstanding the foregoing, unless the Trustee shall have been requested to do so by the Holders of at least 25% of the principal amount of the Notes then outstanding, the Trustee shall not be required to give such notice to the Holders if the Trustee in good faith shall have determined that the withholding of such notice is in the best interests of the Holders and shall have so advised the Issuers in writing.

### **7.14 Waiver of Stay or Extension Laws**

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

### **7.15 Undertaking for Costs**

All parties to this Indenture agree, and each Holder of any Note by such Holder's acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorney's fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant.

### **7.16 Judgment Against the Issuers**

The Issuers covenant and agree with the Trustee that, in case of any judicial or other proceedings to enforce the rights of the Holders, judgment may be rendered against it in favour of the Holders or in favour of the Trustee, as trustee for the Holders, for any amount which may remain due in respect of the Notes and Premium (if any) and the interest thereon and any other monies owing hereunder.

### **7.17 Immunity of Officers and Other**

The Holders, the Beneficial Holders and the Trustee hereby waive and release any right, cause of action or remedy now or hereafter existing in any jurisdiction against any past, present or future officer, director, employee, incorporator or holder of Capital Stock of any member of the Restricted Group ( or of any general partner of any member of the Restricted Group) or of any successor for the payment of the principal of or Premium or interest on any of the Notes or on any covenant, agreement, representation or warranty by the Issuers contained herein or in the Notes. Each Holder and Beneficial Holder, by accepting its interest in Notes, waives and releases all such claims against, and liability of, such Persons. The waiver and release provided for in this Section 7.17 are part of the consideration for issuance of the Notes.

### **7.18 Notice of Payment by Trustee**

Not less than 15 days' notice shall be given in the manner provided in Section 15.2 by the Trustee to the Holders of any payment to be made under this Article 7. Such notice shall state the time when and place where such payment is to be made and also the liability under this Indenture to which it is to be applied. After the day so fixed, unless payment shall have been duly demanded and have been refused, the Holders will be entitled to interest only on the balance (if any) of the principal monies, Premium (if any) and interest due (if any) to them, respectively, on the relevant Notes, after deduction of the respective amounts payable in respect thereof on the day so fixed.

### **7.19 Trustee May Demand Production of Notes**

The Trustee shall have the right to demand production of the Notes in respect of which any payment of principal, interest or Premium (if any) required by this Article 7 is made and may cause to be endorsed on the same a memorandum of the amount so paid and the date of payment, but the Trustee may, in its discretion, dispense with such production and endorsement, upon such indemnity being given to it and to the Issuers as the Trustee shall deem sufficient.

## **ARTICLE 8** **DISCHARGE AND DEFEASANCE**

### **8.1 Satisfaction and Discharge**

This Indenture will cease to be of further effect as to all Notes issued hereunder (except as to any surviving rights of registration of transfer or exchange of Notes expressly provided for in this Indenture), when:

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



- (ii) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a Redemption Notice or otherwise or will become due and payable within one year and the Issuers have irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders thereof, cash in Canadian dollars, Government Securities, or a combination of cash in Canadian dollars and Government Securities, in amounts as will be sufficient to pay and discharge the principal, Premium, if any, and accrued interest to Maturity (together with all applicable fees and expenses of the Trustee in connection with such payment);
- (b) no Default or Event of Default has occurred and is continuing on the date of the deposit or will occur as a result of the deposit other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which any member of the Restricted Group is a party or by which any member of the Restricted Group is bound;
- (c) the Issuers have paid or caused to be paid all sums payable by the Issuers under this Indenture; and
- (d) the Issuers have delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of such Notes at the applicable Maturity.

Notwithstanding the satisfaction and discharge of this Indenture, if money has been deposited with the Trustee pursuant to Section 8.1(a)(ii), the provisions of Sections 8.7 and will survive.

## **8.2 Option to Effect Legal Defeasance or Covenant Defeasance**

The Issuers may, at the option of their respective Board of Directors evidenced by a resolution set forth in an Officer's Certificate of each Issuer, at any time, elect to have either Section 8.3 or 8.4 applied to all outstanding Notes upon compliance with the conditions set forth in this Article 8.

## **8.3 Legal Defeasance and Discharge**

- (a) Upon the Issuers exercise under Section 8.2 of the option applicable to this Section 8.3 in respect of the Notes, the Issuers and each of the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.5, be deemed to have been discharged from their Indenture Obligations, other than the provisions contemplated to survive as set forth below, with respect to all outstanding Notes on the date the conditions set forth below are satisfied (hereinafter, "**Legal Defeasance**"). For this purpose, Legal Defeasance means that the Issuers and the Guarantors shall 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 Sections 8.6 and 8.8 and the other Sections of this Indenture referred to in paragraph (i) below, and to have satisfied all their other obligations under such Notes and, to the extent applicable to such Notes, this Indenture and the Note Guarantees (and the Trustee, on demand of and at the expense of the Issuers, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder:

- (i) the rights of Holders to receive payments in respect of the principal of, Premium, if any, and interest on such Notes when such payments are due solely out of the trust referred to in Section 8.6;
  - (ii) the Issuers' obligations under Sections 2.10, 2.11, 2.14 and 2.15;
  - (iii) the rights, powers, trusts, duties and immunities of the Trustee, and the Issuers' obligations in connection therewith under Article 11; and
  - (iv) this Section 8.3.
- (b) Subject to compliance with Section 8.2, the Issuers may exercise their option under this Section 8.3 notwithstanding the prior exercise of its option under Section 8.4.

#### **8.4 Covenant Defeasance**

Upon the Issuers' exercise under Section 8.2 of the option applicable to this Section 8.4, the Issuers and each of the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.5, be released from each of their obligations under the covenants contained in Sections 5.5, 5.6, 5.8, 5.10, 5.11, 5.12, 5.13, 5.14, 5.15, 5.16, and 10.1(a)(iv) (collectively, the "**Defeased Covenants**") with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.5 are satisfied (hereinafter, "**Covenant Defeasance**"), and such Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders thereof (and the consequences of any thereof) in connection with the Defeased Covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Issuers and the Guarantors may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any Defeased 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 shall not constitute a Default or an Event of Default hereunder, but, except as specified above, the remainder of this Indenture, such Notes and the obligations of the Guarantors under their respective Note Guarantees shall be unaffected thereby. In addition, upon the Issuers' exercise under Section 8.2 of the option applicable to this Section 8.4, and subject to the satisfaction of the conditions set forth in Section 8.5, payment of the Notes may not be accelerated because of an Event of Default specified in Sections 7.1(c) (but only in respect of Sections 5.14, 5.15 and 10.1(a)(iv)), 7.1(d), 7.1(g) and 7.1(h) .

#### **8.5 Conditions to Legal or Covenant Defeasance**

- (a) In order to exercise either Legal Defeasance under Section 8.3 or Covenant Defeasance under Section 8.4 with respect to the Notes:
- (i) the Issuers must irrevocably transfer to and deposit with the Trustee, in trust, for the benefit of the Holders and free and clear of any Liens or adverse claims, cash in Canadian dollars, Government Securities, or a combination of any of the foregoing, in amounts as will, together with the income to accrue thereon and reinvestment thereof, be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm, or firm of independent public accountants, to pay (and for the purpose of paying) the principal of, or interest and premium, if any, and any other amounts due or to become due in respect of the outstanding Notes on the Maturity thereof;

- (ii) each Issuer has delivered to the Trustee:
  - (A) in the case of Legal Defeasance or Covenant Defeasance, an Opinion of Counsel acceptable to the Trustee, in its reasonable judgement, or an advance tax ruling from the Canada Revenue Agency (or successor agency) to the effect that the Holders and Beneficial Holders of outstanding Notes will not recognize income, gain, or loss for Canadian income tax purposes as a result of such Legal Defeasance or Covenant Defeasance, and will be subject to Canadian 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 or Covenant Defeasance had not occurred;
  - (B) in the case of Legal Defeasance, an Opinion of Counsel acceptable to the Trustee in its reasonable judgment to the effect that (1) each Issuer has received from, or there has been published by, the Internal Revenue Service a ruling, or (2) since the Issue Date, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel will confirm, that the Holders of outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred; and
  - (C) in the case of Covenant Defeasance, an Opinion of Counsel acceptable to the Trustee in its reasonable judgment to the effect the Holders of outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;
- (iii) no Default or Event of Default shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit and the granting of Liens to secure such borrowing);
- (iv) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which any member of the Restricted Group is a party or by which any member of the Restricted Group is bound;
- (v) each Issuer must deliver to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuers with the intent of preferring the Holders over its other creditors or with the intent of defeating, hindering, delaying, or defrauding any of its other creditors or others;
- (vi) each Issuer must satisfy the Trustee that it has deposited funds or made due provision for the payment of all applicable fees and expenses of the Trustee; and

- (vii) each Issuer must deliver to the Trustee an Officer's Certificate stating that all conditions precedent herein provided relating to the Legal Defeasance or the Covenant Defeasance have been satisfied.

## **8.6 Application of Trust Funds**

- (a) Subject to Section 8.7, any funds or Government Securities deposited with the Trustee pursuant to Section 8.1 or 8.5 in respect of Notes shall be held by the Trustee in trust and applied by it in accordance with the provisions of the applicable Notes and this Indenture, to the payment, either directly or through any Paying Agent as the Trustee may determine, to the Persons entitled thereto, of the principal (and Premium, if any) and interest for whose payment such funds or Government Securities has been deposited with the Trustee; provided that such funds or Government Securities need not be segregated from other funds or obligations except to the extent required by law.
- (b) If the Trustee or Paying Agent is unable to apply any funds or Government Securities in accordance with Section 8.1 or 8.5 by reason of any legal proceeding or any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuers' and the Guarantors' obligations under this Indenture and the affected Notes shall be revived and reinstated as though no funds or Government Securities had been deposited pursuant to Section 8.1 or 8.5, as applicable, until such time as the Trustee is permitted to apply all such funds or Government Securities in accordance with such provisions; provided that if the Issuers have made any payment in respect of principal of, Premium, if any, or interest on any Notes or, as applicable, other amounts because of the reinstatement of its obligations, the Issuers shall be subrogated to the rights of the Holders of such Notes to receive such payment from the funds or Government Securities held by the Trustee.

## **8.7 Repayment to the Issuers**

Notwithstanding anything in this Article 8 to the contrary, the Trustee will deliver or pay to the Issuers from time to time upon the request of the Issuers any funds or Government Securities held by it as provided in Section 8.1 or 8.5 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof, delivered to the Trustee (which may be the opinion delivered under Section 8.5(a)(i)), are in excess of the amount thereof that would then be required to be deposited to fully satisfy the obligations of the Issuers under Section 8.1(a)(ii) or to effect an equivalent Legal Defeasance or Covenant Defeasance.

## **8.8 Continuance of Rights, Duties and Obligations**

- (a) Where trust funds or trust property have been deposited pursuant to Section 8.1 or 8.5, the Holders and the Issuers shall continue to have and be subject to their respective rights, duties and obligations under Article 2 and Article 4.
- (b) In the event that, after the deposit of trust funds or trust property pursuant to Section 8.1 or 8.5, the Issuers are required to make an offer to purchase any outstanding Notes pursuant to the terms hereof, the Issuers shall be entitled to use any trust funds or trust property deposited with the Trustee pursuant to Section 8.1 or 8.5 for the purpose of paying to any Holders of such Notes who have accepted any such offer of the total offer price payable in respect of an offer relating to any such Notes. Upon receipt of an Issuers Order, the Trustee shall be entitled to pay to such Holder from such trust funds or trust property deposited

with the Trustee pursuant to Section 8.1 or 8.5 in respect of such Notes which is applicable to the Notes held by such Holders who have accepted any such offer of the Issuers (which amount shall be based on the applicable principal amount of the Notes held by accepting offerees in relation to the aggregate outstanding principal amount of all the Notes).

## **ARTICLE 9**

### **MEETINGS OF HOLDERS**

#### **9.1 Purpose, Effect and Convention of Meetings**

- (a) Wherever in this Indenture a consent, waiver, notice, authorization or resolution of the Holders (or any of them) is required, a meeting may be convened in accordance with this Article 9 to consider and resolve whether such consent, waiver, notice, authorization or resolution should be approved by such Holders. A resolution passed by the affirmative votes of the Holders of at least a majority of the outstanding principal amount of the Notes represented and voting on a poll at a meeting of Holders duly convened for the purpose and held in accordance with the provisions of this Indenture shall constitute conclusively such consent, waiver, notice, authorization or resolution; provided that in any provision of this Indenture where a consent, waiver, notice, authorization or resolution of the Holders is required to be approved by Extraordinary Resolution (including, without limitation, with respect to any of the matters described in Section 9.10 and Section 12.3), such resolution must be passed by the affirmative votes of the Holders of at least 66 2/3% of the outstanding principal amount of the Notes so represented and voting; provided, further, that with respect to any of the special consent matters described in Section 12.2, such resolution must be passed by the affirmative votes of least 75% or 90%, as applicable, of the outstanding principal amount of the Notes so represented and voting.
- (b) At any time and from time to time, the Trustee on behalf of the Issuers may and, on receipt of an Issuers Order or a Holders' Request and upon being indemnified and funded for the costs thereof to the reasonable satisfaction of the Trustee by the Issuers or the Holders signing such Holders' Request, will, convene a meeting of all Holders.
- (c) If the Trustee fails to convene a meeting after being duly requested as aforesaid (and indemnified and funded as aforesaid), the Issuers or such Holders may themselves convene such meeting and the notice calling such meeting may be signed by such Person as the Issuers or those Holders designate, as applicable. Every such meeting will be held in Calgary, Alberta or such other place as the Trustee may in any case determine or approve.

#### **9.2 Notice of Meetings**

Not more than 60 days' nor less than 21 days' notice of any meeting of the Holders shall be given to the Holders, in the manner provided in Section 15.2 and a copy of such notice shall be sent by post to the Trustee, unless the meeting has been called by it, and to the Issuers, unless such meeting has been called by it. Such notice shall state the time when and the place where the meeting is to be held and shall state briefly the general nature of the business to be transacted thereat and it shall not be necessary for any such notice to set out the terms of any resolution to be proposed or any of the provisions of this Article 9. The accidental omission to give notice of a meeting to any Holder shall not invalidate any resolution passed at any such meeting. A Holder may waive notice of a meeting either before or after the meeting.

### **9.3 Chair**

Some individual, who need not be a Holder, nominated in writing by the Trustee shall be chair of the meeting and if no individual is so nominated, or if the individual so nominated is not present within 15 minutes from the time fixed for the holding of the meeting, a majority of the Holders present in person or by proxy shall choose some individual present to be chair.

### **9.4 Quorum**

Subject to this Indenture, at any meeting of the Holders, a quorum shall consist of Holders present in person or by proxy and representing at least 25% of the principal amount of the outstanding Notes. If a quorum of the Holders shall not be present within 30 minutes from the time fixed for holding any meeting, the meeting, if convened by the Holders or pursuant to a Holders' Request, shall be dissolved, but in any other case the meeting shall be adjourned to the same day in the next week (unless such day is not a Business Day in which case it shall be adjourned to the next following Business Day thereafter) at the same time and place and no notice shall be required to be given in respect of such adjourned meeting. At the adjourned meeting, the Holders present in person or by proxy shall constitute a quorum and may transact the business for which the meeting was originally convened notwithstanding that they may not represent 25% of the principal amount of the outstanding Notes. Any business may be brought before or dealt with at an adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same. No business shall be transacted at any meeting unless the required quorum be present at the commencement of business.

### **9.5 Power to Adjourn**

The chair of any meeting at which the requisite quorum of the Holders is present may, with the consent of the Holders of a majority in principal amount of the Notes represented thereat, adjourn any such meeting and no notice of such adjournment need be given except such notice, if any, as the meeting may prescribe.

### **9.6 Voting**

On a poll each Holder present in person or represented by a duly appointed proxy shall be entitled to one vote in respect of each \$1.00 principal amount of the Notes of which it is the Holder. A proxyholder need not be a Holder. In the case of joint registered Holders of a Note, any one of them present in person or by proxy at the meeting may vote in the absence of the other or others; but in case more than one of them be present in person or by proxy, they shall vote together in respect of the Notes of which they are joint Holders.

### **9.7 Poll**

A poll will be taken on every resolution, special consent and Extraordinary Resolution submitted for approval at a meeting of Holders, in such manner as the chair directs, and the results of such polls shall be binding on all Holders. Every resolution, other than a special consent as set out in Section 12.2 and an Extraordinary Resolution, will be decided by a majority of the votes cast on the poll for that resolution. An Extraordinary Resolution will require at least 66 2/3% of the votes cast on the poll for that resolution to be in the affirmative in order for it to be passed. A special consent as set out in Section 12.2 will require at least 75% or 90%, as applicable, of the votes cast on the poll for that resolution to be in the affirmative in order for it to be passed.

## **9.8 Proxies**

A Holder may be present and vote at any meeting of Holders by an authorized representative. The Issuers (in case they convene the meeting) or the Trustee (in any other case) for the purpose of enabling the Holders to be present and vote at any meeting without producing their Notes, and of enabling them to be present and vote at any such meeting by proxy and of depositing instruments appointing such proxies at some place other than the place where the meeting is to be held, may from time to time make and vary such regulations as it shall think fit providing for and governing any or all of the following matters:

- (a) the form of the instrument appointing a proxy, which shall be in writing, and the manner in which the same shall be executed and the production of the authority of any individual signing on behalf of a Holder;
- (b) the deposit of instruments appointing proxies at such place as the Trustee, the Issuers or the Holder convening the meeting, as the case may be, may, in the notice convening the meeting, direct and the time, if any, before the holding of the meeting or any adjournment thereof by which the same must be deposited; and
- (c) the deposit of instruments appointing proxies at some approved place or places other than the place at which the meeting is to be held and enabling particulars of such instruments appointing proxies to be mailed, faxed, cabled, telegraphed or sent by other electronic means before the meeting to the Issuers or to the Trustee at the place where the same is to be held and for the voting of proxies so deposited as though the instruments themselves were produced at the meeting.

Any regulations so made shall be binding and effective and the votes given in accordance therewith shall be valid and shall be counted. Save as such regulations may provide, the only Persons who shall be recognized at any meeting as the Holders of any Notes, or as entitled to vote or be present at the meeting in respect thereof, shall be Holders and Persons whom Holders have by instrument in writing duly appointed as their proxies.

## **9.9 Persons Entitled to Attend Meetings**

The Issuers and the Trustee, by their respective directors, officers and employees and the respective legal advisors of the Issuers, the Trustee or any Holder may attend any meeting of the Holders, but shall have no vote as such.

## **9.10 Powers Exercisable by Extraordinary Resolution**

Subject to Article 12, a meeting of the Holders shall have the following powers exercisable from time to time by Extraordinary Resolution:

- (a) power to direct or authorize the Trustee to exercise any power, right, remedy or authority given to it by this Indenture (to the extent that this Indenture permits such power, right, remedy or authority to be exercised pursuant to an Extraordinary Resolution) in any manner specified in any such Extraordinary Resolution or to refrain from exercising any such power, right, remedy or authority;
- (b) power to direct any Holder who, as such, has brought any action, suit or proceeding (other than an action, suit or proceeding (i) for the payment of principal of, or interest or Premium, if any, on the Notes, or (ii) relating to any other matter that, in accordance with this

Indenture, expressly required the consent of such Holder) to stay or discontinue or otherwise deal with the same upon payment, if the taking of such suit, action or proceeding shall have been permitted by Section 7.2, of the costs, charges and expenses reasonably and properly incurred by such Holder in connection therewith;

- (c) power to assent to any compromise or arrangement with any creditor or creditors or any class or classes of creditors, whether secured or otherwise, and with holders of any Equity Interests or other securities of the Issuers (excluding, in each case, the Holders in their capacities as such);
- (d) power to appoint a committee with power and authority (subject to such limitations, if any, as may be prescribed in the resolution) to exercise, and to direct the Trustee to exercise, on behalf of the Holders, such of the powers of the Holders as are exercisable by Extraordinary Resolution or other resolution as shall be included in the resolution appointing the committee, provided that the following terms shall apply to the appointment of such committee:
  - (i) the resolution making such appointment may provide for payment of the expenses and disbursements of and compensation to such committee;
  - (ii) such committee shall consist of such number of members as shall be prescribed in the resolution appointing it and the members need not be themselves Holders;
  - (iii) every such committee may elect its chair and may make regulations respecting its quorum, the calling of its meetings, the filling of vacancies occurring in its number and its procedure generally, and such regulations may provide that the committee may act at a meeting at which a quorum is present or may act by minutes signed by the number of members thereof necessary to constitute a quorum; and
  - (iv) all acts of any such committee within the authority delegated to it shall be binding upon all Holders;
- (e) power to remove the Trustee from office and to appoint a new Trustee or Trustees provided that no such removal shall be effective unless and until a new Trustee or Trustees shall have become bound by this Indenture; and
- (f) power to amend, alter or repeal any Extraordinary Resolution previously passed or sanctioned by the Holders or by any committee appointed pursuant to Section 9.10(d).

### **9.11 Powers Cumulative**

Any one or more of the powers in this Indenture stated to be exercisable by the Holders by resolution or otherwise may be exercised from time to time and the exercise of any one or more of such powers from time to time shall not be deemed to exhaust the rights of the Holders to exercise the same or any other such power or powers thereafter from time to time. No powers exercisable by resolution will derogate in any way from the rights of the Issuers pursuant to this Indenture.

### **9.12 Minutes**

Minutes of all resolutions and proceedings at every meeting as aforesaid shall be made and duly entered in books to be from time to time provided for that purpose by the Trustee at the expense of the Issuers, and



any such minutes as aforesaid, if signed by the chair of the meeting at which such resolutions were passed or proceedings had, or by the chair of the next succeeding meeting of the Holders, shall be prima facie evidence of the matters therein stated and, until the contrary is proved, every such meeting, in respect of the proceedings of which minutes shall have been made, shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings taken thereat to have been duly passed and taken.

### **9.13 Instruments in Writing**

Any consent, waiver, notice, authorization or resolution of the Holders which may be given by resolution at a meeting of the Holders pursuant to this Article 9 may also be given by the Holders of a majority of the outstanding principal amount of the Notes by a signed instrument in one or more counterparts; provided that with respect to any of the matters described in Section 9.10 and Section 12.3 and any other matters required pursuant to the provisions hereof to be approved by Extraordinary Resolution, such signed instrument must be given by the Holders of at least 66 2/3% of the outstanding principal amount of the Notes; provided, further, that with respect to any of the special consent matters described in Section 12.2, such signed instrument must be given by the Holders of at least 90% or 75%, as applicable, of the outstanding principal amount of the Notes.

### **9.14 Binding Effect of Resolutions**

Every resolution and every Extraordinary Resolution passed in accordance with the provisions of this Article 9 at a meeting of Holders shall be binding upon all the Holders, whether present at or absent from such meeting, and every instrument in writing signed by Holders in accordance with Section 9.13 shall be binding upon all the Holders, whether signatories thereto or not, and each and every Holder and the Trustee (subject to the provisions for its indemnity herein contained) shall, subject to applicable law, be bound to give effect accordingly to every such resolution, Extraordinary Resolution and instrument in writing.

### **9.15 Evidence of Rights of Holders**

- (a) Any request, direction, notice, consent or other instrument which this Indenture may require or permit to be signed or executed by the Holders may be in any number of concurrent instruments of similar tenor signed or executed by such Holders. Proof of the execution of any such request, direction, notice, consent or other instrument or of a writing appointing any such attorney will be sufficient for any purpose of this Indenture if the fact and date of the execution by any Person of such request, direction, notice, consent or other instrument or writing may be proved by the certificate of any notary public, or other officer authorized to take acknowledgements of deeds to be recorded at the place where such certificate is made, that the Person signing such request, direction, notice, consent or other instrument or writing acknowledged to such notary public or other officer the execution thereof, or by an affidavit of a witness of such execution or in any other manner which the Trustee may consider adequate.
- (b) Notwithstanding Section 9.15(a), the Trustee may, in its discretion, require proof of execution in cases where it deems proof desirable and may accept such proof as it shall consider proper.

**ARTICLE 10**  
**SUCCESSORS TO THE ISSUERS AND THE RESTRICTED SUBSIDIARIES**

**10.1 Restrictions on Amalgamation, Merger, Consolidation and Sale of Certain Assets**

- (a) No Issuer may, in any transaction or series of transactions: (x) amalgamate, merge or consolidate with or into (including by way of a plan of arrangement) another Person (whether or not the applicable Issuer is the surviving Person); or (y) sell, assign, transfer, convey, lease or otherwise dispose of (or permit the sale, assignment, transfer, conveyance, lease or other disposition of) all or substantially all of the Property of the members of the Restricted Group taken as a whole, in one or more related transactions, to another Person; unless:
- (i) either (A) the applicable Issuer or Pubco is the surviving entity; or (B) the Person formed by or surviving any such amalgamation, merger or consolidation (if other than the applicable Issuer) or to which such sale, assignment, transfer, conveyance, lease or other disposition has been made is a Person organized or existing under the laws of Canada or any province thereof or the United States, any state of the United States or the District of Columbia;
  - (ii) the Person formed by or surviving any such amalgamation, merger or consolidation (if other than the applicable Issuer) or the Person to which such sale, assignment, transfer, conveyance, lease or other disposition has been made assumes all the obligations of the applicable Issuer under the Notes, this Indenture and the Security Documents either by operation of law or pursuant to an assumption agreement or other instrument reasonably satisfactory to the Trustee;
  - (iii) immediately after such transaction or series of transactions, and giving pro forma effect to any related financing transactions, no Default or Event of Default exists;
  - (iv) 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) the applicable Issuer or the Person formed by or surviving any such amalgamation, merger or consolidation (if other than the applicable Issuer), or to which such sale, assignment, transfer, conveyance, lease or other disposition has been made, will be permitted to incur at least \$1.00 of additional Indebtedness pursuant to Section 5.11(a) or (B) the Fixed Charge Coverage Ratio is equal to or greater than it was immediately prior thereto;
  - (v) each Issuer has delivered to the Trustee (A) an Opinion of Counsel and Officer's Certificate stating that such transaction and, if an assumption agreement or other instrument is required in connection with such transaction, such assumption agreement or other instrument complies with clauses (i) and (ii) (in the case of the Opinion of Counsel) of this Section 10.1(a) and (B) an Officer's Certificate stating that all conditions precedent contained in this Indenture relating to such transaction have been complied with;
  - (vi) the applicable Issuer or the Person formed by or surviving any such amalgamation, consolidation or merger or to which such sale, assignment, transfer, conveyance, lease or other disposition has been made (if other than the applicable Issuer), promptly causes such amendments, supplements or other instruments to be

executed, delivered, filed and recorded, as applicable, in such jurisdictions as may be reasonably required by applicable law to preserve and protect the Lien of the Security Documents on the Collateral owned by or transferred to the applicable Issuer or such other Person, as the case may be; and (vii) the Collateral owned by or transferred to the applicable Issuer or such other Person, as the case may be, shall (a) continue to constitute Collateral under the Indenture and the Security Documents, (b) be subject to the Lien in favour of the Collateral Agent for the benefit of the Trustee, the holders of the Notes, and (c) not be subject to any Lien other than Permitted Liens,

- (b) No Guarantor may, in any transaction or series of transactions: (x) amalgamate, consolidate or merge with or into another Person (including by way of a plan of arrangement) (whether or not such Guarantor is the surviving Person); or (y) sell, assign, transfer, convey, lease or otherwise dispose of all or substantially all of its Property to another Person, other than a member of the Restricted Group (in the case of either (x) or (y) above), unless:
  - (i) immediately after giving effect to that transaction, and giving pro forma effect to any related financing transactions, no Default or Event of Default exists;
  - (ii) either:
    - (A) the Person acquiring the property in any such sale, assignment, transfer, conveyance, lease or other disposition or the Person formed by or surviving any such amalgamation, merger or consolidation assumes all the obligations of that Guarantor under its Note Guarantee and the Security Documents, either by operation of law or pursuant to an assumption agreement or other instrument reasonably satisfactory to the Trustee; or
    - (B) if such Guarantor is a Subsidiary Guarantor, the Net Proceeds of such sale, assignment, transfer, conveyance, lease or other disposition are applied in accordance with Section 5.14,
- (c) Each Issuer has delivered to the Trustee (i) an opinion of counsel and Officer's Certificate stating that such transaction and, if an assumption agreement or other instrument is required in connection with such transaction, such assumption agreement or other instrument complies with clause (b)(ii)(A) of this Section 10.1(b) and (B) an Officer's Certificate stating that all conditions precedent contained in this Indenture relating to such transaction have been complied with;
- (d) the Person acquiring the property in any such sale, assignment, transfer, conveyance, lease or other disposition or the Person formed by or surviving any such amalgamation, consolidation or merger, as the case may be, promptly causes such amendments, supplements or other instruments to be executed, delivered, filed and recorded, as applicable, in such jurisdictions as may be reasonably required by applicable law to preserve and protect the Lien of the Security Documents on the Collateral owned by or transferred to such Guarantor or other Person, as applicable;
- (e) the Collateral owned by or transferred to such Guarantor or other Person, as applicable, shall (i) continue to constitute Collateral under the Indenture and the Security Documents, (ii) be subject to the Lien in favour of the Collateral Agent for the benefit of the Trustee

and the holders of the Notes, and (iii) not be subject to any Lien other than Permitted Liens; and

- (f) Notwithstanding any other provision of this Section 10.1, no Issuer or Guarantor may, in any transaction or series of transactions: (i) amalgamate, consolidate or merge with or into Berthold or any Restricted Subsidiary thereof; or (ii) sell, assign, transfer, convey, lease or otherwise dispose of all or substantially all of its properties or assets to Berthold or any Restricted Subsidiary thereof.

## **10.2 Vesting of Powers in Successor**

Whenever the conditions of Section 10.1(a) have been duly observed and performed, the Trustee will execute and deliver a Supplemental Indenture as provided for in Section 12.6 or other assumption agreement or instrument and then:

- (a) the successor will possess and from time to time may exercise each and every right and power of Pubco, the Issuers or any other Restricted Subsidiary under this Indenture in the name of any Pubco, the Issuers or any other Restricted Subsidiary, as applicable, or otherwise, and any act or proceeding by any provision of this Indenture required to be done or performed by any directors or officers of Pubco, the Issuers or any other Restricted Subsidiary may be done and performed with like force and effect by the like directors or officers of such successor; and
- (b) Pubco, the Issuers or any other Restricted Subsidiary, as applicable, will be released and discharged from liability under this Indenture and the Trustee will execute any documents which it may be advised are necessary or advisable for effecting or evidencing such release and discharge.

## **ARTICLE 11 CONCERNING THE TRUSTEE**

### **11.1 No Conflict of Interest**

The Trustee represents to the Issuers that at the date of execution and delivery by it of this Indenture there exists no material conflict of interest in the role of the Trustee as a fiduciary hereunder but if, notwithstanding the provisions of this Section 11.1, such a material conflict of interest exists, or hereafter arises, the validity and enforceability of this Indenture and the Notes shall not be affected in any manner whatsoever by reason only that such material conflict of interest exists or arises.

### **11.2 Replacement of Trustee**

- (a) The Trustee may resign its trust and be discharged from all further duties and liabilities hereunder by giving to the Issuers 90 days' notice in writing or such shorter notice as the Issuers may accept as sufficient. If at any time a material conflict of interest exists in the Trustee's role as a fiduciary hereunder the Trustee shall, within 30 days after ascertaining that such a material conflict of interest exists, either eliminate such material conflict of interest or resign in the manner and with the effect specified in this Section 11.2. The validity and enforceability of this Indenture and of the Notes issued hereunder shall not be affected in any manner whatsoever by reason only that such a material conflict of interest exists. In the event of the Trustee resigning or being removed or being dissolved, becoming bankrupt, going into liquidation or otherwise becoming incapable of acting hereunder, the

Issuers shall forthwith appoint a new Trustee unless a new Trustee has already been appointed by the Holders in accordance with the provisions hereof. Failing such appointment by the Issuers, the retiring Trustee or any Holder may apply to a Judge of Alberta Court of Queen's Bench, on such notice as such Judge may direct at the Issuers' expense, for the appointment of a new Trustee but any new Trustee so appointed by the Issuers or by the Court shall be subject to removal as aforesaid by the Holders and the appointment of such new Trustee shall be effective only upon such new Trustee becoming bound by this Indenture. Any new Trustee appointed under any provision of this Section 11.2 shall be a corporation authorized to carry on the business of a trust company in all of the Provinces of Canada. On any new appointment the new Trustee shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Trustee.

- (b) Any entity into which the Trustee may be merged or, with or to which it may be consolidated, amalgamated or sold, or any entity resulting from any merger, consolidation, sale or amalgamation to which the Trustee shall be a party, shall be the successor Trustee under this Indenture without the execution of any instrument or any further act. Nevertheless, upon the written request of the successor Trustee or of the Issuers, the Trustee ceasing to act shall execute and deliver an instrument assigning and transferring to such successor Trustee, upon the trusts herein expressed, all the rights, powers and trusts of the retiring Trustee so ceasing to act, and shall duly assign, transfer and deliver all property and money held by such Trustee to the successor Trustee so appointed in its place. Should any deed, conveyance or instrument in writing from the Issuers or any Guarantor be required by any new Trustee for more fully and certainly vesting in and confirming to it such estates, properties, rights, powers and trusts, then any and all such deeds, conveyances and instruments in writing shall on request of said new Trustee, be made, executed, acknowledged and delivered by the Issuers or such Guarantor, as applicable.

### **11.3 Duties of Trustee**

In the exercise of the rights, duties and obligations prescribed or conferred by the terms of this Indenture, the Trustee shall act honestly and in good faith and exercise that degree of care, diligence and skill that a reasonably prudent Trustee would exercise in comparable circumstances. Subject to the foregoing, the Trustee will be liable for its own wilful misconduct, bad faith and gross negligence. The Trustee will not be liable for any act or default on the part of any agent employed by it or a co-Trustee, or for having permitted any agent or co-Trustee to receive and retain any money payable to the Trustee, except as aforesaid.

### **11.4 Reliance Upon Declarations, Opinions, etc.**

- (a) In the exercise of its rights, duties and obligations hereunder the Trustee may, if acting in good faith and subject to Section 11.7, rely, as to the truth of the statements and accuracy of the opinions expressed therein, upon statutory declarations, opinions, reports or certificates furnished pursuant to any covenant, condition or requirement of this Indenture or required by the Trustee to be furnished to it in the exercise of its rights and duties hereunder, if the Trustee examines such statutory declarations, opinions, reports or certificates and determines that they comply with Section 11.5, if applicable, and with any other applicable requirements of this Indenture. The Trustee may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable. Without restricting the foregoing, the Trustee may rely on an Opinion of Counsel satisfactory to the

Trustee notwithstanding that it is delivered by a solicitor or firm which acts as solicitors for the Issuers.

- (b) The Trustee shall have no obligation to ensure or verify compliance with any applicable laws or regulatory requirements on the issue or transfer of any Notes provided such issue or transfer is effected in accordance with the terms of this Indenture. The Trustee shall be entitled to process all transfers and redemptions upon the presumption that such transfer and redemption is permissible pursuant to all applicable laws and regulatory requirements if such transfer and redemption is effected in accordance with the terms of this Indenture. The Trustee shall have no obligation, other than to confer with the Issuers and its Counsel, to ensure that legends appearing on the Notes comply with regulatory requirements or securities laws of any applicable jurisdiction.

### **11.5 Evidence and Authority to Trustee, Opinions, etc.**

- (a) The Issuers shall furnish to the Trustee evidence of compliance with the conditions precedent provided for in this Indenture relating to any action or step required or permitted to be taken by the Issuers or the Trustee under this Indenture or as a result of any obligation imposed under this Indenture, including without limitation, the authentication and delivery of Notes hereunder, the satisfaction and discharge of this Indenture and the taking of any other action to be taken by the Trustee at the request of or on the application of the Issuers, forthwith if and when (i) such evidence is required by any other Section of this Indenture to be furnished to the Trustee in accordance with the terms of this Section 11.5, or (ii) the Trustee, in the exercise of its rights and duties under this Indenture, gives the Issuers written notice requiring it to furnish such evidence in relation to any particular action or obligation specified in such notice. Such evidence shall consist of:
  - (i) an Officer's Certificate from each Issuer, stating that any such condition precedent has been complied with in accordance with the terms of this Indenture;
  - (ii) in the case of a condition precedent the satisfaction of which is, by the terms of this Indenture, made subject to review or examination by a solicitor, an Opinion of Counsel that such condition precedent has been complied with in accordance with the terms of this Indenture; and
  - (iii) in the case of any such condition precedent the satisfaction of which is subject to review or examination by auditors or accountants, an opinion or report of the Issuers' Auditors whom the Trustee for such purposes hereby approves, that such condition precedent has been complied with in accordance with the terms of this Indenture.
- (b) Whenever such evidence relates to a matter other than the authentication and delivery of Notes and the satisfaction and discharge of this Indenture, and except as otherwise specifically provided herein, such evidence may consist of a report or opinion of any solicitor, auditor, accountant, engineer or appraiser or any other appraiser or any other individual whose qualifications give authority to a statement made by such individual, provided that if such report or opinion is furnished by a director, officer or employee of either Issuer it shall be in the form of a statutory declaration. Such evidence shall be, so far as appropriate, in accordance with Section 11.5(a).

- (c) Each statutory declaration, certificate, opinion or report with respect to compliance with a condition precedent provided for in this Indenture shall include (i) a statement by the individual giving the evidence that he or she has read and is familiar with those provisions of this Indenture relating to the condition precedent in question, (ii) a brief statement of the nature and scope of the examination or investigation upon which the statements or opinions contained in such evidence are based, (iii) a statement that, in the belief of the individual giving such evidence, he or she has made such examination or investigation as is necessary to enable him or her to make the statements or give the opinions contained or expressed therein, and (iv) a statement whether in the opinion of such individual the conditions precedent in question have been complied with or satisfied.
- (d) In addition to its obligations under Section 5.4, each Issuer shall furnish or cause to be furnished to the Trustee at any time if the Trustee reasonably so requires, an Officer's Certificate certifying that the Issuers have complied with all covenants, conditions or other requirements contained in this Indenture, the non-compliance with which would constitute a Default or an Event of Default, or if such is not the case, specifying the covenant, condition or other requirement which has not been complied with and giving particulars of such non-compliance. The Issuers shall, whenever the Trustee so requires, furnish the Trustee with evidence by way of statutory declaration, opinion, report or certificate as specified by the Trustee as to any action or step required or permitted to be taken by the Issuers or as a result of any obligation imposed by this Indenture.

#### **11.6 Officer's Certificates Evidence**

Except as otherwise specifically provided or prescribed by this Indenture, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, the Trustee, if acting in good faith, may rely upon an Officer's Certificate from each Issuer.

#### **11.7 Experts, Advisers and Agents Subject to Section 11.4, the Trustee may:**

- (a) employ or retain and act and rely on the opinion or advice of or information obtained from any solicitor, auditor, valuator, engineer, surveyor, appraiser or other expert, whether obtained by the Trustee or by the Issuers, or otherwise, and shall not be liable for acting, or refusing to act, in good faith on any such opinion or advice and may pay proper and reasonable compensation for all such legal and other advice or assistance as aforesaid; and
- (b) employ such agents and other assistants as it may reasonably require for the proper discharge of its duties hereunder, and may pay reasonable remuneration for all services performed for it (and shall be entitled to receive reasonable remuneration for all services performed by it) in the discharge of the trusts hereof and compensation for all disbursements, costs and expenses made or incurred by it in the discharge of its duties hereunder and in the management of the trusts hereof and any solicitors employed or consulted by the Trustee may, but need not be, solicitors for the Issuers.

#### **11.8 Trustee May Deal in Notes**

Subject to Sections 11.1 and 11.3, the Trustee may, in its personal or other capacity, buy, sell, lend upon and deal in Notes and generally contract and enter into financial transactions with the Issuers or otherwise, without being liable to account for any profits made thereby. However, in the event that the Trustee acquires

any conflicting interest it must eliminate such conflict within 90 days, apply to the Alberta Court of Queen's Bench for permission to continue as Trustee hereunder or resign.

### **11.9 Investment of Monies Held by Trustee**

- (a) Unless otherwise provided in this Indenture, any monies held by the Trustee, which, under the trusts of this Indenture, may or ought to be invested or which may be on deposit with the Trustee or which may be in the hands of the Trustee, may be invested and reinvested in the name or under the control of the Trustee in any of the securities, accounts, notes certificates and deposits described in paragraphs (b) and (c) of the definition of "Cash Equivalents", provided that such securities are expressed to mature within 90 days after their purchase by the Trustee or such shorter period as required or selected by the Issuers to facilitate any payments expected to be made under this Indenture, after their purchase by the Trustee, and unless and until the Trustee shall have declared the principal of and Premium, if any, and interest on the Notes to be due and payable, the Trustee shall so invest such monies pursuant to an Issuers Order given in a reasonably timely manner. Pending the investment of any monies as hereinbefore provided, such monies may be deposited in the name of the Trustee in any chartered bank of Canada or, with the consent of the Issuers, in the deposit department of the Trustee or any other loan or trust company authorized to accept deposits under the laws of Canada or any province thereof at the rate of interest, if any, then current on similar deposits.
- (b) Unless and until the Trustee shall have declared the principal of and Premium, if any, and interest on any Notes to be due and payable, the Trustee shall pay over to the Issuers all interest received by the Trustee in respect of any investments or deposits made pursuant to the provisions of this Section 11.9.

### **11.10 Trustee Not Ordinarily Bound**

Except as provided in Section 7.2 and as otherwise specifically provided herein, the Trustee shall not, subject to Section 11.3, be bound to give notice to any Person of the execution hereof, nor to do, observe or perform or see to the observance or performance by the Issuers of any of the obligations herein imposed upon the Issuers or of the covenants on the part of the Issuers herein contained, nor in any way to supervise or interfere with the conduct of the Issuers' business, unless the Trustee shall have been required to do so in writing by the Holders of not less than 25% of the aggregate principal amount of the Notes then outstanding or by any Extraordinary Resolution of the Holders passed in accordance with the provisions contained in Article 9, and then only after it shall have been funded and indemnified to its satisfaction against all actions, proceedings, claims and demands to which it may render itself liable and all costs, charges, damages and expenses which it may incur by so doing.

### **11.11 Trustee Not Required to Give Security**

The Trustee shall not be required to give any bond or security in respect of the execution of the trusts and powers of this Indenture or otherwise in respect of the premises.

### **11.12 Trustee Not Bound to Act on Issuers' Request**

Except as in this Indenture otherwise specifically provided, the Trustee shall not be bound to act in accordance with any direction or request of the Issuers until a duly authenticated copy of the instrument or resolution containing such direction or request shall have been delivered to the Trustee, and the Trustee



shall be empowered to act upon any such copy purporting to be authenticated and believed by the Trustee to be genuine.

### **11.13 Conditions Precedent to Trustee's Obligations to Act Hereunder**

- (a) The obligation of the Trustee to commence or continue any act, action or proceeding for the purpose of enforcing the rights of the Trustee and of the Holders hereunder shall be conditional upon any one or more Holders furnishing when required by notice in writing by the Trustee, sufficient funds to commence or continue such act, action or proceeding and indemnity reasonably satisfactory to the Trustee to protect and hold harmless the Trustee against the costs, charges and expenses and liabilities to be incurred thereby and any loss and damage it may suffer by reason thereof.
- (b) None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless indemnified as aforesaid.
- (c) The Trustee may, before commencing or at any time during the continuance of any such act, action or proceeding require the Holders at whose instance it is acting to deposit with the Trustee such Notes held by them for which Notes the Trustee shall issue receipts.

### **11.14 Authority to Carry on Business**

The Trustee represents to the Issuers that at the date of execution and delivery by it of this Indenture it is authorized to carry on the business of a trust company in all provinces of Canada but if, notwithstanding the provisions of this Section 11.14, it ceases to be so authorized to carry on business, the validity and enforceability of this Indenture and the securities issued hereunder shall not be affected in any manner whatsoever by reason only of such event but the Trustee shall, within 90 days after ceasing to be authorized to carry on the business of a trust company in any Province of Canada, either become so authorized or resign in the manner and with the effect specified in Section 11.2.

### **11.15 Compensation and Indemnity**

- (a) The Issuers shall pay to the Trustee from time to time compensation for its services hereunder as agreed separately by the Issuers and the Trustee, and shall pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in the administration or execution of its duties under this Indenture (including the reasonable and documented compensation and disbursements of its Counsel and all other advisers and assistants not regularly in its employ), both before any default hereunder and thereafter until all duties of the Trustee under this Indenture shall be finally and fully performed. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust.
- (b) Each Issuer hereby jointly and severally indemnifies and saves harmless the Trustee and its directors, officers, employees and shareholders from and against any and all loss, damages, charges, expenses, claims, demands, actions or liability whatsoever which may be brought against the Trustee or which it may suffer or incur as a result of or arising out of the performance of its duties and obligations hereunder save only in the event of the gross negligence, wilful misconduct or bad faith of the Trustee. This indemnity will survive the termination or discharge of this Indenture and the resignation or removal of the Trustee. The Trustee shall notify the Issuers promptly of any claim for which it may seek indemnity.

The Issuers shall defend the claim and the Trustee shall cooperate in the defence. The Trustee may have separate Counsel and the Issuers shall pay the reasonable fees and expenses of such Counsel. The Issuers need not pay for any settlement made without its consent, which consent must not be unreasonably withheld. This indemnity shall survive the resignation or removal of the Trustee or the discharge of this Indenture.

- (c) The Issuers need not reimburse any expense or indemnify against any loss or liability incurred by the Trustee through gross negligence, wilful misconduct or bad faith on the part of the Trustee.

#### **11.16 Acceptance of Trust**

The Trustee hereby accepts the trusts in this Indenture declared and provided for and agrees to perform the same upon the terms and conditions herein set forth and to hold all rights, privileges and benefits conferred hereby and by law in trust for the various Persons who shall from time to time be Holders, subject to all the terms and conditions herein set forth.

#### **11.17 Anti-Money Laundering**

The Trustee shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Trustee, in its sole judgment, determines that such act might cause it to be in noncompliance with any applicable anti-money laundering, anti-terrorist or economic sanctions legislation, regulation or guideline. Further, should the Trustee, in its sole judgment, determine at any time that its acting under this Indenture has resulted in its being in noncompliance with any applicable anti-money laundering, anti-terrorist or economic sanctions legislation, regulation or guideline, then it shall have the right to resign on 10 days' prior written notice sent to all parties hereto; provided that (a) the written notice shall describe the circumstances of such non-compliance; and (b) if such circumstances are rectified to the Trustee's satisfaction within such 10 day period, then such resignation shall not be effective.

#### **11.18 Privacy**

- (a) The parties hereto acknowledge that the Trustee may, in the course of providing services hereunder, collect or receive financial and other personal information about such parties and/ or their representatives, as individuals, or about other individuals related to the subject matter hereof, and use such information for the following purposes:
  - (i) to provide the services required under this Indenture and other services that may be requested from time to time;
  - (ii) to help the Trustee manage its servicing relationships with such individuals;
  - (iii) to meet the Trustee's legal and regulatory requirements; and
  - (iv) if social insurance numbers are collected by the Trustee, to perform tax reporting and to assist in verification of an individual's identity for security purposes.
- (b) Each party acknowledges and agrees that the Trustee may receive, collect, use and disclose personal information provided to it or acquired by it in the course of providing services under this Indenture for the purposes described above and, generally, in the manner and on the terms described in its privacy code, which the Trustee shall make available on its website or upon request, including revisions thereto. The Trustee may transfer some of that

personal information to service providers in the United States for data processing and/ or storage. Further, each party agrees that it shall not provide or cause to be provided to the Trustee any personal information relating to an individual who is not a party to this Indenture unless that party has assured itself that such individual understands and has consented to the aforementioned uses and disclosures.

**ARTICLE 12**  
**AMENDMENT, SUPPLEMENT AND WAIVER**

**12.1 Ordinary Consent**

Except as provided in Sections 12.2, 12.3 and 12.4, with the affirmative votes of the Holders of at least a majority of the aggregate principal amount of the Notes then outstanding, present or represented by proxy at a meeting of the Holders, or the consent of Holders of at least a majority of the aggregate principal amount of the Notes then outstanding:

- (a) this Indenture, the Notes, the Note Guarantees and the Security Documents may each be amended or supplemented, and
- (b) any existing Default or Event of Default or lack of compliance with any provision of this Indenture, the Notes, the Note Guarantees or the Security Documents may be waived.

**12.2 Special Consent**

Notwithstanding Sections 9.10 and 12.1,

- (a) without the affirmative votes of the Holders of at least 90% in aggregate principal amount of the Notes represented and voting at a meeting of Holders, or the consent of the Holders of at least 90% in aggregate principal amount of the Notes then outstanding, an amendment, supplement or waiver may not:
  - (i) reduce the aggregate principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;
  - (ii) reduce the principal of any Note or change the time for payment thereof;
  - (iii) reduce the rate of interest on any Note;
  - (iv) make any Note payable in a currency other than that stated in the Notes; or
  - (v) modify the amending provisions in this Section 12.2(a); and
- (b) without the affirmative votes of the Holders of at least 75% in aggregate principal amount of the Notes represented and voting at a meeting of Holders, or the consent of the Holders of at least 75% in aggregate principal amount of the Notes then outstanding, an amendment, supplement or waiver may not:
  - (i) change the time for payment of interest on any Note;
  - (ii) waive a Default or Event of Default in the payment of principal of, or interest or Premium, if any, on the Notes (except a rescission of acceleration of the Notes by

the Holders of at least a majority in aggregate principal amount of the Notes and a waiver of the payment default that resulted from such acceleration);

- (iii) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, or interest or Premium, if any, on the Notes;
- (iv) modify or change any provision of this Indenture or the related definitions affecting the ranking of the Notes or any Note Guarantee in any manner adverse to the Holders;
- (v) issue Additional Notes under the Indenture (other than PIK Notes;
- (vi) alter or waive the provisions with respect to the redemption or repurchase of the Notes (other than provisions relating to the covenants contained in Sections 5.14 and 5.15);
- (vii) have the effect of releasing a material portion of the Collateral from the Note Liens;  
or
- (viii) modify the amending provisions in this Section 12.2(b).

### **12.3 Consent by Extraordinary Resolution**

Notwithstanding Sections 9.10, 12.1, and 12.2, without the affirmative votes of the Holders of at least 66 2/3% in aggregate principal amount of the Notes represented and voting at a meeting of Holders, or the consent of the Holders of at least 66 2/3% in aggregate principal amount of the Notes then outstanding, an amendment, supplement or waiver may not (with respect to any Notes held by a non-consenting Holder):

- (a) waive, amend, change or modify in any material respect the obligation of the Issuers to make and consummate a Change of Control Offer after the occurrence of a Change of Control or to make or consummate an Asset Sale Offer with respect to any Asset Sale that has been consummated; or (b) release any Guarantor from any of its obligations under its Note Guarantee or the Indenture otherwise than in accordance with the terms of the Indenture.

### **12.4 Without Consent**

Notwithstanding Sections 12.1, 12.2 and 12.3, without the consent of any Holder, the Issuers, the Guarantors, the Trustee and the Collateral Agent may from time to time amend or supplement this Indenture, the Notes, the Note Guarantees and the Security Documents to:

- (a) cure any ambiguity, defect or inconsistency;
- (b) provide for uncertificated Notes in addition to or in place of certificated Notes;
- (c) provide for the assumption of the Issuers' or a Guarantor's obligations to Holders in the case of an amalgamation, merger or consolidation or sale of all or substantially all of the Issuers' or a Guarantor's assets or otherwise to comply with the provisions of Section 10.1;

- (d) [Intentionally Deleted];
- (e) add any additional Guarantors or to evidence the release of any Guarantor from its obligations under its Note Guarantee to the extent that such release is permitted by this Indenture, or to secure the Notes and the Note Guarantees;
- (f) [Intentionally Deleted];
- (g) provide for the issuance of Additional Notes in accordance with the limitations set forth in Sections 5.8 and 5.11;
- (h) make any change that would provide any additional rights or benefits to the Holders of Notes or that does not adversely affect the legal rights under this Indenture of any such Holder; or
- (i) evidence or provide for the acceptance of appointment under this Indenture of a successor Trustee or Collateral Agent.

## **12.5 Form of Consent**

It is not necessary for the consent of the Holders under Section 12.1, 12.2 or 12.3 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

## **12.6 Supplemental Indentures**

- (a) Subject to the provisions of this Indenture, the Issuers and the Trustee may from time to time execute, acknowledge and deliver Supplemental Indentures which thereafter shall form part of this Indenture, to give effect to any amendment or supplement to this Indenture or the Notes made in accordance with Section 12.1, 12.2, 12.3 or 12.4.
- (b) Unless this Indenture expressly requires the consent or concurrence of Holders, the consent or concurrence of Holders shall not be required in connection with the execution, acknowledgement or delivery of a Supplemental Indenture contemplated by this Indenture.
- (c) Upon receipt by the Trustee of (i) an Issuers Order accompanied by a Board Resolution authorizing the execution of any such Supplemental Indenture, and (ii) an Officer's Certificate from each Issuer stating that such amended or Supplemental Indenture complies with this Section 12.6, the Trustee shall join with the Issuers 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.
- (d) This Section 12.5 shall apply, as the context requires, to any assumption agreement or instrument contemplated by Sections 10.1(a)(ii) or 10.1(b)(ii).

**ARTICLE 13**  
**NOTE GUARANTEES**

**13.1 Issuance of Note Guarantees**

The Guarantors providing a Note Guarantee on the Issue Date and each Guarantor that provides a Note Guarantee after the Issue Date in accordance with Section 5.6 shall execute and deliver to the Trustee a Note Guarantee substantially in the form attached hereto as Appendix C.

**13.2 Releases**

- (a) Each Guarantor shall automatically be released from all of its obligations under its Note Guarantee without any further action required on the part of the Trustee or any Holder upon the occurrence of any of the following events:
  - (i) in the event of (A) a sale or other disposition of all or substantially all of the assets of such Guarantor, by way of consolidation, merger, amalgamation or otherwise, to a Person that is not (either before or after giving effect to such transaction) a member of the Restricted Group, provided that upon the completion of such sale or other disposition, such Guarantor ceases to exist, or (B) a sale or other disposition of the Capital Stock of such Guarantor such that it ceases to be a Restricted Subsidiary, in the case of each of the foregoing subclauses (A) and (B) to the extent that such sale or other disposition is permitted under this Indenture;
  - (ii) such Guarantor being designated by the Issuers as an Unrestricted Subsidiary in accordance with the terms of this Indenture;
  - (iii) payment in full in cash of the principal of, accrued and unpaid interest and Premium (if any) on, the Notes; and
  - (iv) the defeasance of the Notes or release and discharge of this Indenture pursuant to Article 8.
- (b) The Trustee shall promptly execute and deliver a release in the form attached hereto as Schedule "B" to Appendix "C" together with all instruments and other documents reasonably requested by the Issuers or the applicable Restricted Subsidiary to evidence the release and termination of any Note Guarantee upon receipt of a request by the Issuers accompanied by an Officer's Certificate certifying as to compliance with this Section 13.2.

**ARTICLE 14**  
**SECURITY AND INTERCREDITOR MATTERS**

**14.1 Security**

The Indenture Obligations are secured or will be secured as provided in the Security Documents as supplemented by the Post-Closing Undertaking and will be secured by Security Documents hereafter. The Issuers shall, and shall cause each Guarantor to, and each Guarantor shall, make all filings necessary to maintain (at the sole cost and expense of the Issuers and the Guarantors) the security interest created by the Security Documents in the Collateral as a perfected security interest to the extent perfection is required by the Security Documents, subject only to Permitted Liens.

## 14.2 Further Assurances

- (a) The Issuers and the Guarantors will furnish to the Collateral Agent 15 days' prior written notice of any change in (i) any such Person's organizational name, (ii) the jurisdiction of such Person's organization or formation or of such Person's chief executive office (or place of business, if such Person has only one place of business), (iii) such Person's identity or organizational structure, (iv) such Person's organizational identification number or (v) the location of any tangible property of such Person constituting Collateral (unless such tangible property continues to be subject to the perfected security interest of the Collateral Agent pursuant to the Security Documents following such change in location). The Issuers and the Guarantors will make all filings under the PPSA or the UCC or otherwise that are required by applicable law in order for the Collateral Agent to continue at all times following such change to hold duly created, enforceable and perfected Liens in all the Collateral.
- (b) The Issuers and the Guarantors shall, at their sole expense, take all actions that are reasonably necessary to confirm that the Collateral Agent holds, for the benefit of itself, the Trustee, the applicable Holders duly created, enforceable and perfected Liens upon the Collateral and having the priority set out in the Intercreditor Agreement.
- (c) Subject to the applicable limitations set forth herein and in the Security Documents the Issuers and the Guarantors shall, at their sole expense, execute, acknowledge and deliver such documents and instruments and take such other actions, as may be required by applicable law, the Indenture or the Security Documents to create, protect, assure, perfect, transfer and confirm the Liens, benefits, property and rights conveyed or intended to be conveyed by the terms of this Indenture or the Security Documents for the benefit of the Collateral Agent, the Trustee, and the applicable Holders in the Collateral, including with respect to After-Acquired Collateral.

## 14.3 After-Acquired Collateral

The Issuer and the Guarantors shall, subject to the provisions of this Indenture and the Security Documents, pledge and grant a Lien on all After-Acquired Collateral to secure the Indenture Obligations. Subject to the applicable limitations set forth herein and in the Security Documents, if an Issuer or a Guarantor acquires property that is not automatically subject to a Lien under the Security Documents and such property constitutes (or would constitute) Collateral, or an entity becomes a Guarantor, then such Issuer or Guarantor will, within 45 days after such acquisition or such entity becoming a Guarantor, as applicable (or, with respect to real property and related fixtures, within 90 days after such acquisition or such entity becoming a Guarantor, as applicable, as contemplated in Section 14.4), provide security and grant a Lien over such property (or, in the case of a new Guarantor, its property that constitutes Collateral) in favour of the Collateral Agent pursuant to the Security Documents that are in form and substance substantially consistent with the Security Documents in existence on the Issue Date, *mutatis mutandis*, and deliver any joinder agreements or supplements as are required by the Security Documents.

## 14.4 Real Estate Mortgages and Filings

- (a) With respect to any real property (including without limitation, any petroleum, mineral (including sand) or natural gas assets) owned or leased by an Issuer or a Guarantor on the Issue Date, or acquired or leased by an Issuer or a Guarantor after the Issue Date in each case with an individual fair market value (measured at the time of such acquisition or the entry of such lease, as applicable, by an Issuer or a Guarantor) in excess of US\$200,000

(each presently owned or leased real property and any such other owned real property, a "**Premises**"), the applicable Issuer or Guarantor will, subject to the Post-Closing Undertaking, deliver to the Collateral Agent on the Issue Date (or, if later, within 90 days of the date of the acquisition of such Premises or the date the owner of such Premises becomes a Guarantor, as applicable) or, if consent of a third party is required for the granting of a leasehold mortgage, promptly upon receiving such consent:

- (i) a Mortgage (and, in the case of a leased real property, an assignment of rents and leases) in favour of the Collateral Agent, as mortgagee or beneficiary, as applicable, in respect of such Premises, duly executed by the applicable Issuer or Guarantor, together with evidence of the completion (or arrangements for the completion) of all recordings and filings of such Mortgage (and payment of any taxes and fees in connection therewith) as may be necessary to create a valid, perfected Lien (subject to any Permitted Liens) against the properties purported to be covered thereby;
  - (ii) a mortgagee's title insurance policy in favour of the Collateral Agent, in the form necessary, with respect to such Premises, to ensure that the interests created by such Mortgage constitute valid Liens on such Premises free and clear of all Liens, defects and encumbrances ( other than any Permitted Liens), such title insurance policy (A) to be in an amount equal to the lesser of (1) the aggregate principal amount of the Notes or (2) the Fair Market Value of such Premises, (B) to include customary legally available endorsements that are commercially reasonable in cost and (C) to be accompanied by evidence of the payment in full of all premiums thereon; and (iii) with respect to such Premises, (A) the applicable land title survey (together with any updates or affidavits delivered to the title company), an Opinion of Counsel and fixture filings, if applicable, along with such other documents, instruments, certificates and agreements as may be necessary to create, evidence or perfect a valid Lien on such Premises and (B) such other documentation as may be provided to the Senior Credit Facility Collateral Agent.
- (b) In any jurisdiction in which any owned or leased real property is located that recognizes the concept of a "floating charge" on real property, the applicable Issuer or Guarantor will register and deliver to the Collateral Agent on the Issue Date (or, if later, within 90 days of the date of the acquisition or lease of such real property or the date the owner or lessee of such real property becomes a Guarantor, as applicable) a floating charge on such real property in favour of the Collateral Agent, as may be necessary to create a valid, perfected Lien (subject to any Permitted Liens) against the properties purported to be covered thereby.

#### **14.5 Intercreditor Agreement**

Each Holder by accepting a Note agrees that the Note Liens are subject to the terms of the Intercreditor Agreement. The Holders by accepting a Note hereby authorize the Trustee and the Collateral Agent to enter into the Intercreditor Agreement on behalf of the Holders and agree that the Holders shall comply with the provisions of the Intercreditor Agreement applicable to them in their capacities as such to the same extent as if the Holders were parties thereto. In the event of any conflict between the terms of the Intercreditor Agreement on the one hand, and this Indenture, the Notes, the Note Guarantees or any document delivered in connection with this Indenture on the other hand, the terms of the Intercreditor Agreement shall govern and be controlling.



#### **14.6 Collateral Agent**

- (a) The Collateral Agent shall have all the rights and protections provided in the Security Documents and, additionally, shall have all the rights and protections provided to the "Trustee" under Article 11.
- (b) Except as required or permitted by the Security Documents, the Holders, by accepting a Note, acknowledge that the Collateral Agent will not be obligated:
  - (i) to act upon directions purported to be delivered to it by any Person, except in accordance with this Indenture and the Security Documents;
  - (ii) to foreclose upon or otherwise enforce any Note Lien; or
  - (iii) to take any other action whatsoever with regard to any or all of the Note Liens, Security Documents or Collateral.
- (c) If an Event of Default has occurred and is continuing and the Collateral Agent has actual knowledge thereof or has received written notice thereof from an Issuer, or the Trustee, the Collateral Agent may exercise such of the rights and powers vested in it by this Indenture and the Security Documents, and shall use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs; provided that, subject to the limitations on the obligations of the Collateral Agent to take actions as provided in this Indenture, the Collateral Agent shall exercise, or refrain from exercising, any remedies provided for herein, or in any Security Document, in accordance with the written instructions of the Required Secured Parties. For this purpose, "Required Secured Parties" means the holders of a majority in aggregate outstanding amount of the Notes.

#### **14.7 Authorization of Actions to be Taken**

- (a) Each Holder, by its acceptance thereof, consents and agrees to the terms of each Security Document, as originally in effect and as amended, supplemented or replaced from time to time in accordance with its terms or the terms of this Indenture, authorizes and directs the Collateral Agent to enter into the Security Documents to which it is a party, authorizes and empowers the Collateral Agent to execute and deliver the Intercreditor Agreement and authorizes and empowers the Collateral Agent to bind the Holders as set forth in the Security Documents to which the Collateral Agent is a party and the Intercreditor Agreement and to perform its obligations and exercise its rights and powers thereunder.
- (b) The Trustee is authorized and empowered to receive for the benefit of the Holders of Notes any funds collected or distributed to the Collateral Agent under the Security Documents to which the Trustee is a party and, subject to the terms of the Security Documents, to make further distributions of such funds to the Holders of Notes according to the provisions of this Indenture.
- (c) Subject to the provisions of Article 11 and the Security Documents, the Trustee may, in its sole discretion and without the consent of the Holders, direct, on behalf of the Holders, the Collateral Agent to take all actions it deems necessary or appropriate in order to:
  - (i) foreclose upon or otherwise enforce any or all of the Note Liens;

- (ii) enforce any of the terms of the Security Documents to which the Collateral Agent is a party; or
  - (iii) collect and receive payment of any and all Indenture Obligations.
- (d) Subject to the Intercreditor Agreement and at the Issuers' sole cost and expense, the Trustee is hereby authorized and empowered by each Holder (by its acceptance thereof) to institute and maintain, or direct the Collateral Agent to institute and maintain, such suits and proceedings as it may deem reasonably expedient to protect or enforce the Note Liens or the Security Documents to which the Collateral Agent or Trustee is a party or to prevent any impairment of 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 reasonably expedient, at the Issuers' sole cost and expense, to preserve or protect its interests and the interests of the 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 Note Liens or be prejudicial to the interests of Holders or the Trustee.

#### **14.8 Powers Exercisable by Receiver or Trustee**

In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article 14 upon the Issuers or a Guarantor with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Issuers or a Guarantor or of any officer or officers thereof required by the provisions of this Article 14; and if the Trustee or the Collateral Agent shall be in the possession of the Collateral under any provision of this Indenture, then such powers may be exercised by the Trustee or the Collateral Agent, as the case may be.

#### **14.9 Voting**

In connection with any matter under the Security Documents requiring a vote of holders of the obligations secured thereby, the holders of such obligations shall be treated as a single class and the Holders shall cast their votes in accordance with this Indenture. The amount of the Notes to be voted by the Holders will equal the aggregate outstanding principal amount of the Notes. Following and in accordance with the outcome of the applicable vote under this Indenture, the Trustee shall vote the total amount of the Notes as a block in respect of any vote under the Security Documents.

#### **14.10 Collateral Account**

No later than the first date on which the Issuers or any Guarantor receives any Trust Monies, there shall be established and, at all times thereafter until this Indenture shall have terminated, there shall be maintained with the Collateral Agent the Collateral Account. The Collateral Account shall be established and maintained by the Collateral Agent at the office of the Collateral Agent. For the avoidance of doubt, no other deposit account or securities account shall be, or shall be deemed to be, the Collateral Account, and Trust Monies shall include only cash and cash equivalents required to be deposited into the Collateral Account pursuant to the terms of this Indenture. The Issuers shall cause all Trust Monies to be deposited in the Collateral Account and any such Trust Monies shall be held by and under the dominion and control of the Collateral Agent for its benefit and for the benefit of the Noteholders (as defined in the Intercreditor Agreement) as a part of the Collateral until released in accordance with this Article 14. The Issuers shall

not permit any "Proceeds" of "Bank Priority Collateral" (as such terms are defined in the Intercreditor Agreement) at any time to be deposited in the Collateral Account.

#### **14.11 Withdrawal of Net Proceeds in connection with Reinvestments**

- (a) To the extent that any Trust Monies consist of Net Proceeds (including Net Note Proceeds), such Trust Monies may be withdrawn by the Issuers and shall be paid by the Collateral Agent (upon the direction of the Trustee) to reimburse the Issuers or Guarantor for expenditures made, or to pay costs to be incurred, by the Issuers or such Guarantor in connection with a reinvestment of such Net Cash Proceeds or repayment of Indebtedness with such Net Cash Proceeds, in each case complying with Section 5.14, upon receipt by the Trustee and the Collateral Agent of an Officer's Certificate, dated not more than 30 days prior to the date of the application for the withdrawal and payment of such Trust Monies to the effect that:
  - (i) such Net Proceeds that have been (or will be within 30 Business Days of the requested date of release) applied in compliance with the requirements of Section 5.14; and
  - (ii) to the extent required by Section 5.14 the Issuers have taken (or will take not later than 30 Business Days following the application of such Net Cash Proceeds) all steps, if any, required by the Security Documents in order to grant and/ or perfect the security interest of the Collateral Agent in any assets in which such Net Cash Proceeds have been reinvested (which Officer's Certificate shall attach copies of (or forms of) any additional Security Documents or amendments thereto or filings thereunder, if any, required to comply with the Security Documents and Section 5.14).
- (b) Upon compliance with Section 14.11(a), the Collateral Agent shall, upon receipt of a written request by the Issuers (which may be contained in the Officer's Certificate), pay an amount of Net Proceeds constituting Trust Monies equal to the amount specified in the Officer's Certificate required by Section 14.11(a) as directed by the Issuers.

#### **14.12 Withdrawal of Net Proceeds to Fund an Offer or Release Following an Offer**

- (a) To the extent that any Trust Monies consist of Net Proceeds received by the Collateral Agent pursuant to the provisions of Section 5.14 and an Asset Sale Offer has been made in accordance therewith, such Trust Monies may be withdrawn by the Issuers and shall be paid by the Trustee to the Paying Agent for application in accordance with Section 5.14 upon receipt by the Trustee and the Collateral Agent of an Officer's Certificate, dated not more than 10 days prior to the relevant Asset Sale Offer purchase date contemplated by Section 5.14, setting forth the amount of Excess Proceeds, as applicable, subject to the Asset Sale Offer and the date on which Notes and other Indebtedness, if any, are to be purchased, and to the effect that:
  - (i) such Trust Monies constitute Net Proceeds;
  - (ii) pursuant to and in accordance with Section 5.14, the Issuers have made an Asset Sale Offer; and

- (iii) all conditions precedent and covenants herein provided for such application of Trust Monies have been satisfied.
- (b) Upon compliance with the foregoing provisions of this Section 14.12, the Collateral Agent shall apply the Trust Monies as directed and specified by the Issuers, subject to Section 5.14 (including to return to the Issuers any such amount of Excess Proceeds that are subject to the Asset Sale Offer and which are not required to be applied to the purchase of Notes or other Indebtedness pursuant to Section 5.14).

#### **14.13 Investment of Trust Monies**

So long as no Default or Event of Default shall have occurred and be continuing, all or any part of any Trust Monies held by (or held in an account subject to the sole control of) the Collateral Agent shall from time to time be invested or reinvested by the Collateral Agent in any Cash Equivalents pursuant to a written request by the Issuers in the form of an Officer's Certificate, which shall specify the Cash Equivalents in which such Trust Monies shall be invested and shall certify that such investments constitute Cash Equivalents; and the Collateral Agent shall sell any such Cash Equivalent only upon receipt of such a written request by the Issuers specifying the particular Cash Equivalent to be sold. So long as no Default or Event of Default occurs and is continuing, any interest or dividends accrued, earned or paid on such Cash Equivalents (in excess of any accrued interest or dividends paid at the time of purchase) that may be received by the Collateral Agent shall be forthwith paid to the Issuers. Such Cash Equivalents shall be held by the Collateral Agent as a part of the Collateral, subject to the same provisions hereof as the cash used by it to purchase such Cash Equivalents.

The Trustee and Collateral Agent shall not be liable or responsible for any loss, fee, tax or other charge resulting from such investments, reinvestments or sales except only for its own grossly negligent action, its own grossly negligent failure to act or its own willful misconduct in complying with this Section 14.13.

#### **14.14 Application of Other Trust Monies**

The Collateral Agent shall return all Trust Monies to the Issuers upon any Legal Defeasance, Covenant Defeasance or satisfaction and discharge of this Indenture under Section 7.1. The Collateral Agent shall have all rights and remedies with respect to the Collateral Account and any Trust Monies as provided in the Security Documents.

#### **14.15 Release of Collateral**

- (a) The Note Liens will automatically and without the need for any further action by any Person be released:
  - (i) in whole or in part, as applicable, as to all or any portion of Property subject to such Note Liens which has been taken by eminent domain, condemnation or other similar circumstances;
  - (ii) in whole upon:
    - (A) satisfaction and discharge of this Indenture under Section 8.1; or
    - (B) Legal Defeasance under Section 8.3 or Covenant Defeasance under Section 8.4;

- (iii) in part, as to any property that (A) is sold, transferred or otherwise disposed of by an Issuer or any Guarantor ( other than to an Issuer or a Guarantor) in a transaction not prohibited by this Indenture at the time of such sale, transfer or disposition or (B) is owned or at any time acquired by a Guarantor that has been released from its Note Guarantee pursuant to Section 13.2 concurrently with the release of such Note Guarantee; and
- (iv) in part, in accordance with the applicable provisions of the Security Documents and the Intercreditor Agreement.

#### **14.16 Registration of Security**

The Issuers shall, and shall cause each of the Guarantors to, at the Issuers' expense, ensure that the Security Documents, and all documents, caveats, security notices, financing statements and financing change statements in respect thereof, are promptly filed and refiled and registered as often as may be required by applicable law or as may be necessary or desirable to perfect and preserve the collateral security constituted by the Security Documents and to ensure that such collateral security are first ranking, subject only to Permitted Liens, and will promptly provide the Trustee with evidence (satisfactory to the Trustee) of such filing, registration and deposit after the making thereof. For the purposes of any registrations or filings referred to in this Section 14.16, the Trustee may be identified in any such registration or filing as the "Indenture Trustee". The Issuers shall, if and when requested to do so by the Trustee, furnish to the Trustee an Opinion of Counsel to establish compliance with the provisions of this Section 14.16.

### **ARTICLE 15** **NOTICES**

#### **15.1 Notice to Issuers**

Any notice to the Issuers under the provisions of this Indenture shall be valid and effective if delivered to the Issuers at 100, 438-11 Ave SE, Calgary, Alberta, T2G 0Y4, Attn: Chief Financial Officer or if given by registered letter, postage prepaid, to such office and so addressed and if mailed, shall be deemed to have been effectively given five days following the mailing thereof. The Issuers may from time to time notify the Trustee in writing of a change of address which thereafter, until changed by like notice, shall be the address of the Issuers for all purposes of this Indenture.

#### **15.2 Notice to Holders**

- (a) All notices to be given hereunder with respect to the Notes shall be deemed to be validly given to the Holders thereof if sent by first class mail, postage prepaid, by letter or circular addressed to such Holders at their post office addresses appearing in any of the registers hereinbefore mentioned and shall be deemed to have been effectively given five days following the day of mailing. Accidental error or omission in giving notice or accidental failure to mail notice to any Holder or the inability of the Issuers to give or mail any notice due to anything beyond the reasonable control of the Issuers shall not invalidate any action or proceeding founded thereon.
- (b) If any notice given in accordance with Section 15.2(a) would be unlikely to reach the Holders to whom it is addressed in the ordinary course of post by reason of an interruption in mail service, whether at the place of dispatch or receipt or both, the Issuers shall give such notice by publication at least once in the City of Calgary, each such publication to be made in a daily newspaper of general circulation.

- (c) Any notice given to Holders by publication shall be deemed to have been given on the day on which publication shall have been effected at least once in each of the newspapers in which publication was required.
- (d) All notices with respect to any Note may be given to whichever one of the Holders thereof (if more than one) is named first in the registers hereinbefore mentioned, and any notice so given shall be sufficient notice to all Holders of any Persons interested in such Note.

### **15.3 Notice to Trustee or Collateral Agent**

Any notice to the Trustee or Collateral Agent under the provisions of this Indenture shall be valid and effective if delivered to the Trustee or Collateral Agent, as the case may be, at its principal office in the City of Calgary, at Computershare Trust Company of Canada, 800, 324 - 8th Avenue S.W., Calgary, Alberta T2P 2Z2, Fax: 403-267-6598, Attention: Manager, Corporate Trust, or if given by registered letter, postage prepaid, to such office and so addressed and, if mailed, shall be deemed to have been effectively given five days following the mailing thereof.

### **15.4 Mail Service Interruption**

If by reason of any interruption of mail service, actual or threatened, any notice to be given to the Trustee would reasonably be unlikely to reach its destination by the time notice by mail is deemed to have been given pursuant to Section 15.3, such notice shall be valid and effective only if delivered at the appropriate address in accordance with Section 15.3.

## **ARTICLE 16 MISCELLANEOUS**

### **16.1 Copies of Indenture**

Any Holder may obtain a copy of this Indenture without charge by writing to the Issuers. Source Energy Services Canada LP and Source Energy Services Canada Holdings Ltd. is located at 100, 438 - 11 Ave SE, Calgary, Alberta, T2G 0Y4, Attn: Chief Financial Officer.

### **16.2 Force Majeure**

The Trustee shall not be liable, or held in breach of this Indenture, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, riots, strikes, lockouts terrorism, acts of war, epidemics, pandemics, governmental action or judicial order, earthquakes, economic sanctions or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Indenture shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section 16.2.

## **ARTICLE 17 EXECUTION AND FORMAL DATE**

### **17.1 Execution**

This Indenture may be simultaneously executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument. Delivery of an executed signature page to this Indenture by any party hereto by facsimile

transmission or portable document format (PDF) or other electronic means shall be as effective as delivery of a manually executed copy of this Indenture by such party.

**17.2 Liability of Limited Partners**

The LP Issuer is a limited partnership formed under the laws of the Province of Alberta of which a limited partner thereof is only liable for any of its debts or any obligations to the extent of the amount that such limited partner has contributed or agreed to contribute to the capital of the LP Issuer.

**17.3 Formal Date**

For the purpose of convenience, this Indenture may be referred to as bearing the formal date of December 30, 2020 irrespective of the actual date of execution hereof.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS whereof the parties hereto have executed these presents under their respective corporate seals and the hands of their proper officers in that behalf.

**LP Issuer**

**SOURCE ENERGY SERVICES CANADA  
LP, BY ITS GENERAL PARTNER,  
SOURCE ENERGY SERVICES CANADA  
LP GP LTD.**

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

Name: *Debra Newell*

Title: *VPE CFO*

**Corporate Issuer**

**SOURCE ENERGY SERVICES CANADA  
HOLDINGS LTD.**

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

Name: *Debra Newell*

Title: *VPE CFO*

**Trustee and Collateral Agent**

**COMPUTERSHARE TRUST COMPANY  
OF CANADA**

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

Name:

Title:



IN WITNESS whereof the parties hereto have executed these presents under their respective corporate seals and the hands of their proper officers in that behalf.

**LP Issuer**

**SOURCE ENERGY SERVICES CANADA  
LP, BY ITS GENERAL PARTNER,  
SOURCE ENERGY SERVICES CANADA  
LP GP LTD.**

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

**Corporate Issuer**

**SOURCE ENERGY SERVICES CANADA  
HOLDINGS LTD.**

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

**Trustee and Collateral Agent**

**COMPUTERSHARE TRUST COMPANY  
OF CANADA**

Per:  \_\_\_\_\_  
Name: Shannon Grover  
Title: Manager, Corporate Trust

Per:  \_\_\_\_\_  
Name: Ashley Lower  
Title: Associate Trust Officer

## APPENDIX A - FORM OF NOTE

[THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREIN REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. THIS NOTE MAY NOT BE TRANSFERRED TO OR EXCHANGED FOR NOTES REGISTERED IN THE NAME OF ANY PERSON OTHER THAN THE DEPOSITORY OR A NOMINEE THEREOF AND NO SUCH TRANSFER MAY BE REGISTERED EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE. EVERY NOTE AUTHENTICATED AND DELIVERED UPON REGISTRATION OF, TRANSFER OF, OR IN EXCHANGE FOR, OR IN LIEU OF, THIS NOTE SHALL BE A GLOBAL NOTE SUBJECT TO THE FOREGOING, EXCEPT IN SUCH LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF CDS CLEARING AND DEPOSITORY SERVICES INC. ("**CDS**") TO SOURCE ENERGY SERVICES CANADA LP (THE "**LP ISSUER**") AND SOURCE ENERGY SERVICES CANADA HOLDINGS LTD. (THE "**CORPORATE ISSUER**" AND TOGETHER WITH THE LP ISSUER, THE "**ISSUERS**") OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IN RESPECT THEREOF IS REGISTERED IN THE NAME OF CDS & CO., OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF CDS (AND ANY PAYMENT IS MADE TO CDS & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED HOLDER HEREOF, CDS & CO., HAS A PROPERTY INTEREST IN THIS DEBT SECURITY AND IT IS A VIOLATION OF ITS RIGHTS FOR ANOTHER PERSON TO HOLD, TRANSFER OR DEAL WITH THIS CERTIFICATE.] [INSERT GLOBAL NOTE LEGEND FOR ALL GLOBAL NOTES]

[THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION ORIGINALLY EXEMPT FROM REGISTRATION UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**1933 ACT**"), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE 1933 ACT AND ALL APPLICABLE STATE SECURITIES LAWS. TERMS USED ABOVE HAVE THE MEANINGS GIVEN TO THEM IN REGULATION S UNDER THE 1933 ACT.] [INSERT REGULATION S LEGEND FOR ALL REGULATION S NOTES]

[THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**1933 ACT**"), OR UNDER ANY U.S. STATE SECURITIES LAWS. THE HOLDER HEREOF, BY PURCHASING THESE SECURITIES, AGREES FOR THE BENEFIT OF SOURCE ENERGY SERVICES CANADA LP (THE "**ISSUER LP**") AND SOURCE ENERGY SERVICES CANADA HOLDINGS LTD. ("**SOURCE CANADA HOLDINGS**", AND TOGETHER WITH ISSUER LP, THE "**ISSUERS**") THAT THESE SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (A) TO THE ISSUERS, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE 1933 ACT, (C) IN ACCORDANCE WITH (1) RULE 144A UNDER THE 1933 ACT OR (2) RULE 144 UNDER THE 1933 ACT, IF AVAILABLE, OR (D) PURSUANT TO ANOTHER EXEMPTION FROM REGISTRATION UNDER THE 1933 ACT, AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE U.S. STATE SECURITIES LAWS AND AFTER, IN THE CASE OF TRANSFERS UNDER CLAUSE (C)(2) OR (D) (OR IF REQUIRED BY

COMPUTERSHARE TRUST COMPANY OF CANADA, CLAUSE (B)), THE HOLDER HAS FURNISHED TO THE ISSUERS AN OPINION OF COUNSEL OF RECOGNIZED STANDING OR OTHER EVIDENCE REASONABLY SATISFACTORY TO THE ISSUERS TO THAT EFFECT.] [INSERT 144A U.S. LEGEND FOR ALL RESTRICTED NOTES]

[Regulation S Note ISIN ●]

[Restricted Note ISIN ●]

**SOURCE ENERGY SERVICES CANADA LP AND SOURCE ENERGY SERVICES  
CANADA HOLDINGS LTD.**

(each formed under the laws of Alberta)

**10.5% SENIOR SECURED FIRST LIEN NOTES DUE 2025**

Source Energy Services Canada LP (the "**LP Issuer**") and Source Energy Services Canada Holdings Ltd. (the "**Corporate Issuer**" and together with the LP Issuer, the "**Issuers**") for value received hereby acknowledges itself indebted and, subject to the provisions of the trust indenture dated as of December 30, 2020 (the "**Indenture**") among the Issuers and Computershare Trust Company of Canada (the "**Trustee**"), promises to pay to the registered holder hereof on March 15, 2025 (the "**Maturity Date**") or on such earlier date as the principal amount hereof may become due in accordance with the provisions of the Indenture the principal sum of ● MILLION DOLLARS (\$●) in lawful money of Canada on presentation and surrender of this Note (the "**Note**") at the main branch of the Trustee in Calgary, Alberta, in accordance with the terms of the Indenture and, subject as hereinafter provided, to pay interest on the principal amount hereof (i) from and including the date hereof, or (ii) from and including the last Interest Payment Date to which interest shall have been paid or made available for payment hereon, whichever shall be the later, in all cases, to and excluding the next Interest Payment Date, at the rate of 10.5% per annum (or 12.5% per annum in the event of any Interest Payment Date in respect of which a PIK Election has been made), in like money, calculated and payable quarterly in arrears on February 15, May 15, August 15 and November 15 of each year commencing on February 15, 2021 and the last payment (representing interest payable from the last Interest Payment Date to, but excluding, the Maturity Date) to fall due on the Maturity Date and, should the Issuers at any time make default in the payment of any principal or interest, to pay interest on the amount in default at the rate of the Note, in like money and on the same dates.

Interest on this Note will be computed on the basis of a 365-day or 366-day year, as applicable, and will be payable quarterly based on the actual number of days elapsed in that period.

If the date for payment of any amount of principal, Premium or interest is not a Business Day at the place of payment, then payment will be made on the next Business Day and the holder hereof will not be entitled to any further interest on such principal, or to any interest on such interest, Premium or other amount so payable, in respect of the period from the date for payment to such next Business Day.

Interest hereon shall be payable by cheque mailed by prepaid ordinary mail or by electronic transfer of funds to the registered holder hereof and, subject to the provisions of the Indenture, the mailing of such cheque or the electronic transfer of such funds shall, to the extent of the sum represented thereby (plus the amount of any taxes deducted or withheld), satisfy and discharge all liability for interest on this Note.

This Note is one of the Notes of the Issuers issued under the provisions of the Indenture. Reference is hereby expressly made to the Indenture for a description of the terms and conditions upon which this Note and other Notes of the Issuers are or are to be issued and held and the rights and remedies of the holder of this Note and other Notes and of the Issuers and of the Trustee, all to the same effect as if the provisions of the Indenture were herein set forth to all of which provisions the holder of this Note by acceptance hereof assents.

Notes are issuable only in denominations of \$1.00 and integral multiples thereof. Upon compliance with the provisions of the Indenture, Notes of any denomination may be exchanged for an equal aggregate principal amount of Notes in any other authorized denomination or denominations.

The indebtedness evidenced by this Note, and by all other Notes now or hereafter certified and delivered under the Indenture, is a direct senior secured obligation of the Issuers.

The principal hereof may become or be declared due and payable before the stated maturity in the events, in the manner, with the effect and at the times provided in the Indenture.

This Note may be redeemed at the option of the Issuers on the terms and conditions set out in the Indenture at the Redemption Price therein. The right is reserved to the Issuers to purchase Notes (including this Note) for cancellation in accordance with the provisions of the Indenture.

Upon the occurrence of a Change of Control of the Issuers, the Holders may require the Issuers to repurchase such Holder's Notes, in whole or in part, at a purchase price in cash equal to 101 % of the principal amount of such Notes, plus accrued and unpaid interest, if any, to the date of purchase.

The Indenture contains provisions making binding upon all Holders of Notes outstanding thereunder resolutions passed at meetings of such Holders held in accordance with such provisions and instruments signed by the Holders of a specified majority of Notes outstanding, which resolutions or instruments may have the effect of amending the terms of this Note or the Indenture.

This Note may only be transferred, upon compliance with the conditions prescribed in the Indenture, in one of the registers to be kept at the principal office of the Trustee in the City of Calgary and in such other place or places and/or by such other Registrars (if any) as the Issuers with the approval of the Trustee may designate. No transfer of this Note shall be valid unless made on the register by the registered holder hereof or his executors or administrators or other legal representatives, or his or their attorney duly appointed by an instrument in form and substance satisfactory to the Trustee or other registrar, and upon compliance with such reasonable requirements as the Trustee and/ or other registrar may prescribe and upon surrender of this Note for cancellation. Thereupon a new Note or Notes in the same aggregate principal amount shall be issued to the transferee in exchange hereof.

This Note shall not become obligatory for any purpose until it shall have been certified by the Trustee under the Indenture.

This Note and the Indenture are governed by, and are to be construed and enforced in accordance with, the laws of the Province of Alberta and the laws of Canada applicable therein.

Capitalized words or expressions used in this Notes shall, unless otherwise defined herein, have the meaning ascribed thereto in the Indenture.

The LP Issuer is a limited partnership formed under the laws of the Province of Alberta of which a limited partner thereof is only liable for any of its debts or any obligations to the extent of the amount that such limited partner has contributed or agreed to contribute to the capital of the LP Issuer.

**IN WITNESS WHEREOF THE ISSUERS** has caused this Note to be signed by its authorized representatives as of [\_\_\_\_\_, 2020.

**SOURCE ENERGY SERVICES CANADA  
LP, BY ITS GENERAL PARTNER,  
SOURCE ENERGY SERVICES CANADA  
LP GP LTD.**

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

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

**SOURCE ENERGY SERVICES CANADA  
HOLDINGS LTD.**

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

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

**(FORM OF TRUSTEE'S CERTIFICATE)**

This Note is one of the 10.5% Senior Secured First Lien Notes due 2025 referred to in the Indenture within mentioned.

**COMPUTERSHARE TRUST COMPANY  
OF CANADA**

By: \_\_\_\_\_  
(Authorized Officer)

**(FORM OF REGISTRATION PANEL)**

(No writing hereon except by Trustee or other registrar)

<b>Date of Registration</b>	<b>In Whose Name Registered</b>	<b>Signature of Trustee or Registrar</b>

**FORM OF ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ whose address and social insurance number, if applicable are set forth below, this Note (or \$ \_\_\_\_\_ principal amount hereof) of Source Energy Services Canada LP (the "**LP Issuer**") and Source Energy Services Canada Holdings Ltd. (the "**Corporate Issuer**" and together with the LP Issuer, the "**Issuers**") standing in the name(s) of the undersigned in the register maintained by the Issuers with respect to such Note and does hereby irrevocably authorize and direct the Trustee to transfer such Note in such register, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Address of Transferee: \_\_\_\_\_  
(Street Address, City, Province and Postal Code)

Social Insurance Number of Transferee, if applicable: \_\_\_\_\_

\*If less than the full principal amount of the within Note is to be transferred, indicate in the space provided the principal amount (which must be \$1.00 or an integral multiple thereof) to be transferred.

1. The signature(s) to this assignment must correspond with the name(s) as written upon the face of the Note in every particular without alteration or any change whatsoever. The signature(s) must be guaranteed by a Canadian chartered bank of trust company or by a member of an acceptable Medallion Guarantee Program. Notarized or witnessed signatures are not acceptable as guaranteed signatures. The Guarantor must affix a stamp bearing the actual words: "SIGNATURE GUARANTEED".
2. The registered holder of this Note is responsible for the payment of any documentary, stamp or other transfer taxes that may be payable in respect of the transfer of this Note.

**Signature of Guarantor**

\_\_\_\_\_  
Authorized Officer

\_\_\_\_\_  
Signature of transferring registered holder

\_\_\_\_\_  
Name of Institution



## APPENDIX B

### FORM OF CERTIFICATE OF TRANSFER

Source Energy Services Canada LP and Source Energy Services Canada Holdings Ltd.  
100, 438-11 Avenue SE  
Calgary, Alberta T2G 0Y4  
Attention: Chief Finance Officer

Computershare Trust Company of Canada  
800, 324 8<sup>th</sup> Avenue SW  
Calgary, Alberta T2P 2Z2  
Attention: Manager, Corporate Trust

Re: 10.5% Senior Secured First Lien Notes due 2025

Reference is hereby made to the Indenture, dated as of December 30, 2020 (the "**Indenture**"), between Source Energy Services Canada LP, a limited partnership subsisting under the laws of the Province of Alberta (the "**LP Issuer**"), Source Energy Services Canada Holdings Ltd. (the "**Corporate Issuer**" and together with the LP Issuer, the "**Issuers**") and Computershare Trust Company of Canada, as trustee (the "**Trustee**") and as collateral agent. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

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

#### [CHECK ALL THAT APPLY]

1.  **Check if Transferee will take delivery of a beneficial interest in a Restricted Global Note or a Restricted Definitive Note Pursuant to Rule 144A.**

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

2. **Check if Transferee will take delivery of a beneficial interest in a Regulation S Global Note or of a Regulation S Definitive Note.**

- (a) **Check if Transfer is Pursuant to Regulation S.** (i) The Transfer is being effected pursuant to and in accordance with Rule 904 under the 1933 Act and the Transferor hereby further certifies that (ii) the Transfer is not being made to a person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (iii) no directed selling efforts have been made in contravention of the requirements of Rule 904(b) of Regulation S under the 1933 Act, (iv) the Transfer is not a transaction, or part of a series of transactions, which, although in technical compliance with Regulation S, is part of a plan or scheme to evade the registration provisions of the 1933 Act, (v) the Transferor is not an "affiliate", as defined in Rule 405 under the 1933 Act, of the Issuers, (vi) the Transfer is bona fide and not for the purpose of "washing off" the resale restrictions imposed because the Notes are "restricted securities", as that term is defined in Rule 144(a)(3) under the 1933 Act; and (vii) the Transferor does not intend to replace the Notes sold in reliance of Rule 904 of Regulation S with fungible unrestricted Notes. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the 144A U.S. Legend printed on the Restricted Global Notes, on the Restricted Definitive Notes and in the Indenture.
- (b) **Check if Transfer is pursuant to Rule 144.**(i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the 1933 Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the 144A U.S. Legend are not required in order to maintain compliance with the 1933 Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the 144A U.S. Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

3. **Check if Transferee will take delivery of a beneficial interest in a Restricted Global Note or of a Restricted Definitive Note pursuant to a provision of the 1933 Act other than Rule 144A or Regulation S.**

The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the 1933 Act and any applicable blue sky securities laws of any state of the United States and the securities laws of any other applicable jurisdiction, and accordingly the Transferor hereby further certifies that (check one):

- (a) **such Transfer is being effected pursuant to and in accordance with Rule 144 under the 1933 Act;**

OR

- (b) **such Transfer is being effected to the Issuers.**

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

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

Signature guarantee\*: \_\_\_\_\_

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

**ANNEX A TO CERTIFICATE OF TRANSFER**

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

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

- (a)  a beneficial interest in the:
  - (i)  144A Global Note (ISIN CA83615WAB87) or
  - (ii)  Regulation S Global Note (ISIN CA83615WAA0S), or
- (b)  Restricted Definitive Note, or
- (c)  Regulation S Definitive Note,

2. After the Transfer the Transferee will hold:

**[CHECK ONE]**

- (a)  beneficial interest in the:
  - (i)  144A Global Note (ISIN CA83615WAB87), or
  - (ii)  Regulation S Global Note (ISIN CA83615WAA05), or
- (b)  a Restricted Definitive Note; or
- (c)  a Regulation S Definitive Note,

in accordance with the terms of the Indenture.

**APPENDIX C**

**NOTE GUARANTEE**

**[GUARANTOR NAME]**

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**GUARANTEE**

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MADE AS OF DECEMBER ●, 2020

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**[GUARANTOR NAME]**

**GUARANTEE**

THIS GUARANTEE is made as of December [•], 2020

Between:

**[GUARANTOR NAME]** and its successors (the "**Guarantor**")

and

**COMPUTERSHARE TRUST COMPANY OF CANADA**, in its capacity as trustee under the Indenture and its successors and permitted assigns in such capacity (the "**Trustee**")

**WHEREAS** the Guarantor is a member of the Restricted Group;

**AND WHEREAS** the Trustee has entered into the Indenture (on its own behalf and on behalf of the Holders from time to time) with the Issuers and the Collateral Agent providing for the issuance by the Issuers from time to time of Notes, under which Indenture, members of the Restricted Group are required to enter into this Guarantee (collectively, the "**Guarantors**");

**AND WHEREAS** the Guarantors will derive significant benefit from the issuance of such Notes by the Issuers;

**AND WHEREAS** the Guarantor has agreed to guarantee the payment and performance by the Issuers of the Guaranteed Obligations;

**NOW THEREFORE**, for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the Guarantor), the Guarantor hereby covenants and agrees with the Trustee (on its own behalf and on behalf of the Holders from time to time) as follows:

**ARTICLE 1**  
**INTERPRETATION**

**1.1 Definitions**

(a) In this Guarantee and the recitals hereto, unless something in the subject matter or context is inconsistent therewith:

**"Applicable Laws"** or **"applicable law"** means, in relation to any Person, transaction or event:

- (i) all applicable provisions of laws, statutes, rules and regulations from time to time in effect of any Governmental Authority; and
- (ii) all Governmental Authorizations to which the Person is a party or by which it or its property is bound or having application to the transaction or event.



**"Beneficiaries"** means (a) the Trustee, (b) the Collateral Agent, (c) the Holders from time to time under the Indenture and the Notes, and (d) in each case, their respective transferees, successors and assigns pursuant to the Indenture.

**"Governmental Authority"** means any federal, provincial, state, regional, municipal or local government or any department, agency, board, tribunal or authority thereof or other political subdivision thereof and any entity or person exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government or the operation thereof.

**"Governmental Authorization"** means an authorization, order, permit, approval, grant, license, consent, right, franchise, privilege, certificate, judgment, writ, injunction, award, determination, direction, decree or demand or the like issued or granted by law or by rule or regulation of any Governmental Authority.

**"Guarantee"** means this guarantee, as amended, modified, supplemented or restated from time to time in accordance with the provisions hereof.

**"Guaranteed Obligations"** means collectively and at any time and from time to time all of the debts, obligations, indebtedness and liabilities (present or future, absolute or contingent, matured or not) of the Issuers and the other Guarantor to the Beneficiaries under, pursuant or relating to the Indenture, the Notes, the Note Guarantees and the Security Documents including without limitation (i) the payment of all interest, principal, Additional Amounts and other amounts, (ii) all of the 'obligations' (as defined in the Indenture), and (iii) all legal and other costs and indemnities payable pursuant thereto.

**"Indenture"** means the trust indenture between the Issuers, the Trustee and Computershare Trust Company of Canada in its capacity as collateral agent dated as of December [●], 2020, providing for the issue by the Issuers from time to time of the Notes, together with each Supplemental Indenture that may be entered into from time to time, as the same may be modified, amended supplemented, restated and replaced from time to time.

**"Issuers"** means Source Energy Services Canada LP and Source Energy Services Canada Holdings Ltd. and their respective successors.

(b) Unless the context otherwise requires, all other capitalized terms used herein not otherwise defined herein shall have the meanings ascribed thereto in the Indenture.

## 1.2 Headings

The division of this Guarantee into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Guarantee. The terms "this Guarantee", "hereof", "hereunder" and similar expressions refer to this Guarantee and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Guarantee.

## 1.3 Number; Persons; including

Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa and words importing Persons shall include individuals, limited and unlimited liability companies, partnerships, associations,

trusts, unincorporated organizations and corporations and vice versa and words and terms denoting inclusiveness (such as "include" or "includes" or "including"), whether or not so stated, are not limited by their context or by the words or phrases which precede or succeed them.

## **ARTICLE 2** **GUARANTEE**

### **2.1 Guarantee of Guaranteed Obligations**

The Guarantor hereby unconditionally and irrevocably guarantees to the Beneficiaries the payment and performance of all of the Guaranteed Obligations.

### **2.2 Indemnity**

If any or all of the Guaranteed Obligations are not duly paid or performed by the Issuers or the other Guarantors and are not recoverable under Section 2.1 for any reason whatsoever, the Guarantor will, as a separate and distinct obligation, indemnify and save harmless the Beneficiaries from and against all losses resulting from the failure of the Issuers or the other Guarantors to pay and perform such Guaranteed Obligations.

### **2.3 Guarantor as Principal Obligor**

If any or all of the Guaranteed Obligations are not duly paid or performed by the Issuers or the other Guarantors and are not recoverable under Section 2.1 or the Beneficiaries are not indemnified under Section 2.2, in each case, for any reason whatsoever, such Guaranteed Obligations shall, as a separate and distinct obligation, be recoverable by the Beneficiaries from the Guarantor as the primary obligor and principal debtor in respect thereof and shall be paid to the Beneficiaries forthwith after demand therefore as provided herein.

### **2.4 Guarantee Absolute and Unconditional**

The liability and obligations of the Guarantor hereunder shall be continuing, unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged, limited or otherwise affected by:

- (a) any extension, other indulgence, renewal, settlement, discharge, compromise, waiver, subordination or release in respect of any Guaranteed Obligation, security, Person or otherwise, including any extension, other indulgence, renewal, settlement, discharge, compromise, waiver, subordination or release of any of the Guaranteed Obligations, covenants or undertakings of the Issuers or the Guarantors under the Indenture, the Notes, the other Note Guarantees or the Security Documents;
- (b) any modification or amendment of or supplement to the Guaranteed Obligations;
- (c) any loss of or in respect of any security held by the Beneficiaries, whether occasioned by the fault of the Beneficiaries or otherwise, including any release, non-perfection or invalidity of any such security;
- (d) any change in the existence, structure, constitution, name, control or ownership of the Issuers, the Guarantors or any other Person, or any insolvency, bankruptcy, reorganization

or other similar proceeding affecting the Issuers, the Guarantors or any other Person or their respective assets;

- (e) the existence of any set-off, counterclaim, claim or other right which the Guarantor, the Issuers or the other Guarantors may have at any time against the Beneficiaries or any other Person, whether in connection with the Indenture, this Guarantee or any unrelated transaction;
- (f) any provision of applicable law purporting to prohibit or limit the payment by the Issuers or the Guarantors of any Guaranteed Obligation, and the foregoing is hereby waived by the Guarantor to the extent permitted under applicable law;
- (g) any limitation, postponement, prohibition, subordination or other restriction on the right of the Beneficiaries to payment of the Guaranteed Obligations;
- (h) any release, substitution or addition of any other guarantor of the Guaranteed Obligations;
- (i) any defence arising by reason of any failure of the Beneficiaries to make any presentment, or protest or to give any other notice, including notice of all of the following: acceptance of this Guarantee, partial payment or non-payment of all or any part of the Guaranteed Obligations and the existence, creation, or incurring of new or additional Guaranteed Obligations;
- (j) any defence arising by reason of any failure of the Beneficiaries to proceed against the Issuers, the other Guarantors or any other Person, or to apply or exhaust any security held from the Issuers, the other Guarantors or any other Person for the Guaranteed Obligations, to proceed against, apply or exhaust any security held from the Guarantor or any other Person, or to pursue any other remedy available to the Beneficiaries;
- (k) any defence arising by reason of the invalidity, illegality or lack of enforceability of the Guaranteed Obligations or any part thereof or of any security or guarantee in support thereof, or by reason of any incapacity, lack of authority, or other defence of the Issuers, the other Guarantors or any other Person, or by reason of any limitation, postponement or prohibition on the Beneficiaries' rights to payment, or the cessation from any cause whatsoever of the liability of the Issuers, the other Guarantors or any other Person with respect to all or any part of the Guaranteed Obligations (other than irrevocable payment to the Beneficiaries in full, in cash, of the Guaranteed Obligations), or by reason of any act or omission of the Beneficiaries or others which directly or indirectly results in the discharge or release of the Issuers, the other Guarantors or any other Person or of all or any part of the Guaranteed Obligations or any security or guarantee therefor, whether by contract, operation of law or otherwise;
- (l) any defence arising by reason of the failure by the Beneficiaries to obtain, register, perfect or maintain a Lien in or upon any property of the Issuers, the Guarantors or any other Person, or by reason of any interest of the Beneficiaries in any property, whether as owner thereof or as holder of a Lien therein or thereon, being invalidated, voided, declared fraudulent or preferential or otherwise set aside, or by reason of any impairment of any right or recourse to collateral;
- (m) any defence arising by reason of the failure of the Beneficiaries to marshal assets;

- (n) to the extent permitted under applicable law, any defence based upon any failure of the Beneficiaries to give to the Issuers, the other Guarantors or the Guarantor notice of any sale or other disposition of any property securing any or all of the Guaranteed Obligations or any other guarantee thereof, or any notice that may be given in connection with any sale or other disposition of any such property;
- (o) any defence based upon or arising out of any bankruptcy, insolvency, reorganization, moratorium, arrangement, readjustment of debt, liquidation or dissolution proceeding commenced by or against the Issuers, the other Guarantors or any other Person, including any discharge or bar against collection of any of the Guaranteed Obligations; or
- (p) any other law, event or circumstance or any other act or failure to act or delay of any kind by the Issuers, the Guarantors, the Beneficiaries or any other Person, which might, but for the provisions of this Section, constitute a legal or equitable defence to or discharge, limitation or reduction of the Guarantor's obligations hereunder, other than as a result of the payment or extinguishment in full of the Guaranteed Obligations.

The foregoing provisions apply and the foregoing waivers, to the extent permitted under applicable law, shall be effective even if the effect of any action or failure to take action by the Beneficiaries is to destroy or diminish the Guarantor's subrogation rights, the Guarantor's right to proceed against the Issuers or the other Guarantors for reimbursement, the Guarantor's right to recover contribution from any other guarantor or any other right or remedy of the Guarantor.

### **ARTICLE 3**

#### **DEALINGS WITH THE OBLIGORS AND OTHERS**

#### **3.1 No Release**

The Beneficiaries, without releasing, discharging, limiting or otherwise affecting in whole or in part the Guarantor's liability and obligations hereunder, may:

- (a) grant time, renewals, extensions, indulgences, releases and discharges to the Issuers, the other Guarantors or any other guarantor or endorser;
- (b) take or abstain from taking security or collateral from the Issuers, the Guarantors or any other guarantor or endorser or from perfecting security or collateral of the Issuer, the Guarantors or any other guarantor or endorser;
- (c) accept compromises from the Issuers, the other Guarantors or any other guarantor or endorser;
- (d) subject to the applicable Security Documents, apply all money at any time received from the Issuers or the other Guarantors or from security upon such part of the Guaranteed Obligations as the Beneficiaries may see fit or change any such application in whole or in part from time to time as the Beneficiaries may see fit; or
- (e) otherwise deal with the Issuers, the other Guarantors and all other Persons and security as the Beneficiaries may see fit.

### 3.2 No Exhaustion of Remedies

The Beneficiaries shall not be bound or obligated to exhaust their recourse against the Issuers, the other Guarantors or other Persons or any securities or collateral it may hold or take any other action (other than to make demand pursuant to Article 5) before the Beneficiaries shall be entitled to demand, enforce and collect payment from the Guarantor hereunder.

### 3.3 Evidence of Guaranteed Obligations

Any account settled or stated in writing by or between a Beneficiary or the Beneficiaries, as the case may be, and the Issuers and the other Guarantors shall be *prima facie* evidence that the balance or amount thereof appearing due to the same is so due.

### 3.4 No Set-off

In any claim by the Beneficiaries against the Guarantor hereunder, the Guarantor shall not claim or assert any set-off, counterclaim, claim or other right that either the Issuers, the other Guarantors or the Guarantor may have against one or more of the Beneficiaries.

## ARTICLE 4 CONTINUING GUARANTEE

### 4.1 Continuing Guarantee

This Guarantee shall be a continuing guarantee and shall continue to be effective even if at any time any payment of any of the Guaranteed Obligations is rendered unenforceable or is rescinded or must otherwise be returned by any Beneficiaries for any reason whatsoever (including the insolvency, bankruptcy or reorganization of the Issuers or the other Guarantors), all as though such payment had not been made.

### 4.2 Revival of Indebtedness; Reinstatement

If at any time, all or any part of any payment previously received by the Beneficiaries and applied to any Guaranteed Obligation must be rescinded or returned by the Beneficiaries for any reason whatsoever (including the insolvency, bankruptcy or reorganization of the Issuers or the other Guarantors), such Guaranteed Obligation shall, for the purpose of this Guarantee, to the extent that such payment must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Beneficiaries, and this Guarantee shall continue to be effective or be reinstated, as the case may be, as to such Guaranteed Obligation as though such application by the Beneficiaries had not been made.

**[For certainty, this Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Issuers, the other Guarantors or the Guarantor for liquidation or reorganization, should the Issuers, the other Guarantors or the Guarantor become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Issuers', the other Guarantors' or the Guarantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Guaranteed Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any Beneficiary, whether as a "voidable preference", "fraudulent conveyance", or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Guaranteed Obligations shall be reinstated and deemed reduced**

only by such amount paid and not so rescinded, reduced, restored or returned.] [Note: Insert the foregoing square-bracketed wording for a Subsidiary organized under the laws of any state of the United States of America.]

**ARTICLE 5**  
**DEMAND FOR PAYMENT, EXPENSES AND INTEREST**

**5.1 Demand for Payment; Stay of Acceleration**

The maturity of the Guaranteed Obligations guaranteed hereby may be accelerated as provided in Article 7 of the Indenture for the purposes of this Guarantee. Notwithstanding any stay preventing the acceleration of the time for payment of any amount payable by the Issuers or the other Guarantors in respect of the Guaranteed Obligations upon the insolvency, bankruptcy, arrangement or reorganization of the Issuers or the other Guarantors or any moratorium affecting the payment of the Guaranteed Obligations, all such amounts that would otherwise be subject to acceleration shall nonetheless be payable by the Guarantor hereunder forthwith on demand by the Beneficiaries.

**5.2 Expenses**

The Guarantor shall pay to the Beneficiaries all reasonable out of pocket costs and expenses, including but not limited to, all reasonable legal fees (on a solicitor-client, full indemnity basis) and other expenses incurred by the Beneficiaries from time to time in the enforcement, realization and collection of or in respect of this Guarantee to the extent permissible under applicable law. All such amounts shall be payable by the Guarantor on demand by the Beneficiaries.

**ARTICLE 6**  
**SUBROGATION**

**6.1 Subrogation**

- (a) Until all the Guaranteed Obligations have been irrevocably paid in full in cash, the Guarantor shall have no right of subrogation to, and waives to the fullest extent permitted by applicable law, any right to enforce any remedy which the Beneficiaries now have or may hereafter have against the Issuers or the other Guarantors in respect of the Guaranteed Obligations.
- (b) If (i) the Guarantor performs or makes payment to the Beneficiaries of all amounts owing by the Guarantor under this Guarantee, and (ii) the Guaranteed Obligations are performed and irrevocably paid in full, then the Beneficiaries will, at the Guarantor's request, execute and deliver to the Guarantor appropriate documents, without recourse and without representation and warranty, necessary to evidence the transfer by subrogation to the Guarantor of the Beneficiaries' interest in the Guaranteed Obligations and any security held therefor resulting from such performance or payment by the Guarantor.

**6.2 Release of Guarantors**

- (a) A Guarantor will be automatically and unconditionally released and discharged from its obligations under this Guarantee upon satisfaction of the conditions to such release and discharge set out in Section 13.2 of the Indenture or otherwise as provided in the Indenture, without any further action required upon the part of such Guarantor, the Issuers, the Trustee or any Holder.

- (b) The Trustee shall, if so requested by the Issuers or a Guarantor which has satisfied the conditions to release pursuant to Section 6.2(a) hereof, deliver to such Guarantor (with a copy to the Issuers) a release substantially in the form attached hereto as Schedule "A" and shall otherwise deliver such releases, documents and instruments to the Issuers and such Guarantor as the Issuers or such Guarantor may request to evidence the release and discharge of such Guarantor under this Guarantee, upon receipt by the Trustee of an Officer's Certificate of each Issuer certifying that the conditions to release and discharge of such Guarantor have been met.

**ARTICLE 7**  
**COVENANTS**

**7.1 Covenants Contained in the Indenture**

The Guarantor hereby covenants and agrees with the Beneficiaries that the Guarantor shall observe, perform and comply with any and all of the covenants of the Issuers contained in the Indenture or other documents that the Issuers agree that the Guarantor and the other Subsidiaries shall observe, perform and comply with or that the Issuers shall cause the Guarantor and the other Subsidiaries to observe, perform and comply with.

**ARTICLE 8**  
**POSTPONEMENT**

**8.1 Postponement**

Upon the occurrence and during the continuance of a Default or Event of Default, all debts, liabilities and obligations, present and future of the Issuers and the other Guarantors to or in favour of the Guarantor shall be and are hereby postponed and subordinated to the prior payment and performance in full of the Guaranteed Obligations. All money received by the Guarantor in respect of such debts, liabilities and obligations during the continuance of a Default or Event of Default shall be received and held in trust for the benefit of the Beneficiaries and, upon the occurrence or continuance of an Event of Default, upon demand hereunder shall be forthwith paid over to the Beneficiaries, the whole without in any way lessening or limiting the liability and obligations of the Guarantor hereunder and this postponement is independent of the Guarantee and shall remain in full force and effect until payment and performance in full of the Guaranteed Obligations and all obligations of the Guarantor under this Guarantee.

**ARTICLE 9**  
**GENERAL**

**9.1 Waiver of Notices**

The Guarantor hereby waives promptness, diligence, presentment, notice of acceptance and any other notice with respect to this Guarantee and the obligations guaranteed hereunder, except for the demand pursuant to Section 5.1.

**9.2 Benefit of the Guarantee**

This Guarantee shall enure to the benefit of the respective successors and permitted assigns of the Beneficiaries and be binding upon the successors of the Guarantor.

### **9.3 Foreign Currency Guaranteed Obligations**

The Guarantor shall make payment relative to each Guaranteed Obligation in the currency (the "original currency") in which the Issuers is required to pay such Guaranteed Obligation. If the Guarantor makes payment relative to any Guaranteed Obligation to the Beneficiaries in a currency (the "other currency") other than the original currency (whether voluntarily or pursuant to an order or judgment of a court or tribunal of any jurisdiction), such payment shall constitute a discharge of the liability of the Guarantor hereunder in respect of such Guaranteed Obligation only to the extent of the amount of the original currency which the Beneficiaries are able to purchase with the amount of other currency they receive on the date of receipt in accordance with normal practice. If the amount of the original currency which the Beneficiaries are able to purchase is less than the amount of such currency originally due in respect of the relevant Guaranteed Obligation, the Guarantor shall indemnify and save the Beneficiaries harmless from and against any loss or damage arising as a result of such deficiency. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Guarantee, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by the Beneficiaries and shall continue in full force and effect notwithstanding any judgment or order in respect of any amount due hereunder or under any judgment or order. A certificate of the Beneficiaries as to any such loss or damage shall constitute *prima facie* evidence thereof, in the absence of manifest error.

### **9.4 Additional Amounts**

All payments made by or on behalf of the Guarantor under or with respect to this Guarantee will be made free and clear of and without withholding or deduction for or on account of Taxes imposed or levied by or on behalf of any jurisdiction in which the Guarantor is organized, resident or carrying on business for tax purposes or from or through which the Guarantor (or its agents) makes any payment on this Guarantee or any department or political subdivision thereof, unless the Guarantor is required to withhold or deduct Taxes by law or by the interpretation or administration thereof. If the Guarantor is so required to withhold or deduct any amount for or on account of Taxes from any payment made under or with respect to this Guarantee, the Guarantor will pay such Additional Amounts in accordance with, and subject to the terms of Section 2.6 of the Indenture.

### **9.5 No Waiver; Remedies**

No failure on the part of the Beneficiaries to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude the other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

### **9.6 Severability**

If any provision of this Guarantee is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect.

### **9.7 Amendments and Waivers**

Any provision of this Guarantee may be amended, waived or a consent given in respect thereof in accordance with Article 12 of the Indenture. Any waiver and any consent by the Trustee on behalf of the Beneficiaries under any provision of this Guarantee must be in writing signed by the Trustee. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given.



## **9.8 Additional Security**

This Guarantee is in addition and without prejudice to any security of any kind (including, without limitation, other guarantees) now or hereafter held by the Beneficiaries and any other rights or remedies they might have.

## **9.9 Notices**

Any demand, notice or other communication to be given in connection with this Guarantee shall be given in such manner as is set forth in the Indenture.

## **9.10 Successors and Assigns**

This Guarantee shall be binding upon the Guarantor and its successors and permitted assigns.

## **9.11 Time of Essence**

Time is of the essence with respect to this Guarantee and the time for performance of the obligations of the Guarantor under this Guarantee may be strictly enforced by the Beneficiaries.

## **9.12 Financial Condition of the Issuers and the Guarantors**

The Guarantor is fully aware of the financial condition of the Issuers and the other Guarantors. The Guarantor assumes all responsibility for being and keeping itself informed of the Issuers' and the other Guarantors' financial condition and assets, and of all other circumstances bearing upon the risk of non-payment or non-performance of the Guaranteed Obligations and the nature, scope and extent of the risks which Guarantor assumes and incurs hereunder, and agrees that the Beneficiaries shall not have a duty to advise Guarantor of information known to any of them regarding such circumstances or risks.

## **9.13 Acknowledgement of Documentation**

The Guarantor hereby acknowledges receipt of a true and complete copy of the Indenture and the Notes and all of the terms and conditions thereof.

## **9.14 Entire Agreement**

This Guarantee and the Indenture constitutes the entire agreement between the Beneficiaries and the Guarantor with respect to the subject matter hereof and cancel and supersede any prior understandings and agreements between such parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, expressed, implied or statutory, between such parties other than as expressly set forth herein or therein.

## **9.15 Governing Law**

This Guarantee shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

## **9.16 Liability of Limited Partners**

**[The Guarantor is a limited partnership formed under the laws of the Province of Alberta of which a limited partner thereof is only liable for any of its debts or any obligations to the extent of the amount that such limited partner has contributed or agreed to contribute to the capital of the**

**Guarantor.] [Note: Insert the foregoing square-bracketed wording for a Guarantor that is a Canadian limited partnership]**

**9.17 Attornment**

The Guarantor and each of the Beneficiaries hereby attorn and submit to the jurisdiction of the courts of the Province of Alberta in regard to legal proceedings relating to this Guarantee. For the purpose of all such legal proceedings, the courts of the Province of Alberta shall have jurisdiction to entertain any action arising under this Guarantee.

**IN WITNESS WHEREOF** the Guarantor has executed this Guarantee on the date first written above.

**[GUARANTOR NAME]**

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

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

**TO THE NOTE GUARANTEE**

**FORM OF RELEASE**

**RELEASE OF GUARANTEE**

**THIS RELEASE** (the "**Release**") dated as of ●, 202● among Source Energy Services Canada LP (the "**LP Issuer**"), Source Energy Services Canada Holdings Ltd. (the "**Corporate Issuer**" and together with the LP Issuer, the "**Issuers**"), ● (the "**Guaranteeing Subsidiary**"), and Computershare Trust Company of Canada, as trustee under the Indenture referred to below (the "**Trustee**").

**WITNESSETH:**

**WHEREAS** the Issuers have heretofore executed and delivered to the Trustee an indenture (as amended, restated, supplemented and replaced from time to time, the "**Indenture**") dated as of [●], 2020 providing for the issuance from time to time by the Issuers of Notes;

**AND WHEREAS**, pursuant to Section 13.1 of the Indenture, the Guaranteeing Subsidiary has heretofore executed and delivered to the Trustee a Guarantee dated ●, 20●, under which the Guaranteeing Subsidiary guaranteed all of the Issuers' obligations under the Notes and the Indenture the "**Guarantee**";

**AND WHEREAS**, pursuant to Section 13.2 of the Indenture, the Trustee is required to execute such releases, Security Documents and instruments as the Issuers or the Guaranteeing Subsidiary may request to evidence the termination of the Guarantee with respect to the Guaranteeing Subsidiary if the conditions to release of the Guarantee in Section 13.2 of the Indenture or otherwise pursuant to the Indenture are met, without further obligation by the Guaranteeing Subsidiary;

**AND WHEREAS** the conditions to release of the Guarantee in respect of the Guaranteeing Subsidiary in Section [13.2] of the Indenture have been met.

**NOW THEREFORE**, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Trustee (on its own behalf and on behalf of the Holders from time to time), the Guaranteeing Subsidiary and the Issuers mutually covenant and agree as follows:

1. **Capitalized Terms.** Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. **Release of Guaranteeing Subsidiary.** The Guaranteeing Subsidiary is hereby fully and irrevocably released from its liabilities and obligations under the Guarantee effective as of the date hereof.
3. **Governing Law.** This Release shall be construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.
4. **Counterparts.** This Release may be simultaneously executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument. Delivery of an executed signature page to this Release by any party hereto by facsimile transmission or PDF shall be as effective as delivery of a manually executed copy of this Release by such party.

5. **Effect of Headings.** The section headings herein are for convenience only and shall not affect the construction hereof.
6. **Liability of Limited Partners.** The LP Issuer [**and the Guaranteeing Subsidiary**] [**is/are each**] a limited partnership formed under the laws of the Province of Alberta of which a limited partner thereof is only liable for any of its debts or any obligations to the extent of the amount that such limited partner has contributed or agreed to contribute to the capital of the LP Issuer [and the Guaranteeing Subsidiary, as the case may be.] [**Note: Insert the foregoing square-bracketed wording for a Guaranteeing Subsidiary that is a Canadian limited partnership**]
7. **The Trustee.** The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Release.

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

Dated: ●

**[GUARANTEEING SUBSIDIARY]**

**SOURCE ENERGY SERVICES CANADA  
LP, BY ITS GENERAL PARTNER,  
SOURCE ENERGY SERVICES CANADA  
LP GP LTD.**

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

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

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

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

**SOURCE ENERGY SERVICES CANADA  
HOLDINGS LTD.**

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

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

ACKNOWLEDGED BY:

**COMPUTERSHARE TRUST COMPANY  
OF CANADA**, as Trustee By:

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

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

## APPENDIX D

### POST-CLOSING UNDERTAKING

The Issuers covenant and undertake that:

1. The Issuers will and will cause the Guarantors to promptly cause possession of or notations against any certificate of title in all applicable jurisdictions and in accordance with applicable law, in each case in favor of the Secured Party in respect of every titled good (and, for certainty, every good for which such possession or notation against the applicable certificate of title is permitted in the applicable jurisdiction) with an individual value of \$100,000 or more and shall promptly (and, in any event, within 30 days of closing ) deliver evidence of the same to the Secured Party.
2. The Issuers will and will cause the Guarantors to provide fully executed originals of the following mortgages to [name redacted], STINSON LLP, [address redacted] for filing with the applicable governmental entity on or prior to January 8, 2020:
  - a. Mortgage and Security Agreement with Assignment of Rents (Barron County, Wisconsin) granted by CSP Property Holdings LLC in favour of the Collateral Agent;
  - b. Leasehold Mortgage and Security Agreement with Assignment of Rents (Barron County, Wisconsin) granted by CSP Property Holdings LLC in favour of the Collateral Agent; and
  - c. Mortgage and Security Agreement with Assignment of Rents (Ward County, North Dakota) granted by CSP Property Holdings LLC in favour of the Collateral Agent.
3. The Issuers will diligently provide or execute any additional information or documents required for the filing of the mortgages set forth in 2 above.
4. The Issuers will do all things necessary to have any liens on the real property that were not (i) in existence as at (date of the original indenture) or are Permitted Liens (excluding those liens permitted pursuant to sub section (j) of the definition of Permitted Liens or liens associated with the Senior Credit Facility within 30 days of closing.
5. The Issuers will promptly deliver an opinion North Dakota counsel with respect to the North Dakota mortgage in form reasonably satisfactory to the counsel to the Noteholders and in any event within 15 Business Days of the Issue Date.
6. The Issuer will use commercially reasonable efforts to obtain Grande Prairie landlord agreement within 60 days.
7. The Issuers will use commercially reasonable efforts to obtain a confirmed landlord waiver and consent in form and substance reasonably satisfactory to the counsel to the Holders where such landlord waivers and consent exist as of the date hereof (except with respect to item 7 above).
8. Within forty five (45) day of closing, the Issuers will cause the Bank of Montreal to execute and deliver and the Issuers shall cause to be registered in the British Columbia Land Titles Office and the Alberta Land Titles Office such postponements and/or postponements, priority and standstill agreements, in form and substance acceptable to the Holders, acting reasonably, as is necessary to cause the mortgage dated December 30, 2020, (the "**Alberta Mortgage**") granted by Source Energy



Services Canada Holdings Ltd. in favour of Computershare Trust Company of Canada, as collateral agent, and the Form B Mortgage dated December 30, 2020, granted by Source Energy Services Canada Holdings Ltd. in favour of Computershare Trust Company of Canada, as collateral agent, to be first charge mortgages against the respective properties referenced therein.

9. The Issuer shall cause its counsel to take all steps to comply with its policy of title insurance such that coverage is kept in effect for its term for the benefit of Computershare Trust Company of Canada, including, without limitation, submitting the Alberta Mortgage to the Alberta Land Titles Office no later than January 5, 2021 (or such earlier date as may be prescribed by the title insurer), and if the Alberta Mortgage is held up or rejected by the Alberta Land Titles Office due to a defect in the Alberta Mortgage that is remediable by the Issuers or its counsel, the Issuer shall take such steps or cause such steps to be taken as may be prescribed by the Land Titles Office in order to remedy such defect and to re-submit the document for registration.
10. The Issuers will deliver the following certificates (with an undated stock power) on or before January 15, 2020 to Bennett Jones LLP:

**[Details of certificates redacted]**